

**RESOLUTION NO. 2928**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING THE INTERGOVERNMENTAL AGREEMENT (“AGREEMENT”) BETWEEN THE TOWN OF PAYSON, ON BEHALF OF THE TOWN OF PAYSON POLICE DEPARTMENT (“TPPD”) AND THE TONTO APACHE TRIBE, ON BEHALF OF THE TONTO APACHE TRIBAL POLICE DEPARTMENT (“TATPD”), FOR CENTRALIZED DISPATCH SERVICES TO THE TATPD AND AUTHORIZING THE MAYOR TO EXECUTE SUCH AGREEMENT.**

**WHEREAS**, pursuant to A.R.S. § 9-240 (B)(12), the Town Council shall also have power to establish and regulate the police of the Town, and to prescribe their powers; and

**WHEREAS**, pursuant to A.R.S. §§11-951 and 11-952, the Parties are authorized and empowered to enter into intergovernmental agreements for joint or cooperative action; and

**WHEREAS**, the Tonto Apache Tribe, a federally recognized Indian Tribe pursuant to Section 16 of the Indian Reorganization Act of 1934. Pub. Law 92-47, October 6, 1972, 86 Stat. 783, and the Apache Treaty, July 1, 1852. 10 Stat. 979 is authorized to enter into Intergovernmental Agreements; and

**WHEREAS**, the Tonto Apache Tribal Police Department (“TATPD”), a department of the Tonto Apache Tribe, is the primary law enforcement agency charged with the duty to provide law enforcement services within the lands under the jurisdiction of the Tonto Apache Tribe (“Tonto Apache Reservation” or “Reservation”); and

**WHEREAS**, the Tonto Apache Tribe requires the provision of law enforcement centralized dispatch services for the TATPD within its jurisdiction; and

**WHEREAS**, the Town of Payson through TPPD desires to provide law enforcement centralized dispatch services to TATPD under its jurisdiction on the Reservation; and

**WHEREAS**, the TRIBE, on behalf of the Tonto Apache Police Department, desires to contract with the Town, through the Town of Payson Police Department for law enforcement centralized dispatch services to the TATPD.

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

Section 1: That Dispatch Agreement, a copy of which is attached hereto as Exhibit “A”, and made a part hereof by this reference, be and is hereby approved.

Section 2: That Kenny Evans, Mayor of the Town of Payson, be and is hereby authorized to execute said Agreement attached as Exhibit “A”, in substantially the form as attached.

Section 3: That the Town of Payson and Town Officials are hereby authorized to take such other and further actions as may be necessary or appropriate to carry out the terms and intent of said Intergovernmental Agreement.

**PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON** this 7th day of July, 2016, 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 2928

(IGA for Dispatch between TATPD and TPPD)

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE TOWN OF PAYSON  
AND  
THE TONTO APACHE TRIBE  
FOR  
DISPATCH SERVICES TO THE TONTO APACHE TRIBAL POLICE DEPARTMENT**

**THIS AGREEMENT** (“Agreement”) is made and entered into this \_\_\_\_ day of July, 2016, by and between the Town of Payson, a municipal corporation and a political subdivision of the State of Arizona, on behalf of the Town of Payson Police Department, hereinafter referred to as (“TPPD”), and the Tonto Apache Tribe, a federally recognized Indian Tribe pursuant to Section 16 of the Indian Reorganization Act of 1934, Pub. Law 92-47, October 6, 1972, 86 Stat. 783, and the Apache Treaty, July 1, 1852, 10 Stat. 979 (TRIBE”), on behalf of the Tonto Apache Tribal Police Department (“TATPD”) and (collectively “the Parties” and singularly “the Party”).

**WHEREAS**, the Tonto Apache Tribal Police Department (“TATPD”), a department of the Tonto Apache Tribe, is the primary law enforcement agency charged with the duty to provide law enforcement services within the lands under the jurisdiction of the Tonto Apache Tribe (“Tonto Apache Reservation” or “Reservation”); and

**WHEREAS**, the Tonto Apache Tribe requires the provision of law enforcement centralized dispatch services for the TATPD within its jurisdiction; and

**WHEREAS**, the Town of Payson, through TPPD, desires to provide law enforcement centralized dispatch services to TATPD; and

**WHEREAS**, the TRIBE, on behalf of the Tonto Apache Tribal Police Department, desires to contract with the Town, through the Town of Payson Police Department for law enforcement centralized dispatch services to the TATPD; and

**WHEREAS**, pursuant to A.R.S. §§11-951 and 11-952, the Parties are authorized and empowered to enter into intergovernmental agreements for joint or cooperative action.

