

NOTICE OF MEETING

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Central Yavapai Fire District Board of Directors and the general public that the Central Yavapai Fire District will hold a special meeting open to the public on **Wednesday, September 2, 2015 at 2:00 p.m.** The meeting will be held at the **Central Yavapai Fire District, Regional Training Academy at 9601 E. Valley Road, Prescott Valley, Arizona.** The Board may vote to go into Executive Session on any agenda item, pursuant to A.R.S. §38-431.03(A)(3) for discussion and consultation for legal advice with the District's Attorney on matters as set forth in the agenda item. The following topics and any variables thereto, will be subject to Board consideration, discussion, approval, or other action. All items are set for possible action.

AGENDA

1. CALL TO ORDER / ROLL CALL OF BOARD MEMBERS

2. PLEDGE OF ALLEGIANCE

3. CALL TO THE PUBLIC

Those wishing to address the Central Yavapai Fire District Board need not request permission in advance. The Fire District Board is not permitted to discuss or take action on any item raised in the Call to the Public due to restrictions of the Open Meeting Law; however, individual Board members may be permitted to respond to criticism directed to them. Otherwise, the Board may direct the staff to review the matter or the matter may be placed on a future agenda.

4. CONSENT AGENDA

A. Intergovernmental Agreement for Purchasing – Humboldt Unified School District

5. WORK / STUDY SESSION

A. Discuss Revisions to Joint Powers Authority Agreement and Resolution

6. ADJOURNMENT



**INTERGOVERNMENTAL AGREEMENT FOR
PURCHASING
BETWEEN CENTRAL YAVAPAI FIRE DISTRICT
AND Humboldt USD**

APPROVED
OCT 14 2014
Humboldt Unified School District
Governing Board

PREAMBLE

This Agreement, effective the 15th day of October, 2014, by and between the CENTRAL YAVAPAI FIRE DISTRICT, a political subdivision of the State of Arizona ("DISTRICT") and the Humboldt USD, a political subdivision of the State of Arizona (the "Referring Agency" or "Member" as the context requires).

RECITALS

WHEREAS, the Referring Agency and DISTRICT are empowered pursuant to A.R.S. §11-952, A.R.S. §15-342(13), A.R.S. §48-805, and A.R.S. §41-2632 to enter into this Agreement for purposes of carrying out their mutual responsibilities; and

WHEREAS, the Referring Agency and DISTRICT wish to cooperate with each other in order to more effectively and economically purchase material and equipment ("Goods") consistent with the terms and conditions set forth herein.

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

COVENANTS

SECTION 1. - SCOPE OF WORK AND COMPENSATION

DISTRICT'S responsibilities and obligations

1. For the term of this Agreement, the DISTRICT shall act as a purchasing agent ("Purchasing Agent") for the Referring Agency when requested.
2. The delivery method of requested purchases will be determined on a case by case basis and may include but is not limited to:
 - a) Direct shipment to Referring Agency
 - b) Delivery by DISTRICT personnel
 - c) Pick-up by Referring Agency
3. The DISTRICT shall maintain records on all purchases made on behalf of the Referring Agency, and shall provide the

Referring Agency with a report of all purchases made on request within a reasonable time thereafter.

