

INTERGOVERNMENTAL AGREEMENT NO. 2017-01
BETWEEN
GILA COUNTY SHERIFF'S OFFICE
AND
THE NATIONAL PARK SERVICE

This agreement is entered into by and between the National Park Service (hereinafter "NPS"), an agency of the United States Department of the Interior, acting through the Superintendent of Tonto National Monument (hereinafter "TONT" or "park"), and the Gila County Sheriff's Office (hereinafter "GCSO"), Arizona, acting through the Gila County Sheriff. Although TONT does not have a law enforcement officer on staff, an agreement is in place with the Superintendent and Chief Ranger of Montezuma Castle and Tuzigoot (hereinafter "MOCA") for law enforcement support at TONT. The purpose of this agreement is to establish the terms and conditions under which the parties will provide mutual law enforcement assistance in TONT within Gila County. Throughout this agreement the NPS and the GCSO may be referred to jointly as "the parties."

Whereas the Secretary of the Interior, acting through the NPS, administers TONT as a unit of the National Park System in accordance with Presidential Proclamation **No. 696-(December 8, 1906), 34 Stat. 3265** and the laws applicable generally to units of the national park system; and

Whereas 54 U.S.C. § 102701 authorizes the Secretary of the Interior "to designate . . . certain officers or employees of the Department of the Interior who shall maintain law and order and protect persons and property within areas of the National Park System"; and

Whereas 54 U.S.C. § 102711 authorizes the Secretary of the Interior to render "emergency rescue, firefighting, and cooperative assistance to nearby law enforcement and fire prevention agencies and for related purposes outside of the National Park System"; and

Whereas Arizona authorizes the Sheriff of Gila County to enforce the laws of the State of Arizona and whereas this agreement will enhance public safety and benefit both the NPS and the GCSO;

Now, therefore, the parties agree as follows:

I. TERM:

A. This agreement will be effective for a period of four years after the date of final signature, unless it is terminated earlier by one of the parties pursuant to article VIII below. At the conclusion of that four-year term, this agreement may be extended or renewed by written agreement of the parties.

II. STATEMENT OF WORK:

A. In-park Law Enforcement Pursuant to 54 U.S.C § 102701, and Search and Rescue Operations.

1. In accordance with 54 U.S.C § 102701, NPS Law Enforcement Officers shall enforce all applicable federal laws within TONT.

2. NPS Law Enforcement Officers may enforce state laws and county ordinances within the portion of TONT located within Gila County.

3. GCSO Law Enforcement Officer shall enforce state laws and county ordinances within the portion of TONT located within Gila County.
4. Upon receiving an official request from the NPS, the GCSO shall render emergency law enforcement assistance to TONT whenever possible. The NPS shall direct such requests to the GCSO Lieutenant or his designee, who must approve all such requests before any GCSO Law Enforcement Officers may render emergency assistance.
5. The GCSO may render emergency law enforcement assistance inside of TONT in those situations where a properly appointed or otherwise legally empowered GCSO Law Enforcement Officer, while in the course of his/her official duties, observes an emergency situation, at which time the GCSO Law Enforcement Officer may take appropriate initial action to secure and manage the scene. The GCSO shall immediately notify the NPS of the emergency. Upon arrival of the first NPS Law Enforcement officer on the scene, the GCSO Law Enforcement Officer shall relinquish control to the NPS officer; however, upon request the GCSO Law Enforcement Officer may assist the NPS officer for the duration of the emergency incident.
6. The GCSO shall render assistance only until such time as the NPS has enough resources on the scene to adequately control the emergency or until the emergency no longer exists, whichever comes first.
7. The on-scene commanding officer of the NPS shall be in command of all officers, including GCSO Law Enforcement Officers who are rendering emergency assistance; provided that the NPS on-scene commander shall exercise command of GCSO Law Enforcement Officers only through the highest ranking GCSO Law Enforcement Officer on the scene, which individual shall be identified by the GCSO for incidents on TONT.
8. At any time the GCSO Lieutenant or his designee may decide to withdraw emergency law enforcement assistance.

