



MEMORANDUM Police Department – Memo 2012-057

DATE: JUNE 5, 2012
TO: MAYOR AND CITY COUNCIL
THRU: RICHARD DLUGAS, CITY MANAGER
FROM: SHERRY KIYLER, POLICE CHIEF
SUBJECT: RESOLUTION NUMBER 4608 AUTHORIZING THE CITY OF CHANDLER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT (IGA) FOR PARTICIPATION IN THE ARIZONA CHILD ABDUCTION RESPONSE TEAM

RECOMMENDATION: Approval of Resolution No. 4608 authorizing the City of Chandler to enter into an IGA with the City of Apache Junction, the City of Scottsdale, the City of Mesa, the City of Phoenix, the Town of Gilbert, the Town of Maricopa, the Town of Paradise Valley, and the Federal Bureau of Investigation, collectively known as the Arizona Child Abduction Response Team agencies (CART), regarding participation in the Arizona Child Abduction Response Team, and authorizing the Police Chief to execute and submit all documents necessary in connection with such agreement.

BACKGROUND: The City of Chandler, through its Police Department, wishes to enter into an IGA with CART agencies to provide a pool of specialized investigators that is available to focus dedicated and intensive investigative, preventative, and general law enforcement efforts primarily with regard to cases involving abducted children. CART agencies may request and render law enforcement assistance from other CART agencies in dealing with serious violations of law, including criminal child kidnapping, abduction, false imprisonment, and similar state and federal violations, the rescue of abducted children, and the seizure and forfeiture of assets of those engaged in such activity (utilizing state and/or federal forfeitures laws, as appropriate).

FINANCIAL IMPLICATIONS: The City of Chandler will pay the salary and benefits of any City of Chandler employees performing any duties authorized by this IGA.

PROPOSED MOTION: Move to approve Resolution No. 4608 authorizing the City of Chandler to enter into an IGA with the City of Apache Junction, the City of Scottsdale, the City of Mesa, the City of Phoenix, the Town of Gilbert, the Town of Maricopa, the Town of Paradise Valley, and the Federal Bureau of Investigation, collectively known as the Arizona Child Abduction Response Team agencies (CART), regarding participation in the Arizona Child Abduction Response Team, and authorizing the Police Chief to execute and submit all documents necessary in connection with such agreement.

- Attachments:
1. Resolution No. 4608

RESOLUTION NO. 4608

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING THE CITY OF CHANDLER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR PARTICIPATION IN THE ARIZONA CHILD ABDUCTION RESPONSE TEAM.

WHEREAS, the following public agencies are interested in creating an Arizona Child Abduction Response Team (the "Team") to provide a pool of specialized investigators who are available to focus dedicated and intensive investigative, preventative, and general law enforcement efforts primarily with regard to cases involving abducted children: City of Apache Junction, Federal Bureau of Investigation, Town of Gilbert, Town of Maricopa, City of Mesa, Town of Paradise Valley, City of Phoenix and City of Scottsdale, and

WHEREAS, the parties have crafted a written agreement in the form of an intergovernmental agreement which sets forth the conditions for such arrangement; and

WHEREAS, the City of Chandler has long supported efforts to render and request law enforcement assistance from agencies dealing with serious violations of law, including, but not limited to, the investigation, arrest and prosecution of those involved in criminal child kidnapping, abduction, false imprisonment and similar or related violations; and

WHEREAS, pursuant to A.R.S. § 11-951, public entities may enter into intergovernmental agreements with other municipalities and governmental entities for joint or cooperative activities.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Arizona, as follows:

1. The Mayor and City Council approve the Intergovernmental Agreement Regarding the Creation of and Participation in the Arizona Child Abduction Response Team and the Mayor is hereby authorized to sign the agreement on behalf of the City of Chandler.
2. Staff shall record such document in the Maricopa County Recorder's Office within sixty (60) days after full execution of all Parties.
3. The Police Chief, or designee, is authorized to participate as a Team member to carry out the duties of the Team and purpose of the agreement.

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this _____ day of _____, 2012.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4608 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2012, and that a quorum was present thereat.

City Clerk

APPROVED AS TO FORM:

City Attorney



Published:

**INTERGOVERNMENTAL AGREEMENT
FOR THE CREATION AND PARTICIPATION IN THE ARIZONA CHILD
ABDUCTION RESPONSE TEAM**

This Agreement is entered into pursuant to A.R.S. §§11-951 *et seq.*, and A.R.S. §13-3872 among the City of Apache Junction, the City of Chandler, the Federal Bureau of Investigation, the Town of Gilbert, the Town of Maricopa, the City of Mesa, the Town of Paradise Valley, the City of Phoenix and the City of Scottsdale. The aforementioned agencies shall herein after be known collectively as the Arizona Child Abduction Response team agencies (CART) and any other public agencies, as that term is defined in A.R.S. § 11-951, which after invitation by the CART chiefs, comply with the provisions of A.R.S. §§11-951 *et seq.* and files an authorizing document with the County Recorder in the County in which the agency is located in that references this Agreement. A public agency shall become a Party to this Agreement as of the date that agency files with the appropriate County Recorder, notwithstanding that A.R.S. §§11-951 *et seq.*, no longer requires such recording. Each CART agency shall provide a copy of its fully executed agreement to every other member agency. In addition to the above, all members to this Agreement may also be collectively known as or referred to as the Parties.

