

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF CHANDLER
AND
GILA RIVER INDIAN COMMUNITY
FOR MUTUAL AID RESPONSE FOR FIRE PROTECTION AND OTHER
EMERGENCY SERVICES**

AGREEMENT NO. _____

This Intergovernmental Agreement (“Agreement”) is entered into _____, 2021 (“Effective Date”), by and between the City of Chandler, for and on behalf of the Chandler Fire Department (“the City”), and Gila River Indian Community (“the Community”), a federally recognized Indian tribe. Throughout this Agreement, the City and the Community individually may be referred to as “Party” and may be referred to collectively as “Parties” to this Agreement.

RECITALS

WHEREAS, the City Manager of Chandler, is authorized and empowered by provisions of the City Charter to execute contracts; and,

WHEREAS, the City is authorized and empowered to enter into intergovernmental agreements for the provision of services or for joint or cooperative action pursuant to Arizona Revised Statutes (A.R.S.) §11-952; and,

WHEREAS, agreements for mutual assistance in fire protection and response to other emergencies have existed between municipalities and governmental jurisdictions; and,

WHEREAS, the safety of the employees of each Participant is paramount; and,

WHEREAS, it is the desire of the municipalities, governmental jurisdictions, agencies and fire districts participating in this Agreement, to continue and improve the nature and coordination of emergency assistance to incidents that threaten the loss of life or property within the geographic boundaries of their respective jurisdictions; and,

WHEREAS, it is further the determination of each of the Parties thereto that the decision to enter into this Mutual Aid Agreement constitutes a fundamental governmental policy of the Parties hereto which is discretionary in nature, and includes the determination of the proper use of the resources available to each of the Parties hereto with respect to the providing of governmental services and the utilization of existing resources of each of the Parties hereto, including the use of equipment and personnel; and,

WHEREAS, this Agreement shall encourage the development of cooperative procedures and protocols, including, but not limited to, the possibility of joint purchasing, coordination of communications, training, health and safety, fire prevention, public education, fire investigations and other activities that will enhance each Participant’s ability to fulfill its mission; and,

WHEREAS, it is the desire of the municipalities and governmental jurisdictions to initiate and/or renew a “Mutual Aid Agreement” for fire department services.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises, inducements, covenants, agreements, conditions and other good and valuable consideration, the receipt and sufficiency which is acknowledged, the Parties agree as follows:

ARTICLE I. PURPOSE

1. Purpose:

All Parties to this Agreement agree that its purpose is to provide for mutual assistance to fires, medical emergencies, hazardous materials incidents, technical rescues and other types of emergency incidents that are within the scope of services provided by fire departments.

2. Definition:

The Parties agree that mutual aid is defined as, any Fire Department emergency response and/or incident mitigation assistance provided by one Party to the other Party when no formal automatic assistance agreement has been instituted. Any mutual aid assistance provided will be the result of a formal request for assistance from one Party to the other Party, as prescribed in this agreement.

3. Effect on Prior Agreements:

The Parties further understand that this Agreement supersedes any previous mutual aid agreements between any of the Parties hereto.

4. Effect on current Intergovernmental Agreement for the Regional Metropolitan Phoenix Fire Service Automatic Aid Agreement:

Any response to a mutual aid jurisdiction or mutual aid response area by a Participant in the current Intergovernmental Agreement for the Regional Metropolitan Phoenix Fire Service Automatic Aid Agreement (Agreement) will not bind any other Participant in the Agreement to provide any assistance in support of the mutual aid request.

ARTICLE II. PARAMETERS FOR ASSISTANCE TO BE PROVIDED

1. Municipalities, governmental jurisdictions, and fire districts joining this discretionary agreement agree, for the purpose of emergency response, that certain formal operating procedures shall be followed in terms of requesting, dispatching and redeploying emergency units and operating at the scene of emergency incidents. At no time, will one Party be required to operate outside of that Parties Standard Operating Procedures (S.O.P.).
2. Upon request for assistance, it is understood and agreed that the Fire Chief or their designee of the Party being requested for assistance shall have the sole responsibility of determining, pursuant to the governmental policy of his/her jurisdiction, the level and amount of resources including equipment and personnel to be devoted in response to the request. Neither Party is in any way liable to the other or to any other person, firm or corporation for the determination to supply or not to supply, or to limit the amount of assistance upon such request following such determination.
3. It is understood and agreed that the assisting fire department units shall operate under the direction of the Fire Chief or other authorized person in command of emergency operations for the jurisdiction requesting assistance. At no time will the assisting units operate in violation of their respective S.O.P.'s.
4. It is understood that the equipment and personnel of the Party providing mutual aid assistance are to be released from service and returned to the Party's jurisdiction by the commanding officer in charge of operations as soon as conditions warrant.

