

RESOLUTION NO. 24-23

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AUTHORIZING THE CITY OF APACHE JUNCTION ("APACHE JUNCTION") TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF GILBERT ("GILBERT") FOR RADIO CONSOLES IN EXCHANGE FOR A RECRUIT TRAINING OFFICER POSITION.

WHEREAS, Gilbert is in possession of three (3) used Motorola 7500 Radio Consoles and associated equipment; and

WHEREAS, Apache Junction is willing to exchange a Recruit Training Officer position for the radio consoles and equipment; and

WHEREAS, pursuant to A.R.S. § 11-952(A), public entities may enter into intergovernmental agreements with other municipalities and governmental entities for joint or cooperative activities; and

WHEREAS, Apache Junction and Gilbert have crafted the legal arrangement in the form of the attached intergovernmental agreement which sets forth the terms and conditions of the exchange.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION ARIZONA, AS FOLLOWS:

- 1) The mayor and city council approve the form of the intergovernmental agreement, as set forth in Attachment A; and the police chief and/or his designee is hereby authorized to sign the agreement on behalf of the City.
- 2) The police chief and/or his designee is authorized and directed to take all steps necessary to carry out the purpose and intent of this resolution and to fulfill all the duties required under the agreement.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2024.

SIGNED AND ATTESTED TO THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2024.

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Chip Wilson  
Mayor

ATTEST:

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JENNIFER PENA  
City Clerk

APPROVED AS TO FORM:

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RICHARD J. STERN  
City Attorney

## ATTACHMENT A

INTERGOVERNMENTAL AGREEMENT FOR THE  
PROVISION OF MOTOROLA 7500 RADIO CONSOLES  
IN EXCHANGE FOR A RECRUIT TRAINING OFFICER  
BETWEEN THE TOWN OF GILBERT AND THE CITY  
OF APACHE JUNCTION POLICE DEPARTMENT

Gilbert Contract No. 324000396  
Apache Junction Contract No. \_\_\_\_\_

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between the TOWN OF GILBERT, an Arizona municipal corporation (hereinafter referred to as "Gilbert"), and the CITY OF APACHE JUNCTION, an Arizona municipal corporation (hereinafter referred to as "Apache Junction"), both of which are referred to collectively as the "Parties" or individually as a "Party".

RECITALS

- A. Pursuant to Arizona Revised Statutes ("A.R.S.") § 11-951 *et seq.*, the Parties are authorized to enter into intergovernmental agreements for the purposes of exchanging property and taking joint or cooperative action.
- B. Gilbert is in possession of three (3) used Motorola 7500 radio consoles and associated peripherals (the "Equipment") to wit:
  - Three (3) Voice Processing Modules (VPMs) and associated power supply/supplies
  - Six (6) speakers (Select and Unselect)
  - Three (3) micro-PCs w/ monitor, keyboard, and mouse, and associated software
  - Three (3) push-to-talk (PTT) foot switches
  - Six (6) headset jacks
- C. Apache Junction needs Equipment for law enforcement functions.
- D. Gilbert needs a Recruit Training Officer from Apache Junction for the police academies at Gilbert's Public Safety Training Facility.
- E. The Parties have the desire and the ability to assist each other.
- F. Mutual cooperation would result in Apache Junction obtaining Equipment from Gilbert, and Gilbert would avoid the additional expenditure of public funds for legally disposing of Equipment by directly relinquishing ownership to Apache Junction.
- G. This Intergovernmental Agreement ("IGA") will promote efficiency in the use of public funds and will encourage future cooperation between the Parties.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties to this Agreement agree as follows:

### AGREEMENT

1. Apache Junction's Obligations:

A. Accept any offered Equipment, in an "as is" condition with all faults, and without warranties of any kind, including without limitation, implied warranties, warranties of merchantability or fitness for a particular purpose, and warranties of any kind as to Equipment's current or future use or condition at the Gilbert Police Department located at 75 E. Civic Center Drive, Gilbert, Arizona, 85296, subject to Section 3, Indemnification, set forth below and all risks associated with ownership, use, custody, control, maintenance, and transfer.

B. Provide an Apache Junction Police Officer to serve as a Recruit Training Officer for the next two police academies at Gilbert's Public Safety Training Facility (September 2024 – August 2025).