I. PURPOSE

The purpose of this Agreement is to create an Arizona Child Abduction Response Team (CART). The primary goal of the Arizona Child Abduction Response Team is to provide a pool of specialized investigators which are available to focus dedicated and intensive investigative, preventative, and general law enforcement efforts primarily with regard to cases involving abducted children. CART agencies may request and render law enforcement assistance from other CART agencies in dealing with serious violations of law including, but not limited to, the investigation, arrest and prosecution of those involved in criminal child kidnapping, abduction, false imprisonment and similar or related violations (utilizing state and federal law and prosecutions, as appropriate), the rescue of the abducted child or children and the seizure and forfeiture of assets of those engaged in child abduction or otherwise supporting such activity (utilizing state and federal forfeiture options, as appropriate).

Additionally, the location of each Party's jurisdiction in relation to each other makes it advantageous to enter this particular Agreement in order to receive and extend mutual aid in the form of law enforcement services and resources to adequately respond to continuing, multi-jurisdictional criminal activity such as that described above.

II. AUTHORITY

A. The Parties are authorized and empowered to enter into this Agreement pursuant to A.R.S. §§11-951 *et seq.*, A.R.S. §13-3872 and the respective provisions of their City Charters, Tribal Constitution or other governing statute or authority.

If any Native American tribe that is a party to this Agreement request CART assistance, all assisting CART team members shall be granted tribal peace officer authority for the duration of the CART activation within the applicable tribal jurisdiction.

III. ACTIVATION, PROCEDURES AND RESOURCES

A. Any Party to the Agreement may request activation of CART. It shall be the responsibility of the Party requesting activation to contact assigned team leaders via the law enforcement communications center of each Party.

B. The Party that has jurisdiction over the incident or investigation will remain as the lead agency during the duration of a particular CART activation with support from CART agencies.

C. Two CART Team Leaders will be selected by the CART Team members subject to final approval of the chief law enforcement officers (chiefs) of the CART agencies on a rotating basis for a term of at least one year, which shall correspond with the effective date of the Agreement. In the event that a Team Leader is unable to complete his or her term due to resignation from his or her agency or for any other reason, the CART members shall name a replacement shall appoint a replacement subject to final approval of the chiefs.

D. The CART Team Leaders or designees will be responsible for coordinating on-going training, meetings or other necessary supporting functions in support of the operational effectiveness of CART. Team Leaders shall be responsible for mediating any jurisdictional disputes between the Parties during a CART activation. In the event such mediation fails, the issue shall be brought to the attention of the CART Chiefs for appropriate resolution.

E. Each Party shall to the best of its ability make at least one sworn law enforcement officer available along with supporting equipment such as vehicles in support of any CART activation. Each Party shall designate a primary CART member to participate in activations, meetings, trainings, etc. Each Party shall immediately inform other CART agencies when such designations change. In the event a primary CART member is not available or as the situation dictates, a CART agency may provide officers not normally designated as CART members in support of a CART activation.

F. Each Party shall have the sole discretion to determine how many or how long any of its personnel or resources shall be assigned in support of a CART activation.

IV. COSTS AND ANY REIMBURSEMENT

The Parties will be responsible for any and all associated costs accrued in implementing this Agreement that are incurred by their respective agencies to include but are not limited to employee salary, shift differential pay, overtime compensation, benefits, vehicles, equipment, etc. If any Party receives grant funds designated for the Arizona Child Abduction Response Team, some or all of these expenses may be reimbursed to the Parties. In no event shall any

Party charge other Parties for any administrative fees for any work performed pursuant to this Agreement.

V. NONDISCRIMINATION

The Parties to this Agreement shall comply with all applicable provisions of state and federal non-discrimination laws and regulations including, but not limited to Executive Order 75-5, as modified by Executive Order 99-4, which mandates that all persons, regardless of race, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities and all other federal and state employment and educational opportunity laws, rules and regulations, including the Americans with Disabilities Act; provided however, an Indian Community is subject to 25 U.S.C. § 450e(c). No Party shall engage in any form of illegal discrimination.

VI. INDEMNIFICATION

To the extent permitted by law, each Party does hereby covenant and agree to indemnify, defend, and hold harmless the other Party, their elected officials, appointees, officers, employees, contractees, and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature relating to this Agreement which, are the result of any act or omission of the Party, its officers, employees, contractees, agents, and anyone acting under its direction or control, whether intentional or negligent, in connection with or incident to this Agreement. Failure of a Party to comply with the terms of this Agreement shall not provide the basis of any third party action against any of the Parties.

