

Forest Fees Management Association of Yavapai County

Parties: Ash Fork Joint Unified School District No. 31
Bagdad Unified School District No. 20
Beaver Creek Elementary School District No. 26
Camp Verde Unified School District No. 28
Canon Elementary School District No. 50
Chino Valley Unified School District No. 51
Clarkdale-Jerome Elementary School District No. 3
Congress Elementary School District No. 17
Cottonwood-Oak Creek Elementary School District No. 6
Crown King Elementary School District No. 41
Hillside Elementary School District No. 35
Humboldt Unified School District No. 22
Kirkland Elementary School District No. 23
Mayer Unified School District No. 43
Mingus Union High School District No. 4
Mountain Institute Joint Technological Education District No. 2
Prescott Unified School District No. 1
Sedona Oak Creek Unified School District No. 9
Seligman Unified School District No. 40
Skull Valley Elementary School District No. 15
Valley Academy for Career and Technology Education District No. 1
Walnut Grove Elementary School District No. 7
Williamson Valley Elementary School District No. 52
Yarnell Elementary School District No. 52
Yavapai Accommodation School District No. 99

In this Agreement, the Parties may be referred to collectively as the “Districts.”

Statutory Authority:

1. By statute, the Districts may enter into an agreement to (a) procure goods or services, (b) jointly exercise powers common to the Districts, and (c) take joint or cooperative action. A.R.S. § 11-952 & § 15-342(13).

2. Under the statutes, the Districts join together and by this Agreement form the Forest Fees Management Association. The Association’s purpose is set forth below.

...

...

Agreement:

The Districts agree to jointly and cooperatively procure goods and services, exercise powers, and take concerted action in accordance with the terms and conditions of this Agreement.

1. Purpose. The purpose of this Agreement is to promote shared and enhanced educational funding opportunities among the Districts by pooling and administering forest reserve monies received under A.R.S. § 11-497 and § 41-736.

2. Duration. This Agreement's term is five years, commencing on July 1, 2020, and ending on June 30, 2025. The Districts may extend the Agreement for successive terms of five years each.

3. Financing and Budgeting. Each District shall contribute one-half (1/2) of forest reserve monies allocated to it by the Yavapai County Board of Supervisors in accordance with A.R.S. § 11-497 within thirty (30) calendar days of receipt.

3.1 Such funds will be delivered to the Fiscal Agent to be deposited, invested, managed, and expended at the direction of the Board of Directors acting in accordance with the Bylaws (Exhibit 1).

3.2 The Districts hereby designate the Yavapai County Education Service Agency as the Fiscal Agent while authorizing the Board of Directors to appoint a different Fiscal Agent in its discretion.

3.3 The Board of Directors shall adopt an annual budget for providing services to the Districts and shall provide a copy of the budget to the Districts.

4. Cooperative Purchasing. This Agreement authorizes cooperative purchasing for all lawful purposes in accordance with A.A.C. R7-2-1191 *et seq.*

4.1 Payment for materials and services and inspection and acceptance of materials or services ordered by a District shall be the exclusive obligation of that District.

4.2 The exercise of any rights or remedies by a District shall be the exclusive obligation of that District.

4.3 Any District may terminate without notice this Agreement if any other district fails to comply with the terms of this Agreement.

4.4 Failure of any District to secure performance from the contractor in accordance with the terms and conditions of its purchase order does not necessarily require any other district to exercise its own rights or remedies.

4.5 No district shall use this Agreement as a method for obtaining concessions or reduced prices for noncontract purchases of similar materials or services.

5. Governance. To the extent not inconsistent with the statutory authority and this Agreement, the Association shall be governed and conducted in accordance with the Bylaws (Exhibit 1).

6. Termination. A District may withdraw from membership and participation in the Association without cause upon ninety (90) days written notice from the District's Governing Board to the Association's Board of Directors. No funds previously paid by the District to the Association shall be repaid or refunded to a District which elects to withdraw without cause from the Association. Services provided through the Association to a District which elects to withdraw from the Association after the effective date of withdrawal may be obtained by that District from other sources, if any, as a direct cost to that District, without payment or reimbursement by the Association.

7. Disposition of Property. The Districts do not anticipate the acquisition of any property by the Association. To the extent that the Association does acquire any property, the Board of Directors shall determine a fair and appropriate distribution of such property among the Districts.

8. Alternative Dispute Resolution. The Districts shall submit any dispute among them arising out of or relating to this Agreement to mediation by a mutually agreed upon third-party. The Districts will be jointly responsible for the mediator's fee, but will be separately responsible for all fees and costs associated with their respective presentations to the mediator.

