

DRAFT

INTERGOVERNMENTAL AGREEMENT FOR MANAGEMENT SERVICES

**between
City of Flagstaff
and
Summit Fire District**

This Intergovernmental Agreement for Management Services (“Agreement”) is entered into this ___ day of _____, 2015, between the City of Flagstaff (“CITY”), an Arizona municipal corporation, with offices at 211 W. Aspen Avenue, Flagstaff, Arizona, and the Summit Fire District, a political subdivision of the State of Arizona, with offices at 8905 Koch Field Road, Flagstaff, Arizona (“DISTRICT”).

RECITALS

- A. WHEREAS, CITY and DISTRICT (which may be referred to herein as a “PARTY” or the “PARTIES”) desire to enter into this Agreement for Management Services; and
- B. WHEREAS, CITY and DISTRICT are authorized pursuant to A.R.S. §11-952 et seq. and A.R.S. §48-805 et seq. to enter into agreements to cooperate in the provision of fire suppression, emergency medical services (“EMS”) and related services otherwise authorized by law; and
- C. WHEREAS, CITY and DISTRICT desire to share management services, including Fire Chief services, (“Management Services”) to each operate in a more efficient and cost effective manner; and
- D. WHEREAS, CITY employs, on a full-time basis, a Fire Chief with the required professional qualifications, expertise, and experience in leading, managing, and administering a professional, full-service Fire District; and
- E. WHEREAS, CITY is willing to provide Management Services to DISTRICT in exchange for the consideration as set forth herein; and
- F. WHEREAS, the PARTIES desire to continue to improve the nature and coordination of emergency response to incidents that threaten loss of life or property within the geographic boundaries of their respective jurisdictions to include regional operations, procedures, and practices governing command and control hazard zone operations; and
- G. WHEREAS, CITY and DISTRICT agree to participate in a pilot program for the purpose of enabling the CITY Fire Chief or his designee to also function as the DISTRICT Fire Chief.

1. PURPOSE

The purpose of this IGA is to authorize the City of Flagstaff Fire Chief to also function as the Summit Fire District Fire Chief under the terms of this Intergovernmental Agreement for Management Services.

2. SCOPE

The scope of this Agreement shall include the following:

2.1 CITY's Responsibilities and Obligations

The CITY shall:

- 2.1.1 Permit its Fire Chief or his designee to serve as Fire Chief for both CITY and DISTRICT on an appropriate shared services basis, subject to the conditions, limitations, and guidelines set forth in this Agreement.
- 2.1.2 Formally communicate with the DISTRICT any challenges or concerns regarding this Agreement, with the intent of resolving such issues and to preserve the intent and purpose of the Agreement for the benefit of both PARTIES.

2.2 DISTRICT's Responsibilities and Obligations

The DISTRICT shall:

- 2.2.1 Permit the CITY's Fire Chief or his designee to serve as Fire Chief for the DISTRICT on an appropriate shared services basis, subject to the conditions, limitations, and guidelines set forth in this Agreement.
- 2.2.2 Cooperate with the CITY in the allocation of equipment, personnel, and resources as needed to allow for efficient and effective operations and administration of both PARTIES' needs under this Agreement.
- 2.2.3 Formally communicate with the CITY any challenges or concerns regarding this Agreement, with the intent of resolving such issues and to preserve the intent and purpose of the Agreement for the benefit of both PARTIES.
- 2.2.4 The District shall lease a vehicle to the City for \$1.00 per year for the use of the Fire Chief or his designee during the term of this Agreement. The District shall maintain and the City shall insure the vehicle. The District will provide a gas card to the Chief or his designee to pay for all fuel expenses. The CITY shall, to the fullest extent permitted by law, indemnify, defend and hold harmless the DISTRICT, its members, directors, officers, employees, agents, attorneys and assigns from and against any and all claims, losses, liability, costs or expenses resulting from the negligent, alleged negligent, reckless, or intentional conduct of the Fire Chief or his designee while operating the vehicle for City purposes.

3. CONSIDERATION

In exchange for providing Management Services to the DISTRICT as outlined herein, DISTRICT agrees to compensate CITY in the sum of \$72,900.00 annually. CITY will issue a monthly invoice. Payment will be made to City of Flagstaff, 211 W. Aspen Avenue, Flagstaff, Arizona 86001 within thirty (30) days of receipt of the invoice.

4. EFFECTIVE DATE; TERM; REVIEW; RENEWAL

- 4.1 Effective Date. This Agreement will become effective for each PARTY January 1st, 2016 (the “Effective Date”).
- 4.2 Term. The initial term of this Agreement will be for two (2) years, unless sooner terminated as provided herein.
- 4.3 Review. After the Agreement has been in effect for one (1) year, the PARTIES shall perform a detailed review of its effectiveness.

