

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE FRY FIRE DISTRICT AND
THE CITY OF BISBEE FIRE DEPARTMENT
FOR WILDLAND SERVICES**

This Intergovernmental Agreement ("Agreement") is entered into by the Fry Fire District ("FRY"), an Arizona fire district and the City of Bisbee Fire Department ("BISBEE"), an Arizona municipality.

RECITALS

- A. FRY and BISBEE are empowered pursuant to A.R.S. §48-805 to enter into this Agreement for purposes of carrying out their mutual responsibilities.
- B. FRY and BISBEE are each familiar with the others equipment, apparatus, stations, staffing and operations.
- C. FRY and BISBEE each wish to cooperate with the other to more effectively and economically provide emergency services in their respective service areas consistent with the terms and conditions set forth herein.
- D. FRY and BISBEE each wish to improve the nature and coordination of emergency assistance to incidents that threaten loss of life and property within their respective jurisdictional boundaries and beyond.
- E. FRY and BISBEE each wish to jointly exercise their powers pursuant to A.R.S. sections 11-952 and 48-805 and enter into a mutually beneficial agreement upon the terms and conditions set forth in this Agreement.
- F. FRY and BISBEE each have determined that it is in the best interest of their respective agencies to enter into this agreement to jointly respond to wildland fire incidents outside their jurisdictional boundaries which will improve the training and experience levels of their personnel.

NOW THEREFORE, in consideration of mutual promises and covenants contained herein, the parties agree as follows:

1. Recitals. The Recitals set forth above are incorporated into the terms and conditions of this Agreement.
2. Term and Duration. This Agreement shall remain in full force and effect from the date approved by the governing board of the party that approves it last for an initial period of one year and for successive one year terms unless sooner terminated pursuant to the terms of this Agreement.
3. Termination. Either Party may terminate this Agreement upon thirty (30) days written notice provided to the other Party.

4. Purpose. The purpose of this Agreement is for each party to continue cooperation with the other to more effectively and economically provide emergency services and specifically to provide for additional National Wildfire Coordinating Group (NWCG) certified Engine Bosses (ENGB) to BISBEE.

5. Procedure for Wildland Engine Boss. For the duration of this Agreement the parties will use their best efforts for the following:

- A. In the event BISBEE cannot fill an Out of District Wildland assignment with their own Wildland Engine Boss, BISBEE will contact FRY for availability of a FRY Wildland Engine Boss.
- B. In the event FRY is able to provide a Wildland Engine Boss to BISBEE, BISBEE will reimburse FRY in an amount equal to 30% of the approved apparatus rate (Hourly apparatus rate x apparatus hours, inclusive of travel) to FRY. BISBEE shall deliver payment to FRY within 30-days of receipt of payment by BISBEE.
- C. FRY and BISBEE acknowledge that if BISBEE is unable to send one of its own employees on the BISBEE apparatus, and if FRY is able to provide for an additional Wildland Firefighter on said apparatus, the amount of reimbursement BISBEE will provide FRY is in an amount increased to 40% of the approved apparatus rate to FRY.
- D. BISBEE will provide a trained apparatus Driver / Operator who will be familiar with and responsible for apparatus operation and maintenance during the assignment.
- E. FRY and BISBEE acknowledge that if FRY is unable to fill a Wildland assignment, the foregoing provisions are reciprocal.
- F. FRY and BISBEE each will ensure that Wildland personnel are appropriately trained and certified to NWCG standards.
- G. FRY and BISBEE each will ensure that Wildland apparatus are appropriately identified and included in a current Cooperative Fire Rate Agreement.
- H. FRY and BISBEE each provide for their respective employees' backfill, travel and lodging separately; and will each bill the Arizona Department of Forestry and Fire Management for said employees', backfill, and travel and lodging.

6. Tracking and Procedures. Each party's firefighters shall track work hours, travel costs and other financial and response-related information for billing purposes. If a dispute arises between the parties, the respective Fire Chiefs shall make a reasonable effort to resolve the differences.

7. 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.

8. Notices. Written notice shall be given at the following addresses unless otherwise updated in writing:

Fry Fire District
Attn: Fire Chief
4817 Apache Ave.
Sierra Vista, Arizona 85650

City of Bisbee Fire Department
Attn: Fire Chief
192 Highway 92
Bisbee, Arizona 85603

9. Cancellation for Conflict. Either Party may cancel this agreement pursuant to the requirements of A.R.S. § 38-511.

10. Apparatus and Equipment. All apparatus and equipment owned or acquired solely by a Party hereto shall remain the equipment and property of that Party. The Party supplying the apparatus warrants that it is accurately identified in a current Fire Cooperator Rate Agreement, and properly equipped for wildland firefighting incidents. Financial responsibility for the maintenance and repairs of supplied equipment and apparatus will remain with the supplying Party. Each Party shall maintain appropriate casualty insurance or self-insurance to cover the damage or loss of their equipment and apparatus. This provision shall not apply to the extent this provision would void applicable casualty insurance or self-insurance available to provide payment for the damage or loss of such equipment or apparatus.

