

RESOLUTION NO. 2925

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. 1 TO THE MANAGEMENT SERVICES AGREEMENT (“AGREEMENT”) BETWEEN THE HOUSTON MESA FIRE DISTRICT (“HMFD DISTRICT”) AND THE TOWN OF PAYSON, THE PAYSON FIRE DEPARTMENT, (“TOWN PFD”) TO PROVIDE MANAGEMENT AND OVERSIGHT SERVICES AND DECLARING AN EMERGENCY.

WHEREAS, the Town of Payson (“TOWN PFD”), a municipal corporation and a political subdivision of the State of Arizona, is located entirely in Gila County and incorporated and organized under A.R.S. §§ 9-101 and 9-231; and

WHEREAS, the Houston Mesa Fire District (“HMFD DISTRICT”), a political subdivision of the State of Arizona, is located entirely in Gila County and organized under A.R.S. § 48-802 *et seq.*; and

WHEREAS, the TOWN PFD has been requested to enter into **Amendment No. 1** to the Management Services Agreement with the HMFD DISTRICT, pursuant to A.R.S. § 11-952 *et seq.* and § 48-805 *et seq.*; and

WHEREAS, the Parties desire to approve and to execute Amendment No. 1 to the Agreement for the period beginning July 1st, 2016 and ending June 30th, 2017 through an Emergency Clause; and

WHEREAS, the Parties acknowledge that the services performed have a value to the TOWN PFD and to HMFD DISTRICT and in consideration of that value, the HMFD District agrees to fund the Town in the total amount of \$80,000.00 per year paid in quarterly payments of \$20,000.00 due and payable on the 1st of each month of each quarter; and

WHEREAS, this Agreement may be renewed from year to year by mutual agreement of the parties involved; and

WHEREAS, Mayor and Council deem this measure one necessary for the preservation of the public peace, health or safety, in which the emergency requires immediate adoption of Amendment No. 1 to the Agreement to provide immediate Management Services for Firefighters and EMTs.

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

Prepared by Town of Payson Legal Department

HMF:dkk June 6, 2016 (11:07AM)

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Section 1: That the Amendment No. 1 to the Agreement between the Houston Mesa Fire Department District and the Town of Payson Fire Department, 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 Amendment to the Agreement in substantially the form attached.

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

Section 4: That it is necessary for the preservation of peace, health and safety of the HMFD DISTRICT fire services to continue without interruption, an emergency is declared to exist and this Resolution shall become immediately operative and in full force and effect from and after the date of its enactment.

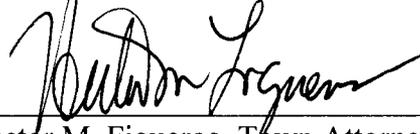
PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this 16th day of June, 2016, by the following vote:

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 2925

(Management Services Agreement Amendment No. 1)

INTERGOVERNMENTAL AGREEMENT FOR MANAGEMENT SERVICES

AMENDMENT NO: 1

PREAMBLE

The ORIGINAL Intergovernmental Agreement for Management Services was made and entered into this **23rd** day of **July, 2015**, by and between the HOUSTON MESA FIRE DISTRICT (“HMFD”) and the TOWN OF PAYSON on behalf of PAYSON FIRE DEPARTMENT (“TOWN PFD”), which are both political subdivisions of the State of Arizona, located entirely in Gila County, and are organized or incorporated under ARS §§ 48-802 et seq.; 9-101 and 9-231 *et seq.* HMFD and TOWN PFD shall be referred to collectively herein as the “Parties”; and individually as “District”, “Party”, or “Town”, respectively.

RECITALS

WHEREAS, the Parties have established the need to contract for management services, including Administrative, Financial, Personnel and Apparatus/Equipment Services as enumerated in the Original IGA together with attached Exhibit “I” and incorporated by reference as if set forth in **full** herein to provide Fire Services in a more efficient and cost effective manner; and

WHEREAS, the TOWN PFD does employ David Staub (the “Fire Chief”) on a full-time basis, the Fire Chief has the required professional qualifications, expertise, and experience in leading, managing, and administering a professional, full-service Fire District consistent with the terms of his employment with the Town of Payson; and

WHEREAS, the Parties desire to **AMEND** the original IGA by approving and authorizing **AMENDMENT NO: 1** as set forth herein.