ARTICLE III. REQUEST FOR ASSISTANCE

1. It is understood that at any time a jurisdiction that is outside of the Regional Metropolitan Automatic Aid Response System may exceed their response capabilities. When the Fire Chief or their designee determines, that assistance is needed to mitigate an emergency incident within their jurisdiction, a request for assistance can be made to either Party of this agreement.
2. All requests for mutual aid assistance will follow the process below:
 - 2.1 The requesting jurisdiction will contact the Phoenix Fire Department Regional Dispatch Center (PFDRDC) to request assistance. The request must include the type of incident, the type and number of resources being requested, current number of resources assigned to the emergency incident and the current incident strategy being utilized.
 - 2.2 Upon receipt of the information, the PFDRDC staff will determine, to the best of their ability, the closest appropriate supporting jurisdiction to fulfill the

request. Upon that determination, the PFDRDC will contact the on-duty Shift Commander or Battalion Chief of the proposed supporting jurisdiction to obtain approval to dispatch requested resources.

2.3 The following criteria will be utilized by the Fire Chief or their designee to determine the level of support that will be provided:

2.3.1 What is the incident type and nature?

2.3.2 What is the immediate or foreseeable life hazard?

2.3.3 Has the responsible agency dispatched resources to the incident? If yes, what is their estimated time of arrival to the incident.

2.3.4 Is a different jurisdiction closer that can provide the requested support? If yes, refer the request to that jurisdiction?

2.3.5 Is the requested support appropriate to ensure scene safety and to operate within the Phoenix Fire Departments Volume 2 procedures? If no, what resources would be needed?

2.3.6 What is the current overall resource availability of the jurisdiction being requested? What impact will the fulfillment of the request have on the system?

2.3.7 Are the resources being requested appropriate for the incident and able to have an impact. Specific consideration should be applied to request for ladder companies.

2.4 After thoroughly assessing the criteria in section 2.3 above, the Fire Chief or their designee will make a determination whether to fully or partially support the mutual aid request, or to deny the request. Upon this determination, the supporting jurisdiction Fire Chief or designee will advise the PFDRDC of the level of response, if any, that will be provided.

2.5 If assistance will be provided, the PFDRDC will immediately dispatch the determined resources and notify the requesting jurisdiction of the status of their request for assistance.

ARTICLE IV - MISCELLANEOUS

- 1.** Jurisdictions joining in this agreement should seek to adopt standard operating procedures to provide for incident command and management, communications, safety and such aspects of operations as are necessary to provide for the health and safety of the public and emergency response personnel.

2. The Parties further agree to participate in multi-jurisdictional drills and exercises, training programs, pre-incident planning, post-incident critiques and other activities to enhance safe effective emergency operations when practical and feasible to participate.
3. Nothing in this agreement shall limit the ability of either Party from agreeing to participate in more specific contracts for services, mutual assistance or automatic response; nor shall this prohibit any Party from providing emergency assistance to another jurisdiction which is not a participant in this agreement.
4. It is understood that no Party to this agreement by the execution of said agreement or by the requesting or providing of assistance under this agreement has assumed any binding legal responsibility to provide the resources, equipment, facilities or personnel of such responding jurisdiction outside its geographic area of jurisdiction, either in the instance of the initial request for assistance or any future request for assistance.
5. Neither Party shall be reimbursed by the other Party for any costs incurred pursuant to the agreement.
6. Both Parties shall retain ownership of any equipment or property it brings to the performance of this agreement.

ARTICLE V. TERM OF THE AGREEMENT

1. **Term; Renewal:**
This Agreement shall commence on the Effective Date referenced above, regardless of the date of recordation with the Maricopa County Recorder's Office, and shall continue in force for five (5) years, or until terminated by formal act of the Parties.
2. **Termination:**
Either Party may terminate this Agreement at any time by providing ninety days (90) written notice to the other Party. That terminating Party's termination will then be effective on the 91st day after notice has been provided, unless the notice to terminate has been withdrawn. The Parties at their convenience, by written notice, may terminate this Agreement. Termination can be with, or without, cause. In addition, the Parties acknowledge that, to the extent applicable by law, this Agreement is subject to cancellation by either Party pursuant to the provisions of A.R.S. § 38-511.

