

SUNsites-PEARCE FIRE DISTRICT

FIRE PROTECTION SERVICES AGREEMENT

This Fire Protection Agreement is made effective _____, 2015, between the Sunsites-Pearce Fire District, a political subdivision of the State of Arizona, hereinafter referred to as the "District" and _____, hereinafter referred to as the "Applicant." The property under consideration is described as:

Street Address: _____

Mailing Address: _____

Cochise County Assessor's Parcel Number: _____

IT IS THEREFORE MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:

1) Purpose. The District shall provide fire protection and may provide limited emergency medical services under the terms of this Agreement.

2) Duration and Renewal. The effective term of this Agreement shall be from the 1st day of the month following the month in which the District Governing Board approves this Agreement through July 31, 2016 (the "Initial Term"). The provisions of this Agreement shall renew automatically on August 1st of each year for consecutive one-year terms, unless either party terminates the Agreement pursuant to Paragraph 11. It is the Applicant's responsibility to provide the District with the current assessed and secondary valuation of the Applicant's property by June 15 of each year.

3) Services Provided. Fire Suppression and Emergency Rescue will be provided (excludes transport, which is handled through the Districts Certificate of Necessity ("CON") Service) and limited Emergency Medical Services (EMS) may be provided (at the discretion of the District) under this Agreement (collectively "Emergency Services"). Unless the Incident Commander (the senior Sunsites-Pearce Fire District Officer present) requests additional assistance from another agency, the District shall provide a standard response as determined by District dispatch protocols on each emergency call received from the Applicant, subject to conditions below.

It is intended that the Emergency Services provided under this Agreement shall be made available to the individuals residing at the property described in the Preamble above (the "Property") or invitees of said residents (collectively, "Service Recipients") in conjunction with the above-referenced Property irrespective of whether the Property is owner occupied or leased. While the Applicant shall be responsible for all fees assessed under this Agreement, the District also reserves the right to bill both the Applicant and any actual Service Recipient (who shall be jointly liable) for the services provided under this Agreement, according to the fee schedule adopted by the District, as amended from time to time. Any said additional billing will reflect the billing rates set

forth in the District fee schedule then in effect, and shall be in addition to the fee charged under paragraph 7 of this Agreement.

In providing services under this Agreement, the District reserves the right to involve such other jurisdictions and EMS or suppression service providers as it deems necessary, consistent with its then current protocol. No assurances are made as to whether, or to what extent, any such third party providers will respond. Applicant and Service Recipients may be responsible for any additional charges assessed by such other service providers.

The Applicant herein acknowledges that the District may respond with fewer units or personnel in the event of any unforeseen circumstance, such as another suppression call, other accidents, conflicting concurrent calls, reduction in available force, road closure, poor road conditions, acts of God, or other situations in which there is a shortage of manpower or equipment. Applicant understands that the response time will likely be extended beyond that which might be regularly expected elsewhere within the District by reason of the distance to and isolation of the Applicant's Property, the limited manpower available, access limitations, road conditions, and the other calls within the District that take priority, and Applicant hereby consents to the same. In addition, Applicant acknowledges and agrees that the District's response and effectiveness may be limited by a lack of adequate water supply.

Applicant acknowledges and agrees that the District may, in its discretion, give priority to other emergency calls either within the District or outside District boundaries, causing a delay in response time. Further, Applicant acknowledges and agrees that the District may, in conjunction with any call to the Property, respond with insufficient equipment or manpower on occasion, either by reason of limited manpower or equipment availability, resource allocation, or by reason of limited information having been made available to the District in conjunction with the determination of the appropriate response. In conjunction therewith, Applicant hereby acknowledges that no assurances are given or warranties made as to the response time or service level that will be made available, and agrees to hold the District harmless from and indemnify the District for any and all damages which might be incurred to Applicant, to Service Recipient, to Applicant's Property or to any third party's property or person, including that of any Service Recipient, by reason of extended response times, reduced equipment or manpower response, the decision to involve other service providers, the failure to involve other jurisdictions or service providers, the District's decision to allocate resources elsewhere either inside or outside of the District, the allocation of manpower or equipment elsewhere, or other operational decisions which might result in delay, injury or damage, or additional loss of life or property. The District shall not be liable for the negligent act or omission of any third party service provider and the Applicant agrees to hold District harmless from the same, and indemnify the District for any loss or injury occurring by reason of any such act or omission. Applicant also agrees the District is under no obligation to transport any Service Recipient of services, but may do so if a transport vehicle is available.

