

**INTERGOVERNMENTAL AGREEMENT BETWEEN
TOWN OF GILBERT AND
THE CITY OF MESA FOR BACK-UP AMBULANCE SERVICES**

THIS INTERGOVERNMENTAL AGREEMENT ("AGREEMENT") is made and entered into on [DATE], 2021 between the Town of Gilbert, Arizona, a municipal corporation ("Gilbert") and the City of Mesa, Arizona, a municipal corporation ("Mesa"), both of whom are collectively referred to as the "Parties" or individually as "Party".

RECITALS

WHEREAS, the City of Mesa and the Town of Gilbert are authorized to enter into this Agreement pursuant to A.R.S. §§ 11-951 through 11-954, as amended, and A.A.C. R9-25-907; and

WHEREAS, both Gilbert and Mesa provide ambulance service within their respective Certificates of Necessities (CON), and

WHEREAS, on March 17, 2015 the Arizona Department of Health Services granted Gilbert's application for an initial Certificate of Necessity ("CON") to provide ambulance services (CON 149); and

WHEREAS, on July 23, 2015 the Arizona Department of Health Services granted Mesa's application for an initial Certificate of Necessity ("CON") to provide ambulance services (CON 140); and

WHEREAS, both Gilbert and Mesa recognize the occurrence of a major emergency or simultaneous emergencies could overtax available equipment and resources within their respective CON service areas; and

WHEREAS, the Parties desire to provide ambulance services to each other in times of peak overload, simultaneous emergencies, and when resources are otherwise overtaxed.

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

ARTICLE 1 - TERM

1.1 Term. The effective date of this Agreement shall be [DATE], 2021 and shall renew automatically annually unless terminated by the Parties as set forth below. Either Party may terminate this Agreement with ninety (90) days prior written notice.

ARTICLE 2- DUTIES AND LIMITATIONS

2.1 Services provided. Subject to such limitations as may be imposed by law and this Agreement, Gilbert and Mesa are hereby authorized and empowered to provide ALS and BLS ambulance services in each other's CON areas, as requested by the other Party, to cover responses during times of peak overload, simultaneous emergencies, major emergencies and when resources are otherwise overtaxed.

2. 2 Requests.

A. The "Answering Agency" is the Agency that responds to the request for emergency medical services or non-emergency medical services. The "Requesting Agency" is the Agency requesting medical transportation services assistance under this Agreement.

B. An authorized official representing a Requesting Agency shall make all requests for aid. Each request for aid is subject to approval by an official of the Answering Agency, without charge to the Requesting Agency, and with the understanding that personnel and equipment of the Answering Agency shall be subject only to the liability, workers' compensation, and/or other insurance of that Answering Agency. Any request for assistance hereunder should include a statement of the amount and type of equipment and personnel requested and shall specify the location to which the equipment and response personnel are to be dispatched. However, an official of the Answering Agency shall determine the type and quantity of equipment and personnel to be furnished. The equipment and personnel of the Answering Agency shall at all times be under the supervision and control of the official(s) of that answering Agency. When emergency medical services are requested, the Answering Agency shall have its personnel report to the Incident Commander ("IC") or other scene commander at the location to which the equipment and personnel are dispatched. All activities shall be coordinated with the IC. Though coordination of activities occurs by the IC, the equipment and personnel of the Answering Agency shall be under the ultimate supervision of the designated personnel of the Answering Agency. The personnel of the Answering Agency shall coordinate the Answering Agency's efforts with the IC.

C. At no time shall the Answering Agency be expected to operate contrary to standing orders or protocols of its physician advisor, organizational policies, operating licenses, or federal or state regulations, except as specifically provided for in writing by local, state or federal authority and/or except when destination policies are otherwise modified as necessary.

D. If at any time the Answering Agency responds to a mutual aid call for emergency medical services where the Requesting Agency is not at the scene, the Answering

Agency will follow the treatment protocols and procedures of its physician advisor or other medical control, pursuant to the applicable Incident Command System. Response personnel shall contact the medical base of their own Agency for further orders and designation sites.

E. The personnel of each Agency, while engaged in performing any mutual aid service, activity, or undertaking under provisions of this Agreement, shall have and retain all rights and privileges notwithstanding that mutual aid service is being performed in or for the other Agency. Additionally, the Answering Agency's physician advisor and appropriate medical protocols shall govern the Answering Agency's actions.