NOW THEREFORE, in consideration of mutual promises and covenants set forth herein, the TOWN PFD and HMFD agree as follows:

COVENANTS

SECTION 1 - PURPOSE

The purpose of this Intergovernmental Agreement AMENDMENT NO: 1 is to incorporate negotiated contract terms to carry out the intent of the Agreement between Parties.

SECTION 2 - CONSIDERATION

In exchange for providing the contemplated services to HMFD as outlined in Exhibit “I” and this AMENDMENT, HMFD agrees to reimburse TOWN PFD \$80,000.00 per year payable on a quarterly payments of \$20,000 due and payable on the 1st of each month of each quarter. This Payment replaces the agreed upon payment in Exhibit “I”.

SECTION 3- DUTIES

The TOWN PFD duties to be performed on behalf of HMFD shall be the same as those reflected in the ORIGINAL Management Services Agreement, **as amended** from time to time under this **AMENDMENT NO: 1** and/or any other Amendment(s) as may be negotiated and approved by the Parties.

The TOWN PFD agrees to cover all calls in HMFD in the normal scope of fire protection utilizing standard operating procedures and within the limitations of fire fighting manpower and equipment. The Fire Chief has the authority to move equipment between TOWN PFD facilities and HMFD facilities with timely notice to TOWN MANAGER and HMFD BOARD CHAIR.

The TOWN PFD agrees to provide HMFD with staff assignments with a minimum coverage of twice per week for a period of 4 hours on each assignment. The TOWN PFD agrees to hire all qualified HMFD fire and support personnel contingent on their successful background checks and physical agility tests, as Town PFD reserve firefighters.

SECTION 4 - SEVERABILITY

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

SECTION 5- TERM

The **AMENDED** term of this IGA shall be effective on **July 1st, 2016** upon it being approved by the Town of Payson Mayor and Council, executed by the Mayor and signed by the authorized representatives of the HMFD DISTRICT, and shall remain in effect from the date it is signed, until the end of the fiscal year ending **June 30th, 2017**, and the Parties may negotiate renewal period(s) thereafter unless IGA is terminated by either Party.

This IGA AMENDMENT NO: 1 shall be binding upon the signature of all Parties and any successor-in-interest. No provision herein is intended to create a third beneficiary interest in any person or entity, including but not limited to the respective employees or agents of either Party.

This IGA shall be subject to review and notice of termination by the District Governing Board after every election cycle. In addition, this IGA shall be subject to available funding for the District, and nothing in this IGA shall bind either Party to expenditures in excess of funds appropriated and allotted for the purposes outlined in this IGA.

SECTION 6 – TERMINATION

This IGA may be terminated by either Party, for any reason, effective one hundred eighty (180) days from the giving of written notice to the other Party at the following addresses:

Houston Mesa Fire District
Attn: Fire Board Chair
8139 Mescalero Rd.
Payson, AZ 85541

Town of Payson Fire Department
Attn: Fire Chief Staub
400 W. Main Street
Payson, AZ 85541

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

SECTION 7 – AMENDMENT AND CONSTRUCTION

The ORIGINAL IGA and AMENDMENT NO: 1 as set forth herein is the entire understanding of the Parties as to the matters set forth herein as of the date of the IGA and AMENDMENT NO: 1 and cannot be altered or otherwise amended except pursuant to an instrument in writing signed by the authorized representatives of each of the Parties hereto. This IGA is intended to reflect the mutual intent of the Parties with respect to the subject matter hereof, and no rule of strict construction shall be applied against any Party.

IN WITNESS WHEREOF, the Parties enter into this **IGA AMENDMENT NO: 1** on the date(s) set forth below.

HOUSTON MESA FIRE DISTRICT

TOWN OF PAYSON (FIRE DEPARTMENT)

By: _____
Randy Norman, Chair/Fire Board

By: _____
Kenny J. Evans, Mayor

Date: _____

Date: _____

By: _____
Susan Starr, Clerk/Fire Board

By: _____
Silvia Smith, Town Clerk

Date: _____

Date: _____

Determinations of Counsel

In accordance with A.R.S. § 11-952, this Intergovernmental Agreement, AMENDMENT NO: 1 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 Houston Mesa Fire District under A.R.S. §48-805 et seq..

By _____ Date _____
Counsel for Houston Mesa Fire District

In accordance with A.R.S. § 11-952, this Intergovernmental Agreement, AMENDMENT NO: 1 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