9. Indemnification. To the fullest extent permitted by law, each District shall indemnify and hold harmless the others and their respective officers, directors, members, consultants, agents, and employees from and against all claims for bodily injury and property damage, including reasonable attorneys' fees, costs, and expenses that may arise from the District's performance of or failure to perform this Agreement, but only to the extent caused by the negligent acts or omissions of the District, its agents, or employees.

10. Insurance. While participating in the Association, each School District shall maintain insurance coverage on the terms and conditions and in the limits offered by the Arizona School Risk Retention Trust.

11. Arizona Law. This Agreement incorporates all requirements of Arizona law, including but not limited to cancellation in accordance with A.R.S. § 38-511. Moreover, this Agreement's interpretation and performance are governed by Arizona law.

12. Choice of Forum. In the event that any dispute is not resolved under Section 8, any suit or action arising under this Agreement shall be commenced in the Superior Court of the State of Arizona in and for the County of Yavapai.

13. Entire Agreement. This Agreement represents the entire, integrated agreement between the Districts. The Agreement supersedes all prior negotiations, representations, or agreements, whether written or oral. The Agreement may be amended only by written instrument signed by all Districts.

14. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

15. Authority of Signatory. Each individual executing this Agreement warrants that they are duly authorized to execute and deliver this Agreement.

16. Preparation of Agreement. This Agreement has been prepared by the combined efforts of the Districts and is not to be construed against any District.

17. Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions.

18. Third Parties. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against any District, the Yavapai County Education Service Agency, or the Association. This Agreement is not intended to benefit any third party.

19. Legal Counsel's Review and Approval. The Districts acknowledge that several of them are represented by Wright Welker & Pauole PLC (Law Firm) in various matters, including the drafting and reviewing of this Agreement. By signing this Agreement, each District that is a client of Law Firm specifically acknowledges (1) that Law Firm has, by this paragraph, informed each District that Law Firm believes it is able to provide competent and diligent representation to each District to this Agreement, (2) that the representation is not prohibited by law and does not involved the assertion of a claim by one District against another district to this Agreement, and (3) that the District waives any potential conflict of interest arising out of this joint representation.

Dated _____, 2020

Sedona Oak Creek Unified School District
No. 9

By _____
Its authorized agent

Approval Of Attorney For Sedona Oak Creek Unified School District No. 9

I am the attorney for Sedona Oak Creek Unified School District No. 9. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the District's powers and authority granted under the laws of the state of Arizona.

Attorney for the District

Date

**BYLAWS OF THE
FOREST FEE MANAGEMENT ASSOCIATION
“We Maximize Value to Schools”
September 2, 2010**

ARTICLE I – PURPOSE

The Forest Fee Management Association is hereby organized as a voluntary cooperative program specifically for, but not limited to:

- A. Promoting shared and enhanced educational funding opportunities among school districts located in Yavapai County, Arizona, by means of administering an agreement using forest reserve monies received by participating school districts pursuant to ARS 11-497 and 41-736 and voluntarily paid by these school districts to the fiscal agent for this I.G.A. for the cooperative procurement and use of public and private materials and services, common use of capital equipment, provision of personnel, informational, technical or other services that may assist in improving the efficiency or economy of procurement and other purposes permitted under an intergovernmental agreement and a cooperative purchasing agreement pursuant to A.A.C. R7-2-1191, *et seq.*
- B. Creating a democratically elected Management Board, subject to these bylaws, that will have complete and independent control of forest reserve monies collected from member districts, to be used solely for the mutual benefit of those member districts.
- C. Allowing the Yavapai County Education Service Agency to serve without charge, as the fiscal agent, yet with the specific understanding that once the Forest Fees are allocated by the Board of Supervisors, Yavapai County Government and the Yavapai County School Superintendent have absolutely no control over funding decisions.
- D. Opening membership to all School Districts operating within Yavapai County, Arizona, who wish to voluntarily direct a portion of their Forest Fee proceeds to the Management Association to maximize their educational and financial impact.

ARTICLE II – BOARD OF DIRECTORS

SECTION 1. General Powers, Number, Tenure and Qualifications. The activities of the Management Association shall be solely controlled by a Board of Directors, serving as the Forest Fee Management Board, numbering five (5) members with an initial term ending at midnight on December 31, 2012. The Board of Directors shall institute a staggered lottery system of terms such that reasonable continuity is assured following that date.

Thereafter, the terms of Directors shall be for three (3) years and shall commence at 12:00 AM on January 1st and terminate at midnight on December 31st. Directors may be elected or appointed to successive terms without limit.

SECTION 2. Members of the Board of Directors.