5. GENERAL PROVISIONS

- 5.1 The PARTIES shall establish appropriate written policies, procedures, and protocol for using the Joint Management Services and related equipment provided for under this Agreement.
- 5.2 The Fire Chief or his designee may provide management services to the DISTRICT in the following areas:
 - Community/Customer Relations
 - City Council/Fire District Board Relations
 - Labor Relations
 - Policy Development and Maintenance
 - Risk Management
 - Mutual Aid
 - Regional, State, and Federal Relations
 - Strategic and Operational Planning
 - Contracts and Intergovernmental Agreements
 - Records Management
 - Budgeting
 - Grant Funding
 - Human Resources
- 5.3 The CITY shall treat the Fire Chief and his designee as its employees for all matters except for liability for actions taken or not taken on behalf of the District, including but not limited to, compensation, workers’ compensation, benefits, retirement, employment policies, and discipline.
- 5.4 The Fire Chief, his designee, and DISTRICT shall treat DISTRICT employees as employees of the DISTRICT for all matters including, but not limited to, compensation, workers’ compensation, benefits, retirement, employment policies, and

discipline.

- 5.4.1 The DISTRICT shall be responsible for payment of all costs and expenses associated with its employees, including but not limited to, compensation, benefits, workers' compensation, and retirement.
- 5.4.2 The Fire Chief or his designee shall have the authority to hire, fire, and discipline PERSONNEL employed by the DISTRICT, subject to the DISTRICT's employee policies.
- 5.5 The DISTRICT shall provide the Fire Chief or his designee an office at an appropriate DISTRICT location suitable for completing the functions of the position under this Agreement. The costs associated with providing the office, computer, and office supplies related to performing work for the DISTRICT pursuant to this Agreement shall be borne by the DISTRICT.
- 5.6 Except as otherwise provided for under this Agreement, each PARTY shall be responsible for the acquisition and maintenance of its own equipment.
- 5.7 The Fire Chief or his designee shall serve as the chief executive officer of the DISTRICT during the term of this Agreement, subject to the DISTRICT Board's role as a policy group.
- 5.8 The Fire Chief or his designee shall have the authority to commit the DISTRICT to expenditures consistent with the budget and procurement policies approved by the governing body of the DISTRICT and in so doing shall allocate and account for such expenditure.
- 5.9 The Fire Chief or his designee shall be responsible for reporting to the governing bodies of the PARTIES concerning any issues related to this Agreement, as needed.
- 5.10 The CITY shall under no circumstances assume any responsibility or liability for claims or litigation that are pending against the DISTRICT as of the effective date of this Agreement or that arise after the effective date of this Agreement.
- 5.11 The CITY shall not assume responsibility for payment of any debts or outstanding amounts owed by the DISTRICT as of the effective date of this Agreement or any amounts owed by the DISTRICT during the term of this Agreement.
- 5.12 Participation in this Agreement shall create no ownership for DISTRICT relative to any equipment and/or real or personal property existing at the effective date of this Agreement or subsequently purchased with CITY funds pursuant to this Agreement.
- 5.13 To avoid the possibility of conflicts of interest, neither the Fire Chief nor his designee shall at any time be involved in initiating, negotiating, or drafting amendments, changes to terms, or addenda to this IGA. In addition, neither the Fire Chief nor his designee shall be involved in the decision whether to renew or not renew this IGA.

5.14 As per Section 12 of this Agreement, the Parties recognize that the Fire Chief and his designees are employees of the City and that occasionally the work performed for the Summit Fire District, such as amending this agreement, will cause conflicts of interest. In such instances, each PARTY shall hire or appoint an individual who does not have a conflict to act as its representative.

6. TERMINATION

This Agreement may be terminated by either PARTY, for any reason, effective thirty (30) days from the giving of written notice to the other party at the following addresses:

City of Flagstaff
Flagstaff Fire Department
Attn: Fire Chief
211 West Aspen Avenue
Flagstaff, AZ 86001

Summit Fire District
Attn: Fire Board Chair
8905 Koch Field Road
Flagstaff, AZ 86004

In the event of termination pursuant to this Section 6, the amount to be paid by the DISTRICT to the CITY shall be prorated based on the number of days remaining in the month when the termination becomes effective.

7. LIABILITY INSURANCE

DISTRICT shall maintain, during the life of this Agreement, a policy of liability insurance naming the CITY as an additional insured, in the minimum amount of \$1,000,000.00 per occurrence with aggregate liability coverage of not less than \$3,000,000.00. Such insurance shall provide coverage for the conduct and acts of the Fire Chief or his designee acting within the scope of his authority. DISTRICT shall provide a carrier certificate and broad form endorsement that follows the indemnification and is acceptable to the CITY's Risk Manager.

