

CITY COUNCIL REPORT



Meeting Date: **June 4, 2024**
 General Plan Element: ***Open Space & Recreation***
 General Plan Goal: ***Provide access to educational, recreational and cultural services for all residents***

ACTION

Arizona Game and Fish IGA for Community Fishing Program. Adopt Resolution No. 13084 authorizing and approving Contract No. 2024-057-COS, an intergovernmental agreement with the Arizona Game and Fish Commission, which will allow continuation of the Community Fishing Program at Chaparral Park Lake, and authorizing the Community Services Assistant Executive Director to take actions as are necessary to carry out the intent of the Resolution.

BACKGROUND

The City of Scottsdale and the Arizona Game and Fish Commission have had an intergovernmental agreement for the past 40 years, which applies to Chaparral Park Lake located at 5401 North Hayden Road. Entering into Contract No. 2024-057-COS, the intergovernmental agreement (IGA) with the Arizona Game and Fish Commission in support of the Community Fishing Program, would provide the City with:

- Public information relating to fishing, waterfowl, and fishing waterways.
- Monitoring of the public on compliance for fishing licenses and bag limits.
- Annual stocking of Chaparral Lake with trout and catfish.
- Monitoring of water quality and habitat and providing periodic lake assessment reports.

In return for this service, the City agrees to pay the Arizona Game and Fish Department to help defray the cost of the Community Fishing Program, which provides for the stocking of Chaparral Lake with two varieties of fish throughout the year.

ANALYSIS & ASSESSMENT

Recent Staff Action

This most recent agreement between the parties was effective on June 30, 2018, was amended once to extend the term, and will expire on June 30, 2024. The partnership has continued to be

Action Taken APPROVED ON CONSENT; 6-1 WITH COUNCILWOMAN LITTLEFIELD DISSENTING

very beneficial to the City of Scottsdale, the Arizona Game and Fish Department and our community fishing enthusiasts, so staff has negotiated this new IGA that, if approved, will be effective starting July 1, 2024 through June 30, 2029.

RESOURCE IMPACTS

Available funding

Funds are budgeted annually in the Parks and Recreation Department's operating budget with payment to Arizona Game and Fish Department in the amount of \$19,540 for FY24/25.

Staffing, Workload Impact

There is no additional staffing or workload impact associated with entering into this IGA for the Community Fishing Program.

Maintenance Requirements

There are no additional maintenance requirements associated with entering into this IGA for the Community Fishing Program.

Future Budget Implications

The IGA allows for the annual payment including 3.0% annual increase in years 2, 3, 4 and 5 (FY 2014/25 – FY 2028/29) of \$20,126, \$20,730, \$21,351 and \$21,992. Authorization for these funds will be contingent on approval of the Parks and Recreation Department's annual operating budget by Scottsdale's City Council. The agreement contemplates that if price increases from fish vendors are more than 3.0% annually, the IGA contemplates that the parties will discuss amending the IGA.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach

Adopt Resolution No. 13084 authorizing and approving Contract No. 2024-057-COS, an intergovernmental agreement with the Arizona Game and Fish Commission, which will allow the continuing operation of the Community Fishing Program at Chaparral Lake, and authorizing the Community Services Assistant Executive Director to take actions as are necessary to carry out the intent of the Resolution.

Description of Option B

Deny approval of Resolution No. 13084, authorizing Contract No. 2024-057-COS, an intergovernmental agreement with the Arizona Game and Fish Commission, which will mean the Community Fishing Program at Chaparral Lake would not be able to continue with existing resources. In addition, the City would lose a long-standing community partner that provides important educational information and public programs that support urban fishing in Scottsdale.

RESPONSIBLE DEPARTMENT(S)

Community Services Department

Parks and Recreation Department

STAFF CONTACT(S)

Brett Jackson, Parks and Recreation Manager, 480-312-7056, bjac@scottsdaleaz.gov

Nick Molinari, Community Services Assistant Executive Director, 480-312-1101,
nmolinar@scottsdaleaz.gov

APPROVED BY



William B. Murphy, Assistant City Manager
480-312-7954, bmurphy@scottsdaleaz.gov

4/5/2024
Date

ATTACHMENTS

1. Resolution No. 13084
2. Contract No. 2024-057-COS

RESOLUTION NO. 13084

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND APPROVING CONTRACT NO. 2024-057-COS, AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA GAME AND FISH COMMISSION IN SUPPORT OF A COMMUNITY FISHING PROGRAM FOR CHAPARRAL LAKE; AND AUTHORIZING THE COMMUNITY SERVICES ASSISTANT EXECUTIVE DIRECTOR TO TAKE ACTIONS AS ARE NECESSARY TO CARRY OUT THE INTENT OF THIS RESOLUTION.

WHEREAS, Arizona Revised Statutes Sections 11-951, et seq. provide that public agencies may enter into intergovernmental agreements for the provision of services or joint or cooperative action;

WHEREAS, Article 1, Section 3-1 of the City Charter of the City of Scottsdale authorizes the City to enter into intergovernmental agreements with various public agencies including the State of Arizona Game and Fish Commission (Commission);

WHEREAS, pursuant to Contract No. 2018-061-COS and other prior intergovernmental agreements, the Arizona Game and Fish Department through the Commission has conducted a fishing program in cooperation with the City pursuant to which Chaparral Lake and Eldorado Pond have been periodically stocked with fish to provide recreational opportunities to residents and visitors of the community;

WHEREAS, Contract No. 2018-061-COS was amended once to extend the term through June 30, 2024; and

WHEREAS, the City and Commission wish to enter into a new intergovernmental agreement to continue this community fishing program through June 30, 2029 at Chaparral Lake.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. The City Council hereby authorizes, approves, and directs the Mayor to execute, on behalf of the City, Contract No. 2024-057-COS, Intergovernmental Agreement Between the Arizona Game and Fish Commission and the City of Scottsdale, AZ, in support of a community fishing program for Chaparral Lake, in an amount not to exceed \$103,738.00 over the agreement's five-year term, unless amended to account for a more than 3% price increase from fish vendors.