**NOW, THEREFORE**, the Parties agree as follows:

**1. Purpose**

The purpose of this Intergovernmental Agreement is to define the terms upon which the Town through the TPPD will provide dispatch services to the Tonto Apache Tribal Police Department.

**2. Term and Renewal**

A. Initial Term: This Intergovernmental Agreement shall become effective when fully executed, by and under the authority of the governing body of each Party's jurisdiction. The initial term shall be for a three (3) year period with renewal for one (1) year periods subject and contingent on an annual review from the effective date affirming renewal of each yearly period. Such annual review shall be performed forty-five (45) days prior to end of each year. The Town of Payson's budget year begins July 1<sup>st</sup> and ends June 30<sup>th</sup> of each year.

**3. Dispatch Services to be Provided by the TPPD**

Town of Payson, through the TPPD, will provide centralized dispatch services to the TATPD (as described in Exhibit A attached hereto and incorporated herein by reference) during the term of this Intergovernmental Agreement. The dispatch services to be provided to the TATPD shall be in substantial conformance with the dispatch services provided for the Town of Payson Police Department and the Gila County Sheriff's Office ("GCSO"), except that dispatch services shall also be provided to the Tribe for the enforcement of Tribal laws, as well as the enforcement of applicable federal and state laws. TPPD will provide on-going training on the use of the dispatch system to the TATPD, in conformance with the regular training schedule provided to dispatchers and officers of the Town of Payson Police Department.

**4. Compensation**

In consideration for providing the agreed upon centralized dispatch services, the TRIBE agrees to pay the Town of Payson an amount based on the calculations enumerated below:

- A. \$5,000.00 per officer that is employed full-time or part-time by the TATPD as of July 1 of each year, except for TATPD reserve officers discussed in subparagraph 4.B. below. As of the effective date of this Agreement, there are eight (8) TATPD officers.
- B. \$1,200.00 per each reserve officer employed by the TRIBE on July 1 of each year. An officer shall be considered a reserve officer if he or she is employed by the TRIBE for less than 125 hours per year. As of the effective date of this Agreement, there is one (1) TATPD reserve officer.
- C. Any increase in the number of officers employed by the TATPD during the year shall be added to the compensation to be paid to the Town of Payson and shall be pro-rated on a monthly basis through the end of the Town's fiscal year.

- D. The replacement of TATPD officers and reserve officers shall not be considered an increase in the number of officers employed by the TATPD.
- E. Decreases in the number of officers employed by the TATPD during the year shall not reduce the compensation to be paid to the Town of Payson for current fiscal year. The number of officers and reserve officers shall be reassessed on July 1 of each year.

5. **Billing**

- A. Town of Payson will invoice the TRIBE for twelve monthly payments in the amount determined under paragraph 4 (A-E) above. The TRIBE will be invoiced on the last day of each month, due on the fifteenth (15<sup>th</sup>) day of the following month for dispatch services, provided under this Intergovernmental Agreement, and the same day of each succeeding month thereafter for the term of this IGA.
- B. In the event the Tribe fails to pay any payment required hereunder, the Town of Payson and TPPD shall cease to provide dispatch services to the Tribe and/or terminate this Agreement after giving thirty (30) day notice of its intention to terminate or cease providing services.

6. **Obligations**

TPPD shall have no obligation to provide dispatch and training services pursuant to this Intergovernmental Agreement after its expiration, termination or non-renewal. In such event, the TRIBE shall have no further obligation to the Town of Payson, except for the payment to the Town of any amounts then owing.

7. **Personnel Compensation, Injuries and Insurance**

Except, as otherwise provided for in this Agreement, each Party shall be responsible for all compensation and insurance coverage of their respective employees and equipment. Except, as otherwise provided for in this Agreement, each Party shall bear the risk of its own actions as it does with its day-to-day operations. Each Party shall determine for itself the types of insurance and in what amounts it should carry.

8. **Sovereign Immunity**

The Parties shall have such immunity as provided by applicable federal, state or tribal law, and nothing in this Agreement shall be construed as a waiver of sovereign immunity by the Tribe, or as consent to the jurisdiction of any Federal or State Court.

9. **Indemnification**

To the fullest extent permitted by law, each Party agrees to defend, indemnify, and hold harmless the other Party and the other Party's officers, agents, and employees from all claims, losses, and causes of actions arising out of, resulting from, or in any manner connected with this Agreement, to the extent such claim, loss, cause of action, damage or

injury is caused or contributed to by the negligent or willful acts or omissions of the indemnifying party.