4. The DISTRICT shall submit an invoice to the Referring Agency on a monthly basis reflecting the compensation owed to the DISTRICT.
5. The DISTRICT agrees that the priority given to the Referring Agency's purchases will be comparable to the priorities given to other purchases by the DISTRICT taking into consideration all other purchasing commitments.
6. The District will insure that vendor contracts will allocate to the vendors all risk of loss of or damage to the operations supplies until they are delivered to, inspected, and accepted by: (1) the Members/Referring Agency at their respective warehouses or storage facilities; or (2) CYFD at its storage facility.
7. If operations supplies are damaged or nonconforming to the contract, each Member/Referring Agency—or CYFD on that Member's behalf—may reject the supplies and arrange for them to be returned to the vendor. With a Member's consent, CYFD may direct the vendor to promptly deliver non-damaged, conforming replacement supplies to the Member or CYFD's storage facility on that Member's behalf.
8. While acting as the Procurement Officer, CYFD shall be responsible for all damage or loss incurred to Goods ordered by Member's as a result of CYFD's negligent acts or omissions and shall at all times maintain all-risk property and contents insurance on its storage facility and the District supplies warehoused there.
9. Goods stored at a District warehouse pending payment of the District invoice and delivery to the Member/Referring Agency shall remain the property of the District until payment is actually received and cleared by the District's bank and/or such goods are actually delivered to the Member/Referring Agency.
10. In the case of "direct delivery" of goods to a Member/Referring Agency by a vendor or manufacturer, any damages suffered by any goods so shipped shall be the responsibility of the vendor or shipper thereof, the manufacturer, and the Member/Referring Agency, as their interests and duties may arise there from, and not the responsibility of the District.

Referring Agency's responsibilities and obligations

11. The Referring Agency shall request the District to make purchases when desired. Requests shall be in the form of an ordering process established by the DISTRICT.
12. Compensation to be paid to the DISTRICT shall be as follows:
 - a) The Referring Agency agrees to pay the actual cost of purchases + 5% to the DISTRICT.
 - b) If delivery is requested from the DISTRICT warehouse and made by DISTRICT personnel, the Referring Agency agrees to pay the personnel and equipment costs of the delivery. Delivery will be subject to personnel availability.
 - c) If the Referring agency elects to use a 3rd party shipping company for deliver from the DISTRICT warehouse, the Referring Agency agrees to pay shipping costs.
 - d) The Referring Agency agrees to pay the DISTRICT within 30 days of receiving an invoice from the DISTRICT. Failure to pay the District within thirty (30) days of receipt of a District invoice may result in an interest charge of one and one-quarter percent (1.25%) interest per month, or fifteen percent (15%) per annum, on the outstanding balance until paid in full.
 - e) In the event that payments are not received within 30 days of receiving an invoice from the DISTRICT, The District reserves the right to decline further requests for purchases until the Referring Agency submits payment.
13. The Referring Agency agrees to establish and provide to the DISTRICT a list of personnel who are authorized to request purchases prior to making any request hereunder, and shall update such list from time to time or when there is any change thereto, and shall be solely responsible for oversight of authorized personnel.
14. So long as the DISTRICT reasonably relied on the purchase authorization given to it, the parties agree that the DISTRICT shall be timely paid pursuant to its rates as set forth in Paragraph 2 above, subject however to set off for damages or claims for which District or Vendor is responsible.
15. Each Referring Agency must be prepared to: (1) take delivery of the Goods at its own facilities through direct

shipping from the vendor; or (2) pick up the Goods delivered to CYFD's storage facility on that member's behalf no later than the pick-up date set by CYFD; or (3) arrange for delivery by DISTRICT personnel or a 3rd party shipper.

16. Except as otherwise provided in this Agreement, each Referring Agency is exclusively responsible to exercise all of its rights and remedies against any manufacturer, seller, or other contractor for defective or nonconforming operations supplies procured under this agreement.

17. Each Member/Referring Agency undertakes that it will indemnify and defend the District from all claims or liability arising from any and all damages to goods ordered by a Member/Referring Agency that are to be delivered by "direct delivery", unless such damages occur due to the negligent acts or omissions of the District.

18. Each Referring Agency shall maintain all-risk insurance on Referring Agency Goods warehoused at CYFD's facility.

SECTION 2. - GENERAL PROVISIONS

This Agreement is intended to serve as an avenue for more economic purchasing of material and supplies ("Goods") at the discretion of the Referring Agency. This Agreement does not require or imply any obligation for the Referring Agency to use the District as purchasing agent. In the event that a Referring Agency does use the District as its Purchasing Agent, the Referring Agency's proposed purchase of Goods may be combined with those of other agencies to maximize savings to the Referring Agencies.