III. EMPLOYEES AND REIMBURSEMENT:

- A.** NPS Law Enforcement Officers rendering emergency assistance to the GCSO pursuant to this agreement shall be deemed to be acting within the scope of their federal employment. Under no circumstances shall NPS Law Enforcement Officers be deemed to be “borrowed servants” of the GCSO.
- B.** GCSO Law Enforcement Officers rendering emergency assistance to the NPS pursuant to this agreement shall be deemed to be acting within the scope of their county employment. Under no circumstances shall GCSO Law Enforcement Officers be deemed to be “borrowed servants” of the NPS.
- C.** The parties further agree as follows:
 1. The parties will exercise their best efforts to perform their responsibilities under this agreement in a timely and professional manner. However, nothing in this agreement is intended to restrict either party's lawful discretion to act (or not to act) in the manner it deems most appropriate in a particular situation.
 2. Each party will bear its own costs for furnishing services under this agreement, and neither party will claim reimbursement for those costs from the other.
 3. Nothing in this agreement will be construed to bind the NPS to expend in any

one fiscal year any sum in excess of funds appropriated by Congress or allocated by the NPS for the purposes of this agreement.

4. Nothing in this agreement will be construed to bind the GCSO to expend any one fiscal year any sum in excess of funds approved by the Gila County Board of Supervisors for the purposes of this agreement.

5. Each party hereby waives any and all claims, demands, and causes of action against the other party and its employees, and releases the other party and its employees from any and all liability arising out of or resulting from activities under this agreement. Each party will be solely responsible for any and all claims, demands, and causes of action filed by third parties arising out of or resulting from the activities of its employees under this agreement, including, but not limited to, the costs of investigating and defending against such claims, demands, and causes of action and the costs of paying any compromise settlements, judgments, assessed costs, or fees (including attorney's fees). Notwithstanding the foregoing, the parties will cooperate with each other, to the maximum extent practicable in the investigation and defense of any claim, demand, or cause of action filed by a third party arising out of or resulting from activities under this agreement.

6. The parties will coordinate all public information releases about law enforcement incidents, investigations, actions, or other matters involving both parties within TONT.

7. The parties will provide radio frequencies through a Radio Frequency Use Agreement to assist in communications in the event of an emergency response.

IV. NOTIFICATION:

A. All communications and notices regarding this agreement shall be directed to the following key official(s) for each party:

For the NPS:

Superintendent, Duane C. Hubbard
Tonto National Monument
26260 N. AZ Hwy 188, Lot 2
Roosevelt, AZ 85545
Phone: (928) 467-2241 x8100

For the GCSO:

Sheriff, J. Adam Shepherd- Sheriff
Gila County Sheriff's Office
Globe:
PO Box 311/1100 E South St
Globe, AZ 85502
Payson:
108 W Main St
Payson, AZ 85541
Office: 928-425-4449

V. PROPERTY UTILIZATION:

A. Unless otherwise agreed to in writing by the parties, any property furnished by one party to the other shall remain the property of the furnishing party. Any property furnished by the NPS to the GCSO shall be used and disposed of as set forth in the NPS Property Management Regulations.

VI. PRIOR APPROVAL:

A. See Article II (Statement of Work) above.

VII. REPORTS AND/OR OTHER DELIVERABLES:

A. Upon request and to the extent permitted by applicable law, the parties shall share with each other final reports of incidents involving both parties.

VIII. MODIFICATION AND TERMINATION:

A. Except as otherwise provided herein, each party shall have the right to terminate this IGA without liability to the non-terminating party by hand-delivering to the non-terminating party written notice of termination at least sixty (60) days prior to the effective date of said termination or as otherwise agreed to by the Parties in writing.

B. In the event of early termination for any reason, any funds advanced to either party shall be returned to the advancing party within ten (10) days after the date of termination or upon receipt of notice of termination of the IGA, whichever is earlier.

C. Either party has the right to terminate this IGA upon twenty-four (24) hour notice when it is deemed the health or welfare of the service recipients is endangered.

D. **Non-Availability of Funds.** If funds are not allocated and available for the continuance of this IGA, this IGA may be terminated by either Party at the end of the period for which funds are available. No liability shall accrue to Parties in the event this provision is exercised. Neither Party shall be obligated, or liable for any future payments of, for any damages as a result of termination under this paragraph.

