



Staff Report

- Agenda Item:** **Clarkdale Fire District Mechanical Repair Services Agreement - Approval of the 2009-2010 Intergovernmental Agreement between the Clarkdale Fire District and the Town of Clarkdale for mechanic repair services.**
- Staff Contact:** Steve Burroughs, Public Works Director
- Meeting Date:** May 12, 2009
- Background:** Since 2007 the Clarkdale Fire District has been contracting with the Town of Clarkdale to share the cost and services of an in-house mechanic. This mechanic is a full-time employee of the Town of Clarkdale and the Fire District may use the mechanic's services on an as-needed basis. The Fire District will be charged a rate of \$28.20 per hour for work done at the Town shop facility in Clarkdale, and pay for their own equipment and supplies plus 10%. Service calls outside of the shop facility will be billed at \$56.40 per hour with a mileage radius limit of 10 (ten) miles from Clarkdale Shop. Each work order issued to the District will include a \$15.50 supply charge. A 15% late fee will be charged for invoices not paid within 30 days.
- The terms of this agreement contain no changes from the 2008-2009 agreement.
- Recommendations:** To approve the 2009-2010 Intergovernmental Agreement between the Clarkdale Fire District and the Town of Clarkdale for mechanic repair services.

When recorded return to:
Town of Clarkdale
Town Clerk
PO Box 308
Clarkdale, AZ 86324

INTERGOVERNMENTAL MECHANICAL REPAIR SERVICES AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of July, 2009, by and between the **CLARKDALE FIRE DISTRICT**, hereinafter called "District", and **TOWN OF CLARKDALE**, a municipal corporation of the State of Arizona, hereinafter called "Clarkdale."

WHEREAS, both District and Clarkdale are desirous of entering into a cooperative Agreement to share the services of an in-house mechanic; and

WHEREAS, both District and Clarkdale have determined that the cost of such services could be substantially reduced if they were performed by Clarkdale employees; and

WHEREAS, both District and Clarkdale have determined that such an Agreement would be the wisest and most economical means for providing mechanical services.

NOW THEREFORE, the parties mutually agree as follows:

1. Clarkdale shall hire a mechanic who shall be a full-time employee of Clarkdale. Clarkdale shall be responsible for paying the wages, taxes, social security, and other benefits of said employee.
2. District may use the services of said mechanic on an as-needed basis. District shall be charged for such services at the rate of Twenty Eight dollars and 20/100 cents (**\$28.20**) per hour for work done at the shop facility in Clarkdale. District will pay for their own equipment and supplies including, but not limited to, oil, grease, and automotive parts at cost plus 10%.
3. Service calls outside of the Clarkdale shop facility will be billed at Fifty Six dollars and 40/100 cents per hour (**\$56.40**). Service calls will be limited to a maximum limit of 10 (ten) miles from Clarkdale shop facility.
4. District will be billed by Clarkdale on a monthly basis.
5. A Fifteen dollars and 50/100 cents (**\$15.50**) shop supply charge will be included on each work order.
6. Payment of invoice is due within 30 days or a 15% late fee will be charged.
7. The above-stated rates to be paid by District to Clarkdale are subject to change based

on wage or benefit increases paid by Clarkdale to the mechanic employee. It is understood and agreed that charges to District are based solely upon costs expected to be incurred by Clarkdale without profit. In the event the rate charged to and/or benefits paid to the mechanic employee increase, said increase shall reflect only the increased costs actually incurred by Clarkdale. District shall at all times have free access to the payroll records of Clarkdale for the purpose of verifying the validity of the rate charged to District.