2. Gilbert's Obligations:

A. Provide Equipment to Apache Junction in an "as is" condition with all faults, and without warranties of any kind, including without limitation, implied warranties, warranties of merchantability or fitness for a particular purpose, and warranties of any kind as to Equipment's current or future use or condition.

B. Provide Apache Junction reasonable notice of police academy dates to avoid any conflicts.

3. Indemnification: The Parties covenant and agree to fully indemnify, hold harmless and defend each other and their mayor and city/town council, officers, agents, servants and employees, from and against any and all claims or actions of whatsoever kind of character, whether real or asserted, arising out of or in connection with this Agreement, except to the extent such claims or suits arise out of or are based upon acts or omissions by their mayor and city/town council, officers, employees or agents. If any action or claim shall be brought or asserted against the Parties or their mayor and city/town council, officers, agents, servants or employees for which indemnity may be sought from the Parties, then each Party shall promptly notify each other in writing. The Parties shall, within ten (10) working days of receiving such notice, assume the defense thereof, and the payment of all expenses, including any reasonable attorneys' fees and all court costs that shall be paid as incurred. This section shall survive the expiration or early termination of this Agreement.

4. Duration of Agreement/Termination: This Agreement shall be valid upon execution and shall continue for a term of two (2) police academies unless either Party terminates this Agreement for any reason upon sixty (60) days' written notice to the other Party by overnight

delivery service or first-class certified mail, postage prepaid, addressed to the other Party as set forth in Section 9 of this Agreement. The waiver of liability and indemnification granted to each Party shall survive the termination of this agreement to the extent permissible by law.

5. Binding Effect/Assignment: The obligations and rights created in this Agreement are binding upon and shall inure to the benefit of the Parties and their successors, assigns and legal representatives. Neither Party may assign its rights under this Agreement without the prior written approval of the other Party. Such successor or assignee shall assume, in writing, all duties and obligations hereunder of the prior Party and shall further agree to be bound by and to fully perform the terms of this Agreement.

6. Entire Agreement: This Agreement and any attachments or addendums represent the entire agreement between the Parties and supersede all prior negotiations, representations, or agreements, either express or implied, written or oral. It is mutually understood and agreed that no alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Parties hereto. Written and signed amendments shall automatically become part of the supporting documents, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

7. Severability: The Parties believe that the execution, delivery, and performance of this Agreement are in compliance with all applicable laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring each Party to do any act in violation of any applicable laws, including any constitutional provision, law, regulation, or city code), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. Unless prohibited by applicable laws, the Parties further shall perform all acts and execute, acknowledge and/or deliver all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

8. Governing Law, Venue and Attorney Fees: The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either Party for the purpose of enforcing a right or rights provided for in this Agreement, shall be tried in a court of competent jurisdiction in either Maricopa or Pinal County, State of Arizona. The Parties hereby waive all provisions of the law providing for a change of venue in such proceeding to any other county or for removal to federal court.

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9. Notices: All notices and insurance certificates required under this Agreement shall be sent as follows:

If to Gilbert: Mike Soelberg, Chief of Police  
Town of Gilbert Police Department  
75 E. Civic Center Drive  
Gilbert, AZ 85296

If to Apache Junction: Michael Pooley, Chief of Police  
City of Apache Junction Police Department  
300 E. Superstition Blvd.  
Apache Junction, AZ 85119

10. Conflicts of Interest This Agreement is subject to, and may be terminated by either Party, in accordance with the provisions of A.R.S. § 38-511.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

TOWN OF GILBERT, ARIZONA an Arizona  
municipal corporation

By: \_\_\_\_\_  
Brigette Peterson, Mayor

ATTEST:

\_\_\_\_\_  
Chaveli Herrera  
Town Clerk

CITY OF APACHE JUNCTION, ARIZONA, an  
Arizona municipal corporation

By: \_\_\_\_\_  
Chip Wilson, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Pena  
City Clerk

COUNSEL APPROVAL AS TO FORM:

I have read this Agreement and have determined such Agreement is in proper form and is entered into within the powers of and authority granted under the laws of the State of Arizona.

\_\_\_\_\_  
Christopher W. Payne, Gilbert Town Attorney

\_\_\_\_\_  
Date

I have read this Agreement and have determined such Agreement is in proper form and is entered into within the powers of and authority granted under the laws of the State of Arizona.

\_\_\_\_\_  
R. Joel Stern, Apache Junction City Attorney

\_\_\_\_\_  
Date