8. INDEMNIFICATION

To the fullest extent permitted by law, DISTRICT shall indemnify, defend and hold harmless the CITY, its members, directors, officers, employees, agents, attorneys and assigns from and against any and all claims, losses, liability, costs or expenses resulting from the negligent, alleged negligent, reckless, or intentional conduct of the DISTRICT. CITY shall indemnify DISTRICT only under the limited circumstances set forth in Section 2.2.4 of this Agreement. Any indemnification shall survive termination of this Agreement or the termination of the participation of any of its PARTIES. The amount and type of insurance coverage requirements set forth in this Agreement shall in no way be construed as limiting the scope of the indemnity in this paragraph.

9. WORKERS' COMPENSATION COVERAGE

9.1 CITY shall be considered the primary employer of the Fire Chief and his designee, and agrees to provide Workers' Compensation Insurance for the Fire Chief and his designee in accordance with all applicable Federal and State laws.

9.2 DISTRICT shall be considered the primary employer of all DISTRICT employees, and agrees to provide Workers' Compensation Insurance for its employees in accordance with all applicable Federal and State laws.

9.3 Each PARTY shall comply with the provisions of A.R.S. §23-1022(E) by posting the required employee notice of Workers Compensation Insurance.

10. SEVERABILITY

If any provision of this Agreement shall be held to be unconstitutional, invalid, or unenforceable, it shall be deemed severable; however, the remainder of the Agreement shall not be affected and shall remain in full force and effect.

11. NON-DISCRIMINATION

Each PARTY warrants that it complies with any state and federal laws, rules and regulations which mandate that all persons, regardless of race, color, creed, religion, sex, genetic information, age, national origin, disability, familial status or political affiliation, shall have equal access to employment opportunities, including but not limited to the Americans with Disabilities Act. Each PARTY shall take affirmative action to ensure that it will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and the Genetic Information Nondiscrimination Act of 2008.

12. CANCELLATION FOR CONFLICT OF INTEREST

This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511.

13. COMPLIANCE WITH ALL LAWS

Each PARTY shall comply with all federal, state and local laws, rules and regulations.

14. EXECUTION PROCEDURE

This Agreement will be executed in counterparts by the governing body of each PARTY.

15. LEGAL ARIZONA WORKERS ACT COMPLIANCE

PARTIES are required to comply with A.R.S. §41-4401, and hereby warrant that they will, at all times during the term of this Agreement, comply with all federal immigration laws applicable to the employment of their respective employees, the requirements of A.R.S. §41-4401, and with the e-verification requirements of A.R.S. §23-214(A) (together the "state and federal immigration laws"). PARTIES further agree to ensure that each subcontractor that performs any work under this Agreement likewise complies with the state and federal immigration laws.

A breach of a warranty regarding compliance with the state and federal immigration laws shall be deemed a material breach of the Agreement and the PARTY who breaches may be subject to penalties up to and including termination of the Agreement.

Each PARTY retains the legal right to inspect the papers of any contractor or subcontractor employee working under the terms of the Agreement to ensure that the other PARTY is complying with the warranties regarding compliance with the state and federal immigration laws.

16. NON-APPROPRIATION

This Agreement shall be subject to available funding for each PARTY, and nothing in this Agreement shall bind any PARTY to expenditures in excess of funds appropriated and allotted for the purposes outlined in this Agreement.

17. NO THIRD PARTY BENEFICIARIES

The PARTIES acknowledge and agree that the terms, provisions, conditions, and obligations of this Agreement are for the sole benefit of, and may be enforceable solely by, the PARTIES, and none of the terms, provisions, conditions, and obligations of this Agreement are for the benefit of, or may be enforced by, any person or entity not a party to this Agreement.

18. AUDIT OF RECORDS

Each PARTY, upon written request and at reasonable times, shall have the right to review, inspect, audit, and copy all books, accounts, reports, files, and all other records relating to the performance and/or costs associated with this Agreement.

19. PUBLIC RECORDS

All records created or kept in connection with this Agreement shall be subject to Arizona Public Records Laws, A.R.S. § 39-101 *et seq.* The DISTRICT shall comply with the CITY's Records Retention Policy regarding all records associated with the performance of this Agreement.

20. GOVERNING LAW

This Agreement shall be governed by the laws of the State of Arizona.

21. COMPLIANCE WITH ALL LAWS

Each PARTY shall comply with all federal, state, and local laws, rules, and regulations.

22. SIGNATURES

Each PARTY represents and warrants that all necessary approvals for this agreement have been obtained, and the persons whose signatures appear below have the authority necessary to execute this agreement on behalf of the PARTIES indicated.

City of Flagstaff

Summit Fire District

Mayor

Board Chair

Attest:

City Clerk

Approved as to form:

City Attorney