E. Notice is given that pursuant to A.R.S. § 38-511, the Parties may cancel any IGA without penalty or further obligation within three years after execution of the IGA, if any person significantly involved in initiating, negotiating, securing, drafting or creating the IGA on behalf of the County is at any time while the IGA or any extension of the IGA is in effect, an employee or agent of any other party to the IGA in any capacity or consultant to any other party of the IGA with respect to the subject matter of the IGA. Additionally, pursuant to A.R.S §38-511 the Parties may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the IGA on behalf of the County from any other party to the IGA arising as the result of the IGA. Pursuant to A.R.S. §38-511, parties, their political subdivisions or any department or agency of either may, within three years after its execution, cancel any IGA without penalty or further obligation, made by either party political subdivisions or any department or agency of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the IGA on behalf of either party, its political subdivisions or any department or agency of either is, at any time while the IGA or any extension of the IGA is in effect, an employee or agent of any other party to the IGA in any capacity or a consultant to any other party to the IGA with respect to the matter of the IGA. A cancellation made pursuant to this provision shall be effective when either party receives written notice of the cancellation, unless the notice specifies a later time.

IX. STANDARD CLAUSES

A. No member of delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

B. This IGA is not intended to constitute, create, give rise to, or otherwise recognize a joint venture agreement, partnership or other formal business association or organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth in this IGA.

C. Each party shall comply with all applicable laws, ordinances, Executive Orders, rules, regulations, standards, and codes of the Federal, State, and local governments whether or not specifically reference herein. The Parties agree that there will be no discrimination as to race, color, creed, religion, ancestry, national origin, sex, gender, sexual orientation, gender identity, disability, age, marital status or status in regard to obligations, work, and services performed under the terms and any IGA ensuing from this engagement. The Parties will comply with the Executive Order No. 11246, entitled "Equal Employment Opportunity" and as amended by Executive Order No. 11375, as supplemented by the Department of Labor Regulations (41 CFR, Part 60).

D. Each party warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). If a party uses any subcontractors in performance of this contract, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A). A breach of this warranty shall be deemed a material breach of the contract subject to penalties up to and including termination of this contract. Each party retains the legal right to inspect the papers of the other party and its subcontractors who work on the contract to ensure that it or its subcontractors are complying with this warranty

E. The laws of the State of Arizona and the United States shall govern this IGA.

F. Pursuant to A.R.S. § 35-214 and § 35-215, both parties shall retain and shall contractually require each subcontractor to retain all data, books and other records ("records") relating to this Agreement for a period of five (5) years after completion of the Agreement. All records shall be subject to inspection and audit by either party at reasonable times. Upon request, a party shall produce a legible copy of any or all such records. Notwithstanding this commitment under Arizona law, the United States will comply with applicable federal record retention policies and procedures.

G. Each party is responsible to provide financing for and establish and maintain a budget for its respective obligations under this agreement.

H. In accordance with A.R.S. § 35-154, every payment obligation of each party under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by either party at the end of the period for which funds are available. No liability shall accrue to either party in the event this provision is exercised, and the parties shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

I. If any term, covenant, condition or provision of this IGA is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

J. Any provision of this IGA which is determined to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and remaining provisions shall remain in full force and effect.

K. This IGA may be amended only by the mutual written consent of authorized representatives for all Parties and require Board approval.

L. Waiver of any breach of any term, conditions or covenant herein contained shall not be deemed to be a waiver of any subsequent breach of any term, covenant or condition herein.

M. This IGA may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Faxed and copied signatures are acceptable as original signatures.

N. *(Remainder of page intentionally left blank, signatures to follow)*

X. AUTHORIZING SIGNATURES

IN WITNESS WHEREOF, the Parties hereto have entered into this IGA as of the date of the last signature set forth below.

Gila County Sheriff's Office

National Park Service

J. Adam Shepherd Date
Sheriff

Chief Ranger Date
Montezuma Castle National Monument

Superintendent Date
Tonto National Monument

Gila County, a political subdivision
of the State of Arizona

BY: _____
Tommie C. Martin Date
Chairman, Board of Supervisors

ATTEST:

Marian E. Sheppard Date
Clerk of the Board

Approved as to form:

Jefferson R. Dalton Date
Deputy Gila County Attorney
Civil Bureau Chief