8. District will indemnify and hold Clarkdale harmless from any and all claims for damages made by third parties arising from or related to the mechanical services contemplated herein and will indemnify Clarkdale against any damages that may be paid or ordered to be paid to third parties, together with cost of defense, including reasonable attorney's fees. Those claims arising solely out of the errors or omissions of Clarkdale are exempted from the provisions of this paragraph.
9. This Agreement shall be for a period of one year commencing on July 1, 2009, and expiring on June 30, 2010.
10. If a dispute arises out of or relates to this Agreement, or breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to settle the dispute through mediation before resorting to arbitration, litigation or some other dispute resolution procedure. In the event that the parties cannot agree upon the selection of a mediator within ten (10) days, either party may request the Presiding Judge of the Superior Court of Yavapai County to assign a mediator from a list of real estate experienced mediators maintained by the Arizona Municipal Risk Retention Pool.
11. This Agreement may be terminated by either party upon thirty (30) days written notice delivered to the other party.
12. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and it may be amended or modified only by an instrument in writing signed by both parties.
13. This Agreement shall be filed with the Secretary of State or the County Recorder as provided in ARS 11-952.
14. This Agreement may be cancelled pursuant to the provisions of ARS 35-511.
15. All books, accounts, reports, files and other records relating to this Agreement shall be subject to inspection and audit by the Town for five years after completion of the Agreement as provided in ARS 35-214.

16. **Non-Availability of Funds:** Every payment obligation of the Town under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the Town at the end of the period for which the funds are available. No liability shall accrue to the Town in the event this provision is exercised, and the Town shall not be obligated or liable for any future payments as a result of termination under this paragraph.

17. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Town Clerk	Town Attorney
Town of Clarkdale	Boyle, Pecharich, Cline, Whittington & Stallings, P.L.L.C.
890 Main Street	Attention: Robert S. Pecharich
P.O. Box 308	125 North Granite Street
Clarkdale, AZ 86324	Prescott, AZ 86301

18. In accordance with ARS 11-952(D) the attached written determination of each party's legal counsel that the parties are authorized to enter into this Agreement and that the Agreement is in proper form.

19. The parties agree to comply with Executive Order 99-4 concerning equal opportunity.

20. **Legal Arizona Workers Act Compliance.** Town hereby warrants that it will, at all times during the term of this Contract, comply with all federal immigration laws applicable to Town's employment of its employees, and with the E-Verify requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Town shall further ensure that each subcontractor who performs any work for Town under this contract likewise complies with the State and Federal Immigration Laws.

Town agrees and warrants that Fire District shall have the right at any time to inspect the books and records of Town and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws. Town agrees that any act by the Town or subcontractor that result in the impediment or denial of access of the books and records of Town's or subcontractor shall be a material breach of the Contract on the part of the Town.

Nothing herein shall make Town or subcontractor an agent or employee of the Fire District. Nothing herein shall act to establish privity of contract between the Fire District and any subcontractor.

Any breach of Town's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to

be a material breach of this Contract subjecting Town to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Town shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor (subject to Fire District approval) as soon as possible so as not to delay project completion and at no additional expense to the Fire District. Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of Town.

Town shall advise each subcontractor of Fire District's rights and the subcontractor's obligations under this Article by including a provision in its contract with each subcontractor in the following form:

SUBCONTRACTOR hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to SUBCONTRACTOR's employees, and with the E-Verify requirements of A.R.S. §23-214(A). SUBCONTRACTOR further agrees that the Town of Clarkdale may inspect the SUBCONTRACTOR'S books and records to insure that SUBCONTRACTOR is in compliance with these requirements. Any breach of this paragraph by SUBCONTRACTOR will be deemed to be a material breach of this contract subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this contract.

ATTORNEY APPROVAL FORM

Pursuant to ARS 11-951 through 11-954 the undersigned has reviewed the attach Intergovernmental Agreement between the Town of Clarkdale and Clarkdale Fire District and find the Agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona and the Town Code.

Dated this ____ day of _____, 2009

Robert S. Pecharich
Boyle, Pecharich, Cline, Wittington & Stallings, P.L.L.C.
Clarkdale Town Attorney

Pursuant to ARS 11-951 through 11-954 the undersigned has reviewed the attach Intergovernmental Agreement between the Town of Clarkdale and Clarkdale Fire District and find the Agreement to be in proper form and within the powers and authority granted to the Clarkdale Fire District under the laws of the State of Arizona and the

Dated this ____ day of _____, 2009

Randy Schurr
Attorney for Clarkdale Fire District

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officials on the aforementioned date.

TOWN OF CLARKDALE

Doug Von Gausig, Mayor

(Town of Clarkdale Seal)

ATTEST:

Kathy Bainbridge, Town Clerk

CLARKDALE FIRE DISTRICT

Clarkdale Fire District President