A. The five (5) Directors shall be:

- Either an administrator or Governing Board Member of a member School District,
- Five (5) representatives of the various public school districts, based on their annual student population (most recent Average Daily Membership, published by the Arizona Department of Education). The Board of Directors will from time to time determine the districts that make up the membership of these five groups, based on ADM. These representatives must be nominated and elected by the districts that are part of that specific group. On the date of the adoption of these Bylaws, the membership groups shall be:

- Group 1 Crown King, YASD, Yarnell, Skull Valley, Hillside, Williamson Valley, .Walnut Grove
- Group 2 Seligman, Kirkland, Congress, Ash Fork, Canon
- Group 3 Clarkdale-Jerome, Bagdad, VACTE, Mountain Institute, Mayer, Beaver Creek
- Group 4 Mingus, Camp Verde, Sedona Oak Creek
- Group 5 Prescott, Humboldt, Chino Valley, Cottonwood-Oak Creek

The Management Board may allow a non-voting, ex-officio representative from the following entities to provide expertise and input during their meetings:

- A non-voting advisor, nominated and elected by the charter schools of Yavapai County,
- A non-voting advisor, nominated and elected by the colleges and universities in Yavapai County,
- A non-voting, facilitator, from the Education Service Agency.

Vacancies on the Board of Directors occasioned by resignation or any other reason may be filled in the same manner as the original member was selected.

B. At all times during the term of a Director, that individual must be in good standing within the District from which they were elected.

C. Board members' election shall be by means of plurality vote of the Governing Boards of the School Districts comprising the Group as defined above, based upon nominations from among the members of the respective Group. If the election does not result in a plurality for any candidate, those tied with the highest number of votes, will break the tie by lot, under the supervision of the Yavapai County School Superintendent.

SECTION 3. Meetings of the Board.

A. The annual meeting of the Board of Directors shall be held during the month of December each year.

B. In addition to the annual meeting, the Board shall hold three (3) regular meetings each year, in March, June and September. Special meetings may be called by the President, or by at least three (3) Board Members by written request, or by the Board of Directors by majority vote of the quorum present at a regular meeting.

C. A Director shall cease to be eligible to serve as a Director and shall be automatically removed from office upon the occurrence of either of the following:

- (1) Failure to attend a majority of meetings in a fiscal year; or
- (2) Failure to attend three (3) consecutive regular meetings.

This shall apply to every Director, regardless of whether he or she is serving prior to the date of adoption of these Bylaws. If a Director is removed, the Board shall cause a written notice to that effect to be sent by first class certified mail to the Director who was removed.

D. A simple majority of the voting members of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board.

E. Meetings of the Board of Directors, whether regular or special, may be held by means of telephonic or similar communications equipment, by means of which all persons participating in the meeting can hear each other. A request to attend a regular meeting by teleconference requires a seventy two (72) hour notification to the President or the Secretary / Treasurer. Participation in a meeting pursuant to this section shall constitute presence in person at such meeting. No proxies are allowed.

F. Directors should notify the President or Secretary-Treasurer of an impending absence, seventy two (72) hours in advance of the meeting if possible.

G. Any Director or Member District may, prior to posting, submit an item to the President or the Secretary / Treasurer for inclusion on the next agenda.

H. Agendas for regular and special meetings shall be posted twenty four (24) hours in advance. The posting shall be provided to each Director, all member Districts, to anyone who makes such a request, and it shall be placed on a Forest Fee Management Board web site.

SECTION 4. Duties and Responsibilities of the Board. The Board of Directors shall have the duty to see that the purposes expressed in the Bylaws are carried out. They are responsible to:

- A. Adhere to the Open Meeting Laws of the State of Arizona,
- B. Attend meetings on a regular basis, representing the interest of the group they represent while keeping the best interest of the member Districts in mind,
- C. Regularly determine that the business and assets of the Forest Fee Management Association are efficiently and effectively handled, from an account held by the Yavapai County Treasurer,
- C. Establish policy and guidelines with respect to the operation and management of the Forest Fee Management Association and its several projects,
- E. Establish policies for the effective management of an informational web site,
- F. Establish a communication network among member Districts,
- G. Immediately disclose any conflict of interest (financial interests, family matters, legal constraints) they may have, and refrain from participating in discussions or decisions in regard to the conflict,
- H. Ensure, pursuant to A.A.C. R7-2-1191, that except as provided in Article I-Purpose, paragraph C, when a member School District or other public procurement unit provides personnel or other services, it shall be reimbursed for the reasonable and necessary direct and indirect costs of providing such services,

SECTION 5. Acceptance of Gifts. The Board of Directors may accept on behalf of the Management Association any contribution or gift, subject to whatever conditions are attached to the gift, as long as it does not conflict with the Bylaws of the Management Association, and is permitted by state and federal law.

ARTICLE III – OFFICERS

SECTION 1. Officers. The officers of the Management Board shall be President, Vice-President, and Secretary-Treasurer and such other officers as the Board may determine.

SECTION 2. Election and Term of Office. The officers of the Management Board shall be elected annually by the Board of Directors at the regular annual meeting. Officers will serve a one year term, beginning at 12:00 AM on January 1st and ending at midnight on December 31st and may hold office for consecutive years without limit. The Board of Directors may replace officers who resign the office or end their service to the Management Board as needed.