ARTICLE VI. GENERAL TERMS AND CONDITIONS

1. **Governing Law; Forum; Venue:**
This Agreement is executed and delivered in the State of Arizona, and the substantive laws of the State of Arizona (without reference to choice of law principles) will govern their interpretation and enforcement. Any action brought to

interpret or enforce any provision of this Agreement that cannot be administratively resolved, or otherwise related to or arising from this Agreement, will be commenced and maintained in the state or federal courts of the State of Arizona, Maricopa County, and each of the Parties, to the extent permitted by law, consents to jurisdiction and venue in such courts for such purposes.

2. Implied Contract Terms:

Each and every provision of law and any clause required by law to be in this Contract shall be read and enforced as though it were included herein, and, if through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon the application of either Party, the Contract shall be physically amended to make such insertion or correction.

3. Parol Evidence:

This Agreement is intended by the undersigned Parties as the final expression of their agreement and is intended to be the complete and exclusive statement of the terms of the agreement between the Parties. No course of prior dealings between the Parties and no usage in the trade shall be relevant to supplement or explain any term used in this Agreement. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Agreement.

4. Third-Party Beneficiary Clause:

The Parties expressly agree that this Agreement is neither intended by any of its provisions to create any right of the public or any member thereof as a third Party beneficiary, nor to authorize anyone not a Party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

5. Fund Appropriation Contingency:

The Parties understand that the continuation of this Agreement is subject to the budget of the Parties providing for the contract item as an expenditure. The Parties cannot assure that funding this Agreement will be approved in the future. In such event, either Party may terminate this Agreement.

6. No Joint Venture:

No term or provision in this Agreement is intended to create a partnership, joint venture or agency arrangement between any of the Parties.

7. Assignment and Delegation:

Neither this Agreement, nor any of its rights or obligations, may be transferred or assigned by either Party without the prior written consent of both Parties. Any attempt to assign this Agreement without prior written consent will be void and may result in penalties up to and including termination of the Agreement.

8. Entire Contract; Amendment, No Oral Modification:

This Agreement constitutes the complete agreement of the Parties. It supersedes all

previous representations, understandings, and agreements, written or oral, relating to the subject matter of this Agreement. This Agreement and its terms may not be modified or changed except in writing signed by both Parties.

9. Invalidity of Any Provisions:

This Agreement will remain in effect even if one or more of its terms or provisions have been held to be invalid or unenforceable. Such a holding will result in the offending term or provision being ineffective to the extent of this Agreement, which would subsequently be construed as though the invalid or unenforceable term or provision never existed. Upon discovery by either Party of invalid terms or provisions, written notice will be given to the other Party within ten (10) business days.

10. Independent Contractor Status:

The Parties agree that neither Party shall be deemed to be an employee or agent of the other Party to this Agreement and that the relationship created by this Agreement is that of independent contractors. Neither Party nor any of either Party's agents, employees or helpers will be deemed to be the employee, agent, or servant of the other Party. Neither Party, its employees and subcontractors are entitled to worker's compensation benefits from the other Party.

11. Workers' Compensation:

Pursuant to A.R.S. §23-1022(D), for the purposes of workers' compensation coverage, all employees of each Party covered by this Agreement shall be deemed to be an employee of all Parties. The agency which regularly employs an employee entitled to workers' compensation arising out of work associated with this Agreement shall be the agency solely liable for payment of all workers' compensation and related benefits.

12. Severability:

The provisions of this Agreement are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Agreement which shall remain in effect without the invalid provision or application.

13. Non-Waiver:

Any City delay or failure to exercise or enforce any right, power, privilege, or remedy under this Agreement may not be deemed a waiver, release, or modification of the requirements of this Agreement or any of its terms or provisions.

14. Compliance with Laws:

To the extent required by law, the Parties will comply with all applicable existing and subsequently enacted federal, state and local laws, ordinances, codes, and regulations that are, or become applicable to this Agreement. If a subsequently enacted law imposes substantial additional costs, a request for an amendment may be submitted pursuant to this Agreement.

