

RESOLUTION NO. 2014-02

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH FOUNTAIN HILLS UNIFIED SCHOOL DISTRICT RELATING TO USE OF SCHOOL FACILITIES.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. The Intergovernmental Agreement with the Fountain Hills Unified School District relating to the use of school facilities to provide emergency response services (the "Agreement") is hereby approved in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Resolution.

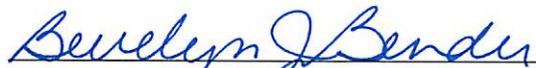
PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Arizona, February 6, 2014.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:



Linda M. Kavanagh, Mayor



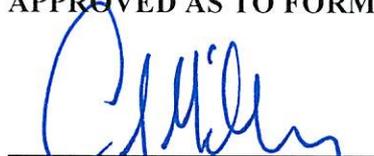
Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:



Kenneth W. Buchanan, Town Manager



Andrew J. McGuire, Town Attorney

EXHIBIT A
TO
RESOLUTION NO. 2014-02

[Agreement]

See following pages.

INTERGOVERNMENTAL AGREEMENT

USE OF FACILITIES FOR DISASTER RELIEF SERVICES

This Intergovernmental Agreement ("Agreement"), is made and entered into Pursuant to A.R.S. § 11-952 between Fountain Hills Unified School District, a political subdivision of the state of Arizona ("Facility Provider") and the Town of Fountain Hills, an Arizona municipal corporation ("Town"), for the purpose of setting forth the terms and conditions by which Facility Provider may provide Facilities to the Town for use in the event of any emergency. Facility Provider and the Town are referred to herein individually as "Party" and collectively as "Parties".

Recitals

- A. Pursuant to Arizona Revised Statutes, the Town may provide emergency disaster relief services, including shelter, ("Disaster Services") to victims of a disaster.
- B. To assist with providing Disaster Services, the Town desires to use Facility Provider's buildings, grounds, and equipment ("Facilities") for mass care shelters and other Disaster Services as may be requested or beneficial to the Town and the victims.
- C. Facility Provider had determined that allowing the use of its Facilities for Disaster Services promotes Facility Provider's educational function.
- D. Pursuant to A.R.S. § 15-342(13) Facility Provider desires to assist with the Town's provision of Disaster Services by providing Facilities to the Town for its use in such circumstances as set forth in this Agreement.

Agreement

The Parties mutually agree as follows:

- 1. In the event of a declared emergency or disaster, and upon request of the Town, Facility Provider may, at its sole discretion, permit the Town to use its Facility for Disaster Services at no rental cost to the Town pursuant to the terms and conditions of this Agreement.
- 2. The Town will provide Facility Provider with as much notice as possible of the need for the use of the Facility and will use the Facility for not more than 30 days, unless otherwise mutually agreed by the Parties in writing.
- 3. The Town acknowledges that the Facility Provider has entered into agreements similar to this Agreement with other disaster relief service providers and that the Town has no right by virtue of this Agreement to be the exclusive user of the Facility Provider's facilities in the event of a declared emergency or disaster.
- 4. The Town will exercise reasonable care in the use of the Facility for Disaster Services and will:
 - 4.1 Provide the appropriate level of staffing to assure that the Facilities are used in a safe and healthy manner throughout the period of the Town's use of Facilities;
 - 4.2 Monitor and control the activities of individuals provided with Disaster Services at the Facility to assure that their activities:
 - (A) Comply with the law and any rules and regulations of the Facility;

- (B) Are suitable and appropriate for the Facility;
- (C) Do not disrupt, or are as minimally disruptive as possible, relative to Facility Provider's other use of the Facility pursuant to this Agreement;

- 4.3 Maintain the Facility in good condition, normal wear and tear excepted, and assure that the Facility remains in the same condition that it was when it was made available for use by to the Town, including making any repairs to damage caused during use by the Town, if any.
- 4.4 The Town will bear all costs associated with providing Disaster Services, including the replacement or reimbursement of any foods or supplies of Facility Provider that may be consumed by persons relative to carrying out this Agreement.
- 4.5 Each Party retains title to property it owns, even upon termination of this Agreement.
- 4.6 Provide proof of general liability insurance that will cover the Town's use of Facilities in the minimum amount of \$1,000,000 and that names Facility Provider as an additional insured. The Town's general liability insurance will be primary to any and all liability insurance procured by Facility Provider. The acquisition of insurance or the maintenance and operation of a self-insurance program may fulfill the insurance requirement.
- 5. The Town will defend, hold harmless, and indemnify Facility Provider and all of its officers, employees, agents and volunteers against any and all liability, claims, or causes of action brought by any person in respect to bodily injury, death, property loss and property damage, arising from the Town's use of the Facility, except that Facility Provider will remain liable for its own negligence, if any:
- 6. The Town and Facility Provider acknowledge that this Agreement has been approved by their respective legislative bodies or other competent authority.
- 7. The duration of this Agreement shall be for five (5) years from the date it is signed by both Parties or until such time a Party terminates this Agreement as provided herein.
- 8. Either Party may terminate this Agreement by providing to the other Party written notice of termination not less than 30 days prior.
- 9. Notice. All notices relating to this Agreement shall be deemed given when mailed, by certified or registered mail, or overnight courier, to the other Party at the address set forth below or such other address as may be given in writing from time to time:

If to Town:
Kenneth W. Buchanan
Town Manager
Town of Fountain Hills
16426 E. Palisades Blvd.
Fountain Hills, AZ 85268
480-503-6333

With copy to:
Andrew J. McGuire
Town Attorney
Gust Rosenfeld, P.L.C.
One E. Washington St., Suite 1600
Phoenix, AZ 85004
602-257-7664

If to Facility Provider:
XXXXXXXXX
Assistant Superintendent
Fountain Hills Unified School District
16000 E Palisades Blvd.
Fountain Hills, AZ 85268
480-644-5000

10. The Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.
11. Every obligation of the Town and the Facility Provider under this Agreement is conditioned upon the availability of funds appropriated or allocated for the fulfillment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the Town and the Facility Provider at the end of the period for which the funds are available. No liability shall accrue to the Town or the Facility Provider in the event this provision is exercised, and the Town and the Facility Provider shall not be obligated or liable for any future payments as a result of termination under this Paragraph.
12. This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511.

This Agreement is entered into this 6 day of February, 2014.

Town of Fountain Hills

By: Linda Kavanagh

Name: Linda Kavanagh

Title: Mayor

Date: 2-6-14

Fountain Hills Unified School District

By: Tom Lawrence

Name: Tom Lawrence

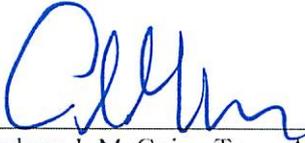
Title: Superintendent

Date: 1/9/2014

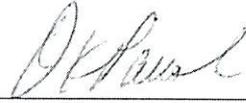
ATTEST:

Beverly J. Bender
Beverly J. Bender, Town Clerk
Beverly

Approved as to form:



Andrew J. McGuire, Town Attorney



Attorney for School District