

RESOLUTION NO. 2848

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE INTERGOVERNMENTAL AGREEMENT ("IGA") BETWEEN THE COUNTY OF YAVAPAI, YAVAPAI COUNTY SHERIFF'S OFFICE ("COUNTY"), AND THE TOWN OF PAYSON, THE PAYSON POLICE DEPARTMENT ("USER AGENCY"), RELATING TO THE USE OF THE COUNTY DRIVING TRACK FACILITY.

WHEREAS, on March 14, 2012 the County of Yavapai and the Town of Payson (the "Parties") entered into an IGA covering terms and conditions for the use of the County Driving Track Facility through March 14, 2015; and

WHEREAS, the Parties desire to continue this IGA for the purpose of establishing terms and conditions whereby the User Agency shall be permitted to use the County's Driving Track Facility (the "Facility") for training of personnel and related activities; and

WHEREAS, the Parties are authorized to enter into this Agreement pursuant to A.R.S. §§11-951, 952 and A.R.S. §13-3872; and

WHEREAS, term/condition IV of the 2012 IGA authorized up to a twenty five (25) year initial term with automatic renewal for another 25 years unless written notice of intent not to renew is provided by the non-renewing Party no less than 60 days prior to expiration of the initial term; and

WHEREAS, the User Agency desires to amend term/condition IV to authorize an initial term of five (5) years that will automatically be deemed renewed every five (5) years thereafter for a maximum period of twenty five (25) years unless written notice of intent not to renew is provided by the non-renewing Party no less than 60 days prior to expiration of the initial term; and

WHEREAS, the Parties desire to amend the IGA to provide then sitting elected officials the opportunity to decide whether to renew this Agreement every five (5) years,

NOW, THEREFORE, THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the Intergovernmental Agreement between the County of Yavapai and the Town of Payson, attached hereto marked Exhibit A, is approved in substantially the form attached.

Section 2. That Kenny J. Evans, Mayor of the Town of Payson, is authorized to execute said Intergovernmental Agreement in substantially the form attached.

Section 3. That the Town of Payson is authorized to take such other and further actions as may be necessary or appropriate to carrying out the intent of this Resolution.

**PASSED AND ADOPTED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PAYSON, ARIZONA**, this 21<sup>st</sup> day of May, 2015, by the following vote:

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSTENTIONS \_\_\_\_\_ ABSENT \_\_\_\_\_

\_\_\_\_\_  
Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Silvia Smith, Town Clerk

  
\_\_\_\_\_  
Hector M. Figueroa, Town Attorney

# EXHIBIT A

to Resolution No. 2848

## INTERGOVERNMENTAL AGREEMENT USE OF YAVAPAI COUNTY DRIVING TRACK FACILITY

This Intergovernmental Agreement with an effective beginning date of **July 1, 2015** and an ending date of **June 30, 2020** by and between Yavapai County, the Yavapai County Sheriff's Office, (hereinafter collectively the "County") and the Town of Payson, the Payson Police Department, hereinafter the "User Agency")

### I. Purpose

The Parties desire to enter into this Agreement for the purpose of establishing terms and conditions whereby the User Agency shall be permitted to use the County's Driving Track Facility (the "Facility") for training of personnel and related activities.

### II. Use of the Facility

Permissible uses of the Facility by the User Agency shall include, use by recruit and in-service personnel, both sworn and civilian; use by volunteers; in-service use for any and all assigned personnel, or such other uses as deemed appropriate by mutual agreement of the Parties.

### III. Authority

The Parties are authorized to enter into this Agreement pursuant to A.R.S. §§11-951, 952, and A.R.S. §13-3872.

### IV. Duration, Renewal and Termination

Following approval by the Parties, this Agreement shall be filed in either the Office of the Yavapai County Recorder or the Office of the Secretary of State of the State of Arizona as required for compliance with the applicable provisions of A.R.S. § 11-952(F) or A.R.S. § 11-952(G). This Agreement shall continue in full force and effect for an initial term of five (5) years and will automatically be deemed renewed for an additional five (5) year period and every five (5) years thereafter for a maximum combined period of 25 years unless written notice of intent not to renew is provided by the non-renewing Party to the renewing Party no less than 60 days prior to the date of expiration of the initial term.

In addition to the non-renewal provisions as set forth herein, This Agreement may be terminated by either Party, with or without cause, upon thirty (30) days notice to the other Party. Within 10 days, following termination or non-renewal of this Agreement, the User Agency shall return any and all property of Yavapai County and of the Yavapai County Sheriff's Office unless otherwise agreed in writing by the Parties.

### V. Use Fees and Other Charges

The User Agency agrees to pay fees to the County for the use of the Facility pursuant to this Agreement in such amounts as may from time to time be established by the County and incorporated into a written schedule of use fees. The User Agency also agrees to pay for any and all consumable product replacement, repair and/or replacement of property and/or loaned equipment at the Facility that is or may be damaged, destroyed or rendered inoperable as result of the User Agency's use of the Facility pursuant to this Agreement. Use fees and other charges as provided herein shall be due and payable upon receipt by the User Agency of the County's written invoice itemizing said fees and charges.

## **VI. Equipment Requirements.**

Prior to use of the Facility pursuant to this Agreement, the County shall provide to the User Agency a written list of supplies and equipment that specifies the equipment and materials that will be necessary for the User Agency's personnel to properly use the Facility. The User Agency shall obtain all listed equipment and supplies prior to its use of the Facility.