4) Response Time. The District shall make reasonable effort to respond to the Applicant's emergency calls in a manner consistent with then current protocol, subject to the terms and conditions set forth in this Agreement. The Applicant hereby acknowledges that response times are subject to variations due to existing weather conditions, road conditions, travel distance, traffic conditions, property identification, conflicting responses, equipment and manpower availability or allocation, and access to Applicant's Property; and acknowledges that, because of the substantial distance involved, the response time likely to be experience by Applicant will likely be fifteen (15) minutes, or more. No assurances are given by the District as to what ISO rating might apply to the Applicant's Property.

5) Routing Information. The Applicant shall provide the District with current routing information to all of Applicant's Property in a form acceptable to the District Fire Chief, and shall notify the District of any changes to the same. Applicant will inform all occupants of subject Property of the proper procedures to follow in case of fire or medical emergency.

6) Access. The Applicant hereby specifically acknowledges that standard access roads sufficient to allow District fire equipment to reach the scenes of emergency calls are a significant factor in the District's ability to respond to emergency calls within a reasonable and expeditious time. If access roadways are not maintained by other public service agencies, the responsibility of providing and maintaining adequate access rests solely with the Applicant. Applicant hereby agrees to hold the District harmless from, and indemnify the District for any liability or damages for any delays which might occur by reason of limited, inadequate or poorly maintained access, inadequate address or access description, or failure of Applicant or the Property to comply with applicable fire codes, building codes, zoning codes or recommendations or requirements made by any agency or the District.

Applicant hereby grants to the District the right of ingress and egress, and to come upon Applicant's Property for purposes of responding to calls, or for conducting inspections to determine accessibility, and to observe any other matters which may affect the District's ability to provide service under this Agreement. Nothing herein shall be construed as requiring the District to make any such inspection, or to require that the District report to the Property owner or Applicant in regard to any accessibility issues.

7) Compensation. As consideration for the District providing fire services under this Agreement, the Applicant shall pay to the District a sum (the "Service Fee") equal to the amount which would be paid if the Applicant's Property was located in and taxable by the District at the District's then current tax rate, plus an administrative fee of \$25, as modified from time to time. The rate to be used in calculating the Service Fee will be the equivalent to the tax rate in place as of the date of the Agreement, and on the renewal date thereof each year thereafter unless otherwise provided in this Agreement. The Service Fee shall be owed, even if there is no current county tax assessed to the property by reason of the fact that the property is considered to be non-taxable, because no net assessed value has been established, or for any other reason. In that event, for the purpose of calculating the Service Fee to be paid by the Applicant, if the

assessed value is not available, the value of the property shall be established by way of appraisal provided by and at the cost of the Applicant. If the property is appraised, the assessed value will be 10% of the appraisal. If for some reason the current assessed value information is unavailable, then the Service Fee under this contract, as renewed, will be equal to the Service Fee charged for the immediately preceding service year, plus 10%, until such time as then the current year rate shall be recalculated and an adjustment to the Service Fee made. Payment will be made by one of the following options:

Option 1) One annual installment, in advance, with the first payment being due and payable simultaneous with the execution of this Agreement and thereafter, by August 1 of each succeeding year, assuming the Agreement is renewed.

Option 2) Annual fee to be paid in two equal installments, first installment due August 1, and second installment due February 1.

For the initial term of the Agreement, the parties agree that the yearly fee shall be \$ _____, but will be prorated (based on 12 months). The yearly Service Fee, the Initial Term fee and any prorated amount are payable, when due as provided for in the aforementioned option of choice, in advance.