F. The Answering Agency shall be responsible for all patient and third-party billing and agrees that the rates to be billed shall comply with applicable laws.

ARTICLE 3 - MISCELLANEOUS

3.1 Headings. Section headings contained in this Agreement are for reference purposes only and shall not affect in any way meaning or interpretation of this Agreement.

3.2 Entire Agreement: Modification. This Agreement contains the complete expression of the agreement between the Parties with respect to the subject matter hereof and there are no promises, representations or inducements except as herein provided. The terms and provisions of this Agreement may not be modified, supplemented or amended except in writing signed by both Parties hereto. All terms and provisions of this Agreement shall be binding upon and insure to the benefit of and be enforceable by the respective successors and permitted assigns of the Parties hereto.

3.3 No Waiver. Failure by either Party hereto to enforce at any time or for any period of time any provision or right hereunder shall not constitute a waiver of such provision or of the right of such party thereafter to enforce each and every such provision.

3.4 Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Arizona notwithstanding the conflict of law principals of such state. Any arbitration or litigation shall be conducted in Maricopa County, Arizona. The prevailing party in any litigation concerning this Agreement shall be entitled to reimbursement of its reasonable costs, including legal and accounting fees, incurred in connection with any such matter.

3.5 Conflict of Interest. Parties reserve the right to cancel this Agreement for possible conflicts of interest pursuant to A.R.S. §38-511, as amended.

3.6 Performance: Indemnification. In regard to performance of this Agreement, Gilbert and Mesa both agree to indemnify and save harmless the other Party from and against all claims, suits, damages, liabilities, losses, and expenses arising out of or resulting from (i) damage to, or loss of use of, the other Parties property incurred by reason of the negligent act or omission of the indemnifying Party, (ii) injury or death of a third party which is a result of the negligent act or omission of the indemnifying party in the course

of performance of this Agreement, or (iii) the indemnifying Party's failure to comply with any applicable laws or regulations. Nothing herein shall be construed to modify the gross negligence standard of A.R.S. § 48-818.

3.7 Execution. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document.

3.8 Notices. All notices from the Parties shall be mailed or hand-delivered to:

Town of Gilbert
85 East Civic Center
Gilbert, AZ 85296
Attention: Fire Chief

City of Mesa
13 West 1st Street
Mesa, AZ 85201
Attention: Fire and Medical Chief

3.9 Privacy –Confidential Information. Each Party acknowledges that its employees or agents may, in the performance of its obligations under this Agreement, come into possession of information that is confidential or privileged. In that event, said Party shall maintain the private or confidential nature of that information, and shall comply with state and federal law, including any requirements imposed by HIPAA. In addition, each Party agrees to execute a Business Associate Agreement if required.

3.10 HIPAA. Each Party agrees to comply with the privacy regulations pursuant to Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, et seq., as amended (“HIPAA”), to protect the privacy of any personally identifiable protected health information (“PHI”) that is collected, processed or learned as a result of this Agreement. Each Party agrees not to use or disclose PHI except as permitted by law. The Parties agree to enter into a Business Associate Agreement with each other if required by law.

3.11 Legal Arizona Workers Act. To the extent applicable, the Parties are required to comply with A.R.S. §41-4401, and hereby warrant that they will, at all times during the term 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 thee-verification requirements of A.R.S. §23-214(A) (together the "state and federal immigration laws"). Mesa further agrees to ensure that each subcontractor that performs any work on behalf of Mesa under this Agreement likewise complies with the state and federal immigration laws.

A breach by either Party of a warranty regarding compliance with the state and federal immigration laws shall be deemed a material breach of the Agreement and said Party may be subject to penalties up to and including termination of the Agreement.

3.12 Non-Appropriation. This Agreement shall be subject to available funding for either Party and nothing in this Agreement shall bind the other Party to expenditures in excess of funds appropriated and allotted for the purposes outlined in this Agreement.

3.13 While not anticipated, pursuant to the provisions of A.R.S. § 11-952(B)(4), in the event of termination, any property contributed by either Party shall be returned to the respective Party.

IN WITNESS WHEREOF the Parties hereto have placed signatures on the day and year noted below.

Town of Gilbert

**City of Mesa Fire and Medical
Department**

Brigette Peterson, Mayor

Mary Cameli, Fire Chief

ATTEST:

ATTEST:

Chaveli Herrera, Town Clerk

DeeAnn Mickelson, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Chris Payne, Town Attorney

Jim Smith, City Attorney