

INTERGOVERNMENTAL AGREEMENT NO. 082015-1
BETWEEN
GILA COUNTY
AND
TONTO BASIN SCHOOL DISTRICT #33
BUS PARKING AND FUEL PURCHASES

THIS AGREEMENT is made and entered into effective this _____ day of _____, 2015, by and between Gila County, a political subdivision of the State of Arizona, hereinafter referred to as "County" and the Tonto Basin School District, hereinafter referred to as "District".

RECITALS

WHEREAS, the District wishes to continue to park their school buses at the County facility in Tonto Basin; and

WHEREAS, the District wishes to continue to purchase fuel for their school buses from the County facility in Tonto Basin.

NOW, THEREFORE, the parties agree as follows:

1. **Term of Agreement; Renewals.** The initial term of this agreement shall be effective as of August 27, 2015 and shall continue in effect until August 26, 2016. Thereafter it may be renewed annually beginning on August 27, 2016 for up to three renewal terms, by mutual agreement of the Parties.
2. **Scope.** The District will be allowed to park their buses at the County's facility in Tonto Basin. The District will also purchase fuel for its buses, for which it will reimburse the County monthly, at cost, for the fuel consumed by the District's buses.
3. **Payment.** The District will pay the County for the fuel that is consumed at the cost the County incurs for the fuel. The County will invoice the previous month's fuel used by the District, on or about the beginning of each month. Payment will be made by the District on or about the 15th day of each month.
4. **Disclaimer.** The County assumes no responsibility of liability for any vehicle parked with the County's Tonto Basin Facility Yard. The County is not responsible for loss or damage due to fire, theft, breakage, collisions or articles left in any vehicle.
5. **Independent Contractors.** The status of the parties shall be that of independent contractors and nothing in this agreement shall be construed as creating a joint venture.

6. **Indemnification and Insurance.** The District shall save, hold harmless and indemnify the County, its officers, employees or agents from claims, damages or other losses arising from the negligent acts or omissions of the District, its officers, employees or agents pursuant to this Agreement. The District shall obtain and maintain general liability insurance in such amounts as may be required to protect itself and the County from claims, damages or other losses as described in this Section.
7. **Termination for Convenience.** The parties reserve the right to terminate this Agreement at any time and without cause by serving upon the other party, 30 days advance written notice of such intent to terminate. In the event of such termination, the District's only obligation to County shall be payments described in Paragraph 3.
8. **Termination for Cause.** This contract may be terminated at any time without advance notice and without further obligation to the County when the District is found by County to be in default of any provision of this Agreement.
9. **Cancellation.** This Agreement is subject to the cancellation provisions of A.R.S §38-511.
10. **Workers Compensation.** During work on this Intergovernmental Agreement, employees of both the District and the County staff shall maintain their status respectively as District or County employees, but shall perform under the direction and authority of either the County or District as designated in this Intergovernmental Agreement. Notwithstanding the foregoing, an employee of either party shall be deemed to be an "employee" of both public agencies while performing pursuant to this agreement, for the purposes of A.R.S. §23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits that may accrue. Each party shall post a notice pursuant to the provisions of A.R.S. §23-906 in substantially the following form:

All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an Intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of workers' compensation.
11. **Non-Assignment.** The District shall not assign its rights to this Agreement in whole or in part, without prior written approval of the County. Assignment may be withheld at the sole discretion of the County, provided that such approval shall not be unreasonably withheld.
12. **Severability.** Each provision of this Agreement stands alone, and any provision of this Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Agreement.
13. **Applicable Law.** The terms and conditions of this agreement shall be construed and governed in accordance with the laws of the State of Arizona.

14. **Notices.** Notices relating to this Intergovernmental Agreement shall be deemed to have been duly delivered upon personal delivery, or as of the second business day after mailing by United States mail, postage prepaid, addressed as follows:

District: Tonto Basin School District
Superintendent
P.O. Box 337
Tonto Basin, AZ 85553

Gila County: Gila County
County Manager
1400 E. Ash Street
Globe, AZ 85501

These addresses may be changed by either party by giving notice in writing. Such changes shall also be deemed to have been effectively noticed five (5) calendar days after being mailed to each party by the party changing the address.

15. **Non-Waiver.** The failure of either party to insist on any one or more instances upon the full and complete performance of any of the terms and conditions of this Agreement to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance of either party of sums less than may be due and owing it at any time shall not be construed as an accord and satisfaction.

16. **Compliance with Laws.** The parties shall comply with all federal, state and local laws, rules, regulations, standards and Executive Orders without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Agreement, and any disputes hereunder. Any action relating to this Agreement shall be brought in a court of the State of Arizona in Gila County. Any changes in the governing laws, rules and regulations during the terms of the Agreement shall apply, but do not require an amendment.

17. **Conflict of Interest.** This Agreement is subject to A.R.S. §38-511 pertaining to conflicts of interest, the pertinent provisions of which are incorporated by reference herein.

18. **Other Inclusions.** This agreement shall be deemed to include any provisions required by law, whether actually recited or not.

19. **Dual Representation.** The parties to this Agreement are aware that the Gila County Attorney represents, has represented, or pursuant to statutory duty may represent more than one party to this Agreement in various matters which may include the drafting or review of this Agreement. By signing this Agreement, each party specifically acknowledges that (1) the Gila County Attorney has, by this paragraph, informed each party that the Gila County Attorney believes that it will be able to provide competent and diligent representation to each party to this Agreement represented by the Gila County Attorney and its representation of each party is not prohibited by law and does not involve the assertion of a claim by one party against another party to this Agreement, (2) the party is aware of a potential conflict of interest, and (3) the party specifically waives any such claim based on the Gila County Attorney representation of other parties to this Agreement.

20. Legal Arizona Workers Act Compliance. As required by A.R.S. §41-4401, each party hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Each party further warrants that after hiring an employee, it verifies the employment eligibility of the employee through the E-Verify program. If either party uses any subcontractors in performance of the Agreement, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Agreement subject to penalties up to and including termination of this Agreement. A party shall not be deemed in material breach if it and its subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A). Each party retains the legal right to inspect the papers of the other party and its subcontractors engaged in performance of this Agreement to ensure that the other party and its subcontractors are complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times. If state law is amended, the parties may modify this paragraph consistent with state law.

21. Finances and Budgetary Matters: Pursuant to A.R.S. §11-952(B)(3), the establishment and maintenance of a budget for this Intergovernmental Agreement, and the financing for it, shall be approved annually by each Party through its' board or council; financing may include commitment of general funds, grant funds, or other available financing.

This document constitutes the entire Agreement between the parties and shall not be modified, amended, altered, or changed, except through written amendment signed by the parties.

IN WITNESS WHEREOF, three (3) identical counterparts of this Intergovernmental Agreement No. 082015-1, each which shall include original signatures and for all purposes be deemed an original thereof, have been duly executed by the parties hereinafter named, on the date and year first above written.

GILA COUNTY BOARD OF SUPERVISORS

Michael A. Pastor, Chairman of the Board

TONTO BASIN SCHOOL DISTRICT



Teri Cline
Board President

ATTEST

Marian Sheppard, Clerk of the Board

APPROVED AS TO FORM

Jefferson R. Dalton,
Deputy Gila County Attorney, Civil Bureau Chief
for Bradley D. Beauchamp, County Attorney