## **VII. Supervision and Control**

The County will assign a Track Monitor to ensure the appropriate use of the Facility. Unless expressly authorized by the County in writing, use of the Facility shall be permitted only in the presence of the assigned Track Monitor. All driving instructors or support personnel must be supplied by the User Agency. The County reserves the right, in its sole discretion, to immediately terminate any use of the Facility if it is determined that such use has resulted or may result in damage to the Facility or if such use otherwise presents a threat to the safety of persons or property.

## **VIII. Employment Status and Compensation/Relation of the Parties**

Each of the Parties shall provide required workers' compensation insurance, salary, benefits, and appropriate equipment for their respective employees.

Except as otherwise provided by law (specifically A.R.S. § 23-1022(D)), in the performance of this Agreement, both Parties hereto will be acting in their individual governmental capacities and not as agents, employees, partners, joint ventures, or associates of each other. The employees, agents, or subcontractors of one Party shall not be deemed or construed to be the employees or agents of the other Party.

## **IX. Workers' Compensation/ Posting of Notices**

Pursuant to A.R.S. §23-1022 D, for the purposes of workers' compensation coverage, all employees of the Host and User Agencies operating under this Agreement shall be deemed to be an employee of both agencies. The primary Agency shall be solely liable for payment of workers' compensation benefits.

The County agrees to provide any postings or notices to employees as required by A.R.S. §23-1022(E) or as otherwise provided by law.

## **X. Non-discrimination**

The Parties to this Agreement shall comply with all applicable provisions of State and Federal non-discrimination laws and regulations including, but not limited to, State Executive Order No. 99-A, which mandates that all persons, regardless of race, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities and all other Federal and State employment and educational opportunity laws, rules and regulations, including the Americans with Disabilities Act. No Party shall engage in any form of illegal discrimination with respect to applications for employment or student status or employees or students.

### **XI. Indemnification**

The User Agency hereby agrees to indemnify and save harmless the County against any and all claims arising from the User Agency's use of the Facility pursuant to this Agreement including, but not limited to claims arising from the acts, omissions or negligence of its officers, employees contractors, invitees or agents and against any and all claims arising from injuries or damages, however caused, sustained by any person or persons or to the property of any person, persons or other entities, including the County, during such period of use. In any such claim or action against the County, the User Agency, upon notice and demand by the County, shall defend such action on behalf of the County by counsel acceptable to the County.

### **XII. Insurance**

In addition to compliance with the indemnity provisions as set forth in Section XI of this Agreement, the User Agency shall obtain and maintain general liability insurance coverage in an amount and in such forms as necessary to protect the County and the User Agency against any and all claims arising from the User Agency's use of the Facility pursuant to this Agreement including, but not limited to claims arising from the acts, omissions or negligence of its officers, employees contractors, invitees or agents and against any and all claims arising from injuries or damages, however caused, sustained by any person or persons or to the property of any person, persons or other entities, including the County, occurring during such use. The minimum annual aggregate policy limit for insurance coverage obtained and maintained pursuant to this Section shall be \$2,000,000. All policies shall name Yavapai County and the Yavapai County Sheriff's Office as additional insureds. All policy forms shall be subject to review and approval of the County. Prior to the effective date of this Agreement, the User Agency shall provide the County with certificates of insurance and such other documents as may be requested by the County in order to confirm the existence and adequacy of the insurance coverage specified herein. The User Agency shall notify the County no less than 10 days prior to any changes in coverage including policy forms, policy limits, cancellations, non-renewals or changes in insurance carriers. The Parties understand and agree that the policy limits or other provisions of insurance coverage obtained and maintained pursuant to this Section shall in no way limit the User Agency's indemnification obligations pursuant to Section XI of this Agreement.

### **XIII. Entire Agreement**

This Agreement constitutes the entire understanding of the Parties with respect to the subject matter thereof. Any amendment or modification of this Agreement shall be made only by a written instrument executed by authorized representatives of the Parties

### **XIV. Severability**

The Parties agree that should any part of this Agreement be held to be invalid or void, the remainder of the Agreement shall remain in full force and effect and shall be binding upon the Parties.

**XV. Governing Law and Dispute Resolution**

Interpretation of this Agreement will be in accordance with the laws of the State of Arizona. The Parties understand and agree that any litigation arising out of this Agreement shall be deemed to be within the jurisdiction of the Superior Court for Yavapai County.

**XVI. Conflict of Interest**

This Agreement is subject to cancellation pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated herein.

**XVII. Notices**

All notices, requests for payment, or other correspondence between the Parties regarding this Agreement shall be mailed or delivered to the respective Parties at the addresses set forth below or at such alternate addresses as may be specified in writing:

County		User Agency
Yavapai County Sheriff's Office		Payson Police Department
255 E Gurley Street		303 N. Beeline Highway
Prescott, AZ 86327		Payson, Arizona 85541

**XVIII. Approvals**

Yavapai County

User Agency: Town of Payson Police Department

By: \_\_\_\_\_  
Thomas Thurman

By: \_\_\_\_\_  
Kenny J. Evans

Its: Chairman

Its: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Determinations of Counsel**

In accordance with A.R.S. § 11-952, this Intergovernmental Agreement has been reviewed by the undersigned legal counsel who has determined that this contract is in appropriate form and within the powers and authority granted to Yavapai County.

By \_\_\_\_\_ Date \_\_\_\_\_  
Counsel for Yavapai County

In accordance with A.R.S. § 11-952, this Intergovernmental Agreement has been reviewed by the undersigned legal counsel who has determined that this contract is in appropriate form and within the powers and authority granted to the Town of Payson.

By \_\_\_\_\_ Date \_\_\_\_\_  
Counsel for Town of Payson