Nothing contained in this Agreement shall create any partnership or joint venture between the parties. Each party shall at all times be independent of each other and shall not at any time purport to act as an employee of any other party.

The DISTRICT shall be excused for delay or failure to perform its obligations under this Agreement, in whole or part, when and to the extent that such delay or failure is a result of scheduling conflicts or causes beyond the reasonable control of the DISTRICT. Such causes include, without limitation, acts of God, acts of the public enemy, acts of the federal or state government, fire, floods, epidemics, quarantine restrictions or embargo. In addition, the DISTRICT shall not be responsible for delays caused by the acts or omissions of an outside contractor, not controlled by the District, if any.

The District and the Referring Agency waive all rights against each other and any of their agents and employees, each of the other, for damages caused by fire or other causes of loss not

incurred as the result of the District's negligent act or omission to the extent covered by property insurance obtained pursuant to this Intergovernmental Agreement or other applicable property insurance, except the rights they have to proceeds of the insurance held by CYFD as fiduciary. A waiver of subrogation is effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged. Notwithstanding the above, no such waiver shall be effective if, or to the extent, it is forbidden by or is a breach of said party's obligations under its contract with its insurance carrier.

If the District is permitted to adjust a loss, a loss insured under the District's or a Referring Agency's property insurance must be adjusted by the District as fiduciary and made payable to the District or the Referring Agency as fiduciary for the insureds, as their interests may appear.

SECTION 3. - SEVERABILITY

If any provision of this Agreement shall be held to be unenforceable, it shall be deemed severable; however, the remainder of the Agreement shall not be affected and shall remain in full force and effect.

SECTION 4. - DURATION OF AGREEMENT

This Agreement shall become effective upon the effective adoption and execution of this Agreement by both parties and, where required, the recordation of the same (the "Effective Date"), and shall automatically renew itself from year to year thereafter, until terminated.

SECTION 5. - LIABILITY INSURANCE

Each party shall maintain, during the life of this Agreement, a policy of liability insurance in the amount of not less than \$1,000,000 per occurrence with aggregate liability coverage of not less than \$3,000,000. Each party shall provide the other with proof of insurance within thirty (30) days after the execution of this Agreement.

SECTION 6. - INDEMNIFICATION

The Parties to this IGA shall indemnify and hold harmless each other and their respective districts, boards, employees, and agents, from any and all claims, liabilities, and expenses resulting from the indemnifying Party's negligence, or the

negligence, acts of omissions of its directors, employees, and agents incurred in connection with the performance of its responsibilities under this IGA. Nothing herein shall be construed as a waiver by either Party of the right to bring an action for contribution against the other or as against any third person or entity.

SECTION 7. - TERMINATION

This Agreement will terminate immediately upon written notice to the other party should the governing body of either party fail to allocate funds for its continued implementation. The DISTRICT shall be entitled to compensation for all services provided up to the effective date of said notice.

In addition, either party may terminate their participation in this Agreement, for any reason, effective one hundred eighty (180) days from the giving of written notice to the other party at the following addresses:

Central Yavapai Fire District
Attn: Fire Chief
8555 E. Yavapai Road
Prescott Valley, Arizona 86314

Attn: _____

_____, Arizona _____

Either party may cancel this Agreement, pursuant to the requirements of A.R.S. §38-511.

SECTION 8. - IMMIGRATION; LEGAL ARIZONA WORKERS ACT COMPLIANCE.

Both parties are governmental entities that are required to comply with A.R.S. §41-4401. The parties hereby warrant that they will, at all times during the terms of this Agreement, comply with all federal immigration laws applicable to the employment of their respective employees, the requirements of A.R.S. §41-4401, and with the e-verification requirements of A.R.S. §23-214(A) (together the "State and Federal Immigration Laws").

A breach of a warranty regarding compliance with the State and Federal Immigration Laws shall be deemed a material breach of the Agreement and the parties who breach may be subject to penalties up to and including termination of the Agreement.