15. Compliance with Non-Discrimination Laws:

To the extent required by law, the Parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, non-discrimination and affirmative action.

16. Drug Free Workplace:

The Parties will comply with the Drug Free Workplace Act of 1988 and will permit inspection of its personnel records to verify such compliance. A Party's breach of the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement.

17. Immigration and Legal Worker Requirements:

To the extent required by law, the Parties will comply with the Immigration Reform and Control Act of 1986 ("IRCA") and will permit inspection of its personnel records to verify such compliance. To the extent required by law and applicable under A.R.S. § 41-4401, each Party warrants compliance with all federal immigration laws and regulations that relate to its employees and the City warrants compliance with the E-verify requirements under A.R.S. § 23-214(A).

18. Disposition of Property.

Pursuant to the provisions of A.R.S. § 11-952(B)(4), it is expressly acknowledged and understood that upon cancellation or termination of this agreement, all right, title, and interest in and to equipment and property shall at all times remain the property of the Purchaser.

ARTICLE VII. INSURANCE AND INDEMNIFICATION

1. Indemnification:

From the time of arrival to the time of departure at the emergency scene, the Party providing assistance shall be considered for all purposes to be under the direction and control of the Party requesting assistance. In proceeding to and returning from the emergency scene, the Party providing assistance shall be considered to be an independent contractor for all purposes, and not under the direction and control of the Party requesting assistance. To the extent permitted by law, each Party shall indemnify, defend, save and hold harmless the other Party and its officers, officials, agents, and employees from and against any and all claims, actions liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of each Party or any of its respective owners, officers, directors, agents, employees or subcontractors.

2. Indemnifications Survive:

The provisions of this Agreement wherein a Party has explicitly indemnified the

other Party shall survive the expiration or earlier termination of this Agreement

ARTICLE VIII. NON-WAIVER OF SOVEREIGN IMMUNITY

1. SOVEREIGN IMMUNITY:

Nothing in this Agreement shall be construed as a waiver of the Community’s sovereign immunity, and is not intended to impair, limit, or affect the status of the Community or its sovereignty.

ARTICLE IX. NOTICES

1. Any notice, consent, or other communication (“notice”) required or permitted under this Agreement must be in writing and either delivered in person, sent by facsimile transmission, deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, or deposited with any commercial air courier or express service addressed as follows:

If to CITY:	If to COMMUNITY
City of Chandler Fire Department 151 E. Boston St. Chandler, AZ 85225	Gila River Fire Department 5002 North Maricopa Road Chandler, AZ 85226
Attn: Thomas Dwiggin Fire Chief Chandler Fire Department Telephone: (480) 782-2120 Fax: (480)782-2150	Attn: Kathy Garcia Gila River Fire Department Telephone: (520) 796-5900 Fax:
With a Copy to: City Attorney’s Office City of Chandler Mail Stop 602 P.O. Box 4008 Chandler, AZ 85244-4008	With a Copy to: Gila River Indian Community Office of General Counsel PO Box 97 Sacaton, AZ 85147

Notice will be deemed received at the time it is personally served or, on the day it is sent by facsimile transmission or, upon deposit with any commercial air courier or express service or, if mailed, ten (10) days after the notice is deposited in the United States mail as provided above. Either Party may change its mailing address, fax number, or the contact information for the person to receive notice by notifying the other Party as provided herein. Notice sent by facsimile transmission must also be sent by regular mail to the recipient at the above address. This requirement for duplicate notice is not intended to change the effective date of the notice sent by facsimile transmission.

IN WITNESS WHEREOF, this Agreement is executed as provided below. Further, in signing this Agreement, the signatories below affirm and attest that they are authorized to execute this Agreement on behalf of their respective Party.

CITY OF CHANDLER, a municipal corporation


Joshua Wright, Acting City Manager

By: _____
Thomas Dwiggins, Fire Chief

ATTEST:

City Clerk, City of Chandler

APPROVED AS TO FORM:

City Attorney, City of Chandler 

GILA RIVER INDIAN COMMUNITY

By: _____
Stephen R. Lewis, Governor

APPROVED AS TO FORM:

Linus Everling, General Counsel

Kathy Garcia, Fire Chief
Gila River Fire Department