SECTION 3. President. The President shall preside at all meetings of the Board of Directors. He or she shall sign all instruments or contracts requiring execution on behalf of the Management Board and appoint all committees subject to approval of a majority of the Board of Directors. The President shall serve as an ex-officio member of all committees.

SECTION 4. Vice-President. The Vice-President shall perform the duties of the President in his or her absence and shall perform such other duties as may be assigned by the President or the Board of Directors.

SECTION 5. Secretary-Treasurer. The Secretary-Treasurer may without charge, use the services of a facilitator provided by the Education Service Agency. The Secretary-Treasurer shall see that minutes of all meetings of the Board of Directors, and all appointed committees, are kept and filed. He or she shall give, or cause to be given, notice of all meetings of the Board and of all appointed committees and shall have general supervision over the care and custody of all funds and securities of the Management Association. The Secretary-Treasurer shall keep or cause to be kept, full and accurate accounts of all receipts and disbursements of the Management Board and will nominate, at a meeting prior to the annual meeting, an impartial person to perform a review of the year's financial activities. The report of this audit/review will be presented at the annual meeting.

SECTION 6. President Pro Tempore. When the President and Vice-President are both absent, the Board may appoint a temporary Presiding Officer from among the members present.

ARTICLE IV – COMMITTEES

SECTION 1. Appointment. The President, with the approval of the Board of Directors, may appoint advisory committees to carry out the objectives and purposes of the Management Association. Such committees shall have at least one (1), but less than a quorum of the Board Members, but additional members of interested persons from the member Districts may be appointed whose expertise will be of benefit to the work of the committee. In addition to the standing committees identified in Article IV, Section 2, the President may, as appropriate, appoint other standing and ad-hoc committees to address specific projects of the Management Board.

SECTION 2. Standing Committees. The President and Board of Directors may make use of Standing Committees, that may include but are not limited to, the following:

A. Executive Committee. This committee (President, Vice-President, Secretary-Treasurer) shall be responsible to carrying out the administrative functions of the Management Board.

B. Grants Committee. This committee shall be responsible for coordinating and securing grant funding, based on the guidance of the Board of Directors.

C. Bylaw Committee. This committee shall be responsible for regularly reviewing the Bylaws and recommending changes as needed.

D. Finance Committee. This committee shall be responsible for proposing an annual budget, creating an annual finance report, insuring compliance with all applicable state and federal laws, meeting all tax reporting requirements, and making recommendations to the Board of Directors in regard to audits.

E. Technical Resource Committee. This committee shall identify best practices for technical support services, inoperability problem resolution, joint procurement and disposal, and infrastructure sustainability.

ARTICLE V – FINANCING OF PROGRAMS

Each school district which elects to participate in the voluntary cooperative program established pursuant to these Bylaws shall pay one half (1/2) of the forest fee reserve monies allocated by the Yavapai County Board of Supervisors which it receives pursuant to ARS Sections 11-497 and 41-736 to the fiscal agent established by the Bylaws each year within thirty (30) days of receipt.

ARTICLE VI - AMENDMENT OF BYLAWS

The Board of Directors may propose amendments to the Bylaws, by a majority vote. The proposal must be made available to all Board Members at least two (2) weeks prior to any vote to amend the Bylaws. Ratification of a proposed Bylaw change requires a majority vote at any annual or regular meeting. In addition, twenty percent (20%) of the member Districts may propose amendments to these Bylaws, in writing, at the Annual meeting. Ratification of the proposal requires a majority vote of the member Districts. Any District which does not approve the Bylaw amendment may withdraw from the Association without penalty.

ARTICLE VII – GENERAL PROVISIONS

SECTION 1. Agency Office. The principal office of the Management Association shall be located in the State of Arizona at the office of the Education Service Agency at 1015 Fair Street, Prescott, AZ 86305-1852, or as subsequently changed by the Board of Directors.

SECTION 2. Fiscal Year. The Fiscal year ends the last day of June of each year and begins the first day of July.

SECTION 3. Date of Adoption of Bylaws. The Bylaws were adopted by the Board of Directors on February 15, 2011 and amended on March 4, 2013.

SECTION 4. Withdrawal of Member School District. Any member School District may withdraw from membership and participation in the Management Association upon ninety (90) days written notice from the School District's governing board to the Board of Directors of the Management Association. No funds previously contributed to the

Management Association shall be paid or refunded to a School District which elects to withdraw from the Management Association. Services provided through the Management Association to a School District which elects to withdraw from the Management Association after the effective date of withdrawal may be obtained by the School District from other sources, if any, as a direct cost to that School District, without payment or reimbursement by the Management Association.