SECTION 9. - CONSEQUENTIAL DAMAGES; CONTRIBUTION; THIRD PARTIES

The DISTRICT shall not be liable for any consequential damages associated with the delivery of material or supplies pursuant to this Agreement.

Nothing herein shall be construed to waive any claim for contribution or allocation of fault as it relates to claims arising

from the negligent action or omission of the other party.

This Agreement shall not be construed as a third party beneficiary contract and shall be intended to benefit only the parties named specifically herein.

SECTION 10. - WORKERS' COMPENSATION COVERAGE

All employees of a party to this Agreement, who works under the jurisdiction or control of, or who works within the jurisdictional boundaries of another party pursuant to this particular 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. In conjunction herewith, it is recognized that the Warehouse Operations Manager is an employee of the DISTRICT for the purposes of employment and benefit law.

SECTION 11. - NON-DISCRIMINATION

The parties will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The parties will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, the Genetic Discrimination Act of 2008, and Executive Orders 99-4 and 2000-4.

SECTION 12. - BINDING EFFECT

This Agreement shall be binding upon the parties and any successor in interest hereto, including subsequent boards, as elected, unless terminated as otherwise set forth herein.

SECTION 13. - GOVERNING LAW

This Agreement shall be interpreted in accordance with the substantive and procedural laws of the State of Arizona and shall be deemed made and entered into in Yavapai County, Arizona. Any dispute arising hereunder shall be submitted for resolution in Yavapai County, Arizona.

SECTION 14. - WAIVER OF JURY TRIAL; ATTORNEYS' FEES

The parties hereto expressly covenant and agree that in the

event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties agree to submit to a trial before the Court. The parties hereto further expressly covenant and agree that in the event of a dispute, mediation, arbitration or litigation arising from this IGA, each party shall bear its own attorneys' fees and costs and neither shall be entitled to an award of attorneys' fees.

This Agreement is intended to replace and supersede any prior agreements and amendments in their entirety, entered into between the parties relating to fire apparatus maintenance and repairs.

SECTION 15.- No WAIVER

No action or failure to act by any Referring Agency or the District constitutes a waiver of any right or duty under this Intergovernmental Agreement, nor does the action or failure to act constitute approval of or acquiescence in a breach of the Agreement, unless all of the parties hereto memorialize the waiver or approval in writing and sign it.

APPROVED

///

OCT 14 2014

///

**Humboldt Unified School District
Governing Board**

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

APPROVALS

CENTRAL YAVAPAI FIRE DISTRICT

District Name

Chairman/Fire Board Date

Chairman/Board Date

Clerk/Fire Board Date

Clerk/Board Date

District Counsel Date

District Counsel Date

event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties agree to submit to a trial before the Court. The parties hereto further expressly covenant and agree that in the event of a dispute, mediation, arbitration or litigation arising from this IGA, each party shall bear its own attorneys' fees and costs and neither shall be entitled to an award of attorneys' fees.

This Agreement is intended to replace and supersede any prior agreements and amendments in their entirety, entered into between the parties relating to fire apparatus maintenance and repairs.

SECTION 15.- No WAIVER

No action or failure to act by any Referring Agency or the District constitutes a waiver of any right or duty under this Intergovernmental Agreement, nor does the action or failure to act constitute approval of or acquiescence in a breach of the Agreement, unless all of the parties hereto memorialize the waiver or approval in writing and sign it.

APPROVED

OCT 14 2014

///

///

**Humboldt Unified School District
Governing Board**

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

APPROVALS

CENTRAL YAVAPAI FIRE DISTRICT

HUSA # 22
District Name

Chairman/Fire Board Date

Richard Adler 10/14/14
Chairman/Board Date
Richard Adler

Clerk/Fire Board Date

Mary Diaz 10/14/14
Clerk/Board Date
Bd Secretary

District Counsel Date

[Signature] 10/16/14
District Counsel Date