11. Training. Both Parties agree to participate in joint training, such as mini-academies, refresher training, or system training. It is understood that the Parties may share respective training resources including training sites, equipment, classrooms, and instructors where necessary. All fees associated with certifications will be paid by the Party responsible for the employee. Personnel costs, including overtime, are the responsibility of the respective agency.

12. Insurance. Each Party shall maintain, during the life of this Agreement, a policy of liability insurance naming the other Party as an additional insured Party in the amount of \$1,000,000.00 per occurrence with aggregate liability coverage of \$2,000,000.00.

13. Indemnification. Each Party hereby agrees to hold harmless and indemnify the other Party, including that Party's officers, agents, employees or volunteers for that portion of all costs, damages and liability incurred as a result of the negligent act or omission of an employee or agent of the indemnifying Party, or in the case of activity in which the law applies a gross negligent standard, any cost, damage or liability incurred as a result of the gross negligence of the employee or agent of the indemnifying Party. The obligation to indemnify survives termination of this Agreement.

14. Worker's Compensation Coverage. All employees of a Party to this Agreement, who work under the jurisdiction or control of, or who work within the jurisdictional boundaries of another Party pursuant to this particular intergovernmental agreement, shall be deemed to be an employee of the Party who is his or her primary employer, as provided in A.R.S. § 23-1022(D), and the primary employer/Party of such an employee shall be solely liable for payment of workers' compensation benefits for the purposes of this section. Each Party herein shall comply with the provisions of A.R.S. § 23-1022(E) by posting the public notice required.

15. Non-Discrimination. Each Party shall comply with all applicable Federal and State statutes, regulation and ordinances. Each Party shall comply with all legal requirements relating to civil rights, non-discrimination and employment.

16. Miscellaneous.

A. The parties each warrant and represent that it has within its respective budgets, sufficient funds to discharge the obligations assumed under this Agreement. If for any reason, either Party does not appropriate sufficient funds for the purpose of maintaining the Agreement, any obligation for indemnification arising under this Agreement shall survive termination of the Agreement for lack of funding.

B. Nothing in this Agreement shall be construed as limiting or extending legal jurisdiction of the other Party. Nothing in this Agreement is intended to confer any right or remedy to any person or entity not a Party to this Agreement.

C. Each Party has approved this Agreement by official act of its governing body. It has authorized execution of this Agreement and all acts are necessary or reasonably required to carry out its purposes.

17. Binding Effect. Neither Party may assign its rights or obligations under this Agreement without the express written permission of the other Party as that Party may determine in its sole discretion. This Agreement shall be binding upon the 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 by either Party.

18. Agreement Administration. Unless agreed otherwise in writing, there shall be no lead agency responsible for the administration of this Agreement. The Chief Officers of the respective Parties shall administer this Agreement jointly.

A. The Chief Officers of each Party shall meet periodically to review the operations of this Agreement.

B. Approval of amendments to this agreement shall be made in accordance with ARS 11-952 and the provisions of Section 21.

19. Entire Agreement. This Agreement constitutes the entire agreement between the Districts concerning the matters addressed herein. This Agreement supersedes and nullifies any previous agreements or understandings, whether written or oral, between those Parties to this Agreement.

20. Jurisdiction and Venue. This Agreement shall be governed by Arizona law and venue shall be in the Superior Court of Cochise County, Arizona.

21. Consent and Waiver of Conflict. The Parties acknowledge that the undersigned counsel represents each Party from time to time and that the Parties each gave consent and requested the undersigned counsel to determine that this Agreement is in proper form pursuant to A.R.S. §11-952 and is within their powers and authority.

IN WITNESS WHEREOF, the parties enter into this agreement on the date set forth below.

FRY FIRE DISTRICT

CITY OF BISBEE FIRE DEPARTMENT

[Signature]
Chairman/Fire Board Date

Kari Bagley Acting 7/19/17
City Manager Date

[Signature] 16 Aug 2017
Clerk/Fire Board Date

Ashlee Coronado 7/19/17
City Clerk Date

Undersigned counsel, who has determined that the agreement is in proper form pursuant to A.R.S. 11-952 and within the powers and authority granted under the laws of this state, has reviewed the foregoing agreement.

By [Signature] 8/23/17
(Fry Fire District Attorney) Date

By [Signature] 07 19 17
(City of Bisbee Attorney) Date