**10. Non-Discrimination**

The Parties to this agreement shall not discriminate against any employee, client, or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out the Party's duties and responsibilities pursuant to this Intergovernmental Agreement.

**11. Compliance with A.R.S. § 41-4404**

The Parties warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). If either party uses any subcontractors in the performance of this Agreement, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). A breach of this warranty shall be deemed a material breach of the Agreement subject to penalties up to and including termination of this Agreement. The Parties retain the right to inspect the papers of the respective Party and its subcontractors to ensure the Town and the County and/or their subcontractors are complying with this warranty.

**12. Termination.**

A This Intergovernmental Agreement may be terminated by either Party for any reason by providing at least 180 days written notice to the other party.

B.. Either Party may terminate this Intergovernmental Agreement for a material breach *provided that* the non-breaching Party provides at least thirty (30) days written notice to the other Party of its intent to terminate the Intergovernmental Agreement, *via* hand- delivery or certified mail, return receipt requested, and allows at least twenty (20) days from the date of receipt of the notice to cure the alleged breach.

**13. Notices and Contact List**

All notices or demands upon any party to this Intergovernmental Agreement shall be in writing, unless other forms are designated elsewhere, and shall be delivered in person or sent by mail addressed as follows:

**Town of Payson (TPPD)**

LaRon Garrett  
Town Manager  
303 N. Beeline Hwy.  
Payson, Arizona 85541  
(928) 472-5041  
[LGarrett@paysonaz.gov](mailto:LGarrett@paysonaz.gov)

Don Engler  
Chief of Police  
303 N. Beeline Hwy  
Payson, Arizona 85541  
(928) 472-5053  
[DEngler@paysonaz.gov](mailto:DEngler@paysonaz.gov)

**Tonto Apache Tribe (TATPD)**

Chairperson or Acting Chairperson  
TONTO APACHE TRIBE  
30 Tonto Apache Reservation  
Payson, Arizona 85541  
Phone: (928) 474-5000  
Fax #: (928) 474-9125

Mary Schlosser  
Chief of Police  
30 Tonto Apache Reservation  
Payson, Arizona 85541  
Phone: (928) 474-5000 extension 8301  
[mschlosser@tontoapache.org](mailto:mschlosser@tontoapache.org)

**14. No Third Party Beneficiaries**

Nothing in this Intergovernmental Agreement is intended to create duties, obligations to, rights or remedies in third parties not Parties to this Intergovernmental Agreement.

**15. Standard of Care**

Nothing in this Intergovernmental Agreement is intended to affect the legal liability of either Party to the Intergovernmental Agreement by imposing any standard of care different from the standard of care imposed by applicable law.

**16. Jurisdiction**

Nothing in this Intergovernmental Agreement shall be construed as otherwise limiting or extending the legal jurisdiction of any Party.

**17. Conflict of Interest**

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

**18. Severability**

If any provision of this Intergovernmental Agreement is held to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable to the full extent permitted by law.

**19. Assignment**

It is hereby agreed by the Parties that there will be no assignment or transfer of this Intergovernmental Agreement, nor of any interest in this Intergovernmental Agreement.

**20. Entire Agreement**

This document constitutes the entire Intergovernmental Agreement between the Parties pertaining to the subject matter hereof. This Intergovernmental Agreement shall not be modified, amended, altered or extended except through a written amendment signed by the Parties under the same authority and direction as this Intergovernmental Agreement has been executed.

*IN WITNESS WHEREOF*, three (3) identical counterparts of this Intergovernmental Agreement each of which shall include original signatures and for all purposes be deemed an original thereof, have been duly executed by the parties hereinafter named, on the date and year first above written.

**TONTO APACHE TRIBE**

**TOWN OF PAYSON**

\_\_\_\_\_  
, Chairman

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

\_\_\_\_\_  
Mary Schlosser, Chief of Police

\_\_\_\_\_  
Don Engler, Public Safety Director

ATTEST:

ATTEST:

\_\_\_\_\_  
Rudy Ramirez, Tribal Secretary

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

**APPROVED AS TO FORM:**

I have reviewed the above referenced Intergovernmental Agreement between the TOWN OF PAYSON, on behalf of the TPPD and TONTO APACHE TRIBE, on behalf of the TATPD, an agreement among public agencies in accordance with the requirements of A. R. S. §§ 11-951 through 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the Town of Payson under the laws of the State of Arizona.

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

\_\_\_\_\_  
Date