VII. GOVERNING LAW

The laws of the State of Arizona shall govern this Agreement. Venue will be in the Maricopa County Superior Court unless the subject matter of the dispute involves an Indian Community, then venue shall be in the Federal District Court for the State of Arizona. In the event of any litigation or arbitration arising out of this Agreement, the substantially prevailing Party in such litigation or arbitration shall be entitled to recover its reasonable attorney fees, expert witness fees and other costs of litigation.

VIII. DURATION AND CANCELLATION OF AGREEMENT

A. This Agreement shall become effective upon execution by the Parties hereto and filing with the appropriate County Recorder and shall remain in effect until July 1, 2020, unless otherwise terminated by the terms of this Agreement or operation of law. Failure by one or more Parties to execute the Agreement shall not invalidate the Agreement as to those Parties who did so. Any Party may withdraw from this Agreement with or without cause by giving thirty calendar days written notice to the other Parties to the Agreement.

B. This Agreement may be administratively extended by each Party at the direction of the chief law enforcement officer for each Party on or before the Termination date for a period of an additional five years by notifying the other Parties in writing. Any Party which fails to do so by the termination date listed above shall no longer be a Party to the Agreement.

IX. CANCELLATION PROVISIONS PURSUANT TO A.R.S §38-511

The Parties reserve all rights that each may have to cancel this Agreement for possible conflicts of interest under A.R.S. § 38-511, as amended.

X. MULTIPLE COUNTERPARTS

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. Neither a signature for every Party nor a signature line shall be required in each counterpart except that on a counterpart being brought forward by a Party to its legislative body or equivalent for approval, that particular counterpart shall have to be signed and executed in accordance with that Party's practice. 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.

XI. WORKER'S COMPENSATION

Pursuant to A.R.S. §23-1022(D), for the purposes of worker's compensation coverage, all employees of each Party covered by this Agreement shall be deemed to be an employee of all Parties. The parent agency shall be solely liable for payment of worker's compensation benefits.

XII. OTHER PROVISIONS

A. In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not affect the validity or enforceability of any other provision hereof.

B. This Agreement contains the entire understanding between the Parties with respect to the subjects hereof and supersedes all prior negotiations and agreements. This Agreement may be amended only by an instrument in writing and signed by all the participating Parties. The waiver of any breach of this Agreement shall not be deemed to amend this Agreement and shall not constitute waiver of any other subsequent breach. Headings are for convenience and shall not affect interpretation.

C. This Agreement shall be recorded with the appropriate County Recorder as described above upon its execution and a copy shall be forwarded to each Party.

D. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, each Party certifies that it does not have a scrutinized business operation, as defined in A.R.S. §§ 35-391 and 35-393, in either Sudan or Iran.

E. Nothing within this Agreement shall be construed to limit the ability of participating Arizona Child Abduction Response Team members to provide or as otherwise allowed for by law, such assistance in any enforcement action as may be lawfully requested by a law enforcement officer having jurisdiction over an incident, crime or matter under consideration.

XIII. COMPLIANCE WITH E-VERIFY PROGRAM

A. To the extent provisions of A.R.S. §41-4401 are applicable, all Parties warrant to each Party that they will comply with all Federal Immigration laws and regulations that relate to their employees and that each now complies with the E-Verify Program under A.R.S. §23-214(A).

B. A breach of this warranty will be considered a material breach of this Agreement and may subject the breaching party to penalties up to and including termination of this Agreement.

C. All of the Parties retain the legal right to inspect the papers of any employee who works pursuant to this Agreement or any related subcontract to ensure compliance with the warranty given above.

D. Any Party may conduct a random verification of the employment records of any other Party to ensure compliance with this warranty.

E. A Party will not be considered in material breach of this Agreement if it establishes that it has complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A).

F. The provisions of this Article must be included in any contract either Party enters into with any and all of its contractors or subcontractors who provide services under this Agreement.

XIV. NOTICES

Any notice required to be given under this Agreement will be provided to all Parties to this Agreement. The CART leaders shall compile a list of each Party's address, phone number and contact person and distribute said list to each member to this Agreement.

IN WITNESS WHEREOF, the Party named below has executed this Agreement on _____.

CITY OF CHANDLER, an Arizona municipal corporation

By: _____
Jay Tibshraeny
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Mary Wade
City Attorney 

Reviewed By: _____
Sherry Kiyler
Police Chief

INTERGOVERNMENTAL AGREEMENT DETERMINATION

In accordance with A.R.S. §11-952, this Agreement has been reviewed by the undersigned who determined that this Agreement is in appropriate form and is within the powers and authority of the respective parties.

City of Chandler

By: _____
Mary Wade, City Attorney

Date: _____