The Service Fee being paid to the District by the Applicant pursuant to this Agreement shall be considered earned by the District when paid, and shall not be conditioned upon or modified by reason of the number of responses made by the District to the Applicant's Property during their term of this Agreement. In addition to the fees set forth above, the District reserves the right to charge any invitees of Applicant, or any resident or occupant of the Applicant's property ("Service Recipient(s)") for services actually rendered to that individual, consistent with the District's then current fee schedule. While the Applicant shall be responsible for all Service Fees assessed under this Agreement, the District also reserves the right to invoice any other actual Service Recipients for the services provided under this Agreement, according to the fee schedule adopted by the District, as amended from time to time. Said billing shall be in addition to any Service Fee due under the terms of this Agreement.

In addition, the District may charge for Emergency Rescue Services and EMS Services based on the fee schedule otherwise adopted by the District, as amended from time to time.

8) **Insurance.** The Applicant shall provide the District with a current certificate of liability and hazard insurance, together with the name and address of insurance agent, name of insurance company providing coverage, and insurance policy number, and shall name the District as an additional insured thereunder.

9) **Waiver and Disclaimer of Liability.** The District shall not be liable for any consequential damages, including but not limited to any lost income or profits suffered by Applicant or any Service Recipient. In consideration of the District's agreement to provide services under the terms of this Agreement, the Applicant agrees to hold the

District harmless and hereby releases the District from and indemnifies the District for any and all claims, demands, liability and causes of action that may arise as a result of the District providing the services described, and specifically, in addition to the foregoing, any other claims, demands, liability or causes of action which might arise out of the District's inability to provide, or delay or limits in providing services, due in whole or in part to the conditions spelled out in Sections 3, 4, 5, and 6 of this Agreement. This Agreement will be for the benefit of the parties named herein only and shall not be construed as having been entered into for the benefit of any third party. Nothing herein shall be construed as a warranty by the District against damages, whether property or personal, which may result by way of fire, injury to a person, accident or other emergency occurring on Applicant's Property. In the event of breach or non-performance by the District, Applicant's sole remedy shall be limited to the termination of this Agreement and refund of fees for the then current contract year, the parties having agreed that said return of fees are a reasonable amount of damages. This release shall bind the Applicant and any, legal representatives, agents, assigns and successors in interest of the Applicant. The waiver, hold harmless and indemnification provisions of this Agreement for the benefit of the District shall survive the termination of this Agreement.

10) **No Third Party Beneficiaries.** This Agreement will be for the benefit of the District and Applicant only, and shall not be construed as having been entered into for the benefit of any third party.

11) **Termination.** Either party may terminate this Agreement by thirty (30) days written notice of termination delivered to the other party at these addresses:

District – Fire District Administration	Applicant–	_____
Sunsites-Pearce Fire District		_____
P.O. Box 507		_____
Pearce, AZ 85625		_____

In the event of termination of this Agreement after the Applicant has paid the required payment due for that term, the District shall return funds to the Applicant prorated on a per day basis for the paid for period after the date of termination.

In the event Applicant sells the subject property or otherwise transfers or disposes of the same, the Applicant will so inform the District, and this Agreement will terminate; provided, however, that the hold harmless and indemnification requirements imposed on Applicant under this Agreement for incidents occurring during the term of this Agreement shall survive. Nothing herein shall prevent the District from negotiating a new service agreement with the new owner of the subject property.

The District may cancel this Agreement pursuant to the mandates of A.R.S. §38-511.

12) **Severability.** If any provision of this Agreement shall be held to be

unconstitutional, invalid, or unenforceable, it shall be deemed severable; however, the remainder of the Agreement shall not be affected and shall remain in full force and effect.

The undersigned warrants to District that the Applicant has the power to enter into this Agreement and that all necessary acts have been taken to so authorize.

APPLICANT:

SUNSITES-PEARCE FIRE DISTRICT

By: _____
(Print Name) Date

Fire Chief Date

Its _____
(Signature)

ATTEST:

By: _____
(Print Name) Date

Admin Secretary Date

Its _____
(Signature)

Preferred Payment Option (Please check one):

OPTION 1 (One installment)

OPTION 2 (Two equal Installments, due August 1 and February 1)