Section 2. The City Council hereby authorizes the Community Services Assistant Executive Director, or designee, as an agent of the City to take actions as are necessary to carry out the intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this 4th day of June, 2024.

CITY OF SCOTTSDALE, an Arizona
municipal corporation

ATTEST:

Ben Lane, City Clerk

David D. Ortega, Mayor

APPROVED AS TO FORM:



Sherry R. Scott, City Attorney

By: Kimberly Campbell, Senior Assistant City Attorney

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE
ARIZONA GAME AND FISH COMMISSION
AND
THE CITY OF SCOTTSDALE, AZ**

Pursuant to A.R.S. § 11-952 *et. seq.*, this Intergovernmental Agreement (“Agreement”) is made this 1st day of July, 2024, by and through the Arizona Game and Fish Commission (“Commission”), and the City of Scottsdale (“City”). The Commission and the City will individually be referred to in this Agreement as a “Party” and collectively as the “Parties.” The terms “Department” and “Director” in this Agreement hereinafter refer to the Arizona Game and Fish Department and its Director, acting as administrative agent for the Commission.

WHEREAS, the Commission has statewide responsibility for the management of wildlife, including fish, and the City owns certain park lands, including artificial lakes which it maintains for public use as recreation and open space areas; and,

WHEREAS, both entities desire to provide sport fishing recreational opportunities to the extent such a program is found practical; and,

WHEREAS, the Commission has authority under A.R.S. § 17-231(B)(7) to make agreements with other entities for the operation of wildlife facilities and the conduct of related management studies, and the City has authority under A.R.S. Title 9 *et seq.*, A.R.S. §§ 11-931, *et seq.*, the City Charter, and City ordinances to provide recreation through a Parks and Recreation Department; and,

WHEREAS, the Department acts under the authority of the Commission;

NOW THEREFORE, the Parties agree to conduct a Community Fishing Program, as follows:

AGREEMENT:

The Commission agrees that the Department shall:

1. Inform the public of the purpose and intent of the Community Fishing Program. This may include coverage in various Department publications, websites, and other outlets as well as the media (radio, television, newspapers) to ensure broad coverage.
2. Make recommendations to the Commission pertaining to license requirements and bag and possession limits specific to the Community Fishing waters herein.
3. Issue Fishing Licenses and other applicable licenses to individuals and Department-authorized license dealers in the local area and statewide. Licenses will also be available from Department offices and online.

4. Under the Department's "Traditional/Core" Strategy, stock participating waters with catchable rainbow trout approximately every two weeks from December through February, and catchable channel catfish approximately every two weeks from April through May and mid-September through October. Fish stocking will cease from approximately June through mid-September due to heat stress factors.

For waters under the Department's "Expansion" Strategy, stock participating waters with catchable rainbow trout approximately four times from November to March, and catchable channel catfish approximately three times from March to June, and one time from mid-September to October. Fish stocking will cease from approximately June through mid-September due to heat stress factors.

For waters under the Department's "Custom: Catch/Release" Strategy, stock participating waters with catfish, bluegill, and bass a minimum of once annually into participating waters. Other Department-approved fish species may be stocked as necessary to: 1) establish or augment fish populations, 2) maintain a balanced and healthy fishery, 3) improve angler catch rates, or 4) provide a unique or feature species or sub-species for anglers.

Adjustments to these stocking schedules and/or species may be required due to climatic and/or weather conditions, fish availability from vendors, condition and health of source fish, logistics of fish delivery from vendors, water quality conditions within the participating waters, unexpected increases in fish costs, or lack of available funding.

5. Monitor basic water quality and biological indicators as needed to determine if lake conditions are suitable for fish stockings. Provide water quality information to park managers and/or aquatic consulting firms responsible for lake management. Notify the appropriate City or park management staff of any public health or safety concerns found by the Department.

6. Design and provide Community Fishing Program information and regulation signs, and replacements as needed. Signs shall be posted at mutually agreed-upon locations around each participating lake.

7. Conduct periodic angler surveys to ascertain angler catch rates, effort, harvest, satisfaction, and overall performance of the program. This information will be shared with the City when analyses are complete.

8. Enforce Commission rules and regulations and Arizona Revised Statutes, Title 17 (Game and Fish laws). Cooperate and coordinate with local law enforcement officials, courts, and park staff to ensure angler compliance.

9. Provide advice, technical assistance, and guidelines on lake/pond and/or fishery management to the City.

10. Work with the City to design and install suitable fish habitats as needed to provide adequate cover from predators and spawning habitats.

11. Establish an account to utilize funds paid to the Department by the City for operation of this program.

The City Shall:

1. Inform park users of the sport fishing opportunity and allow "Open to the Public" Sport Fishing Education programs at the included water(s) as set forth in Section 5 below.
2. Install the Department-provided signage frame(s) at mutually agreed-upon locations, and maintain the signage as needed by removing graffiti, and notifying the Department of damage to the frames and the attached signage.
3. Make information about opportunities to go fishing within the City available to the public at park facilities, on the City website, and other outlets.
4. Provide the Department any necessary keys or combinations to locks and/or gates so Department staff can gain access to the water(s) for stocking, monitoring water quality, or conducting creel surveys.
5. Pay a Partnership Fee to the Department for waters stocked under this agreement. Annual rates shall be in accordance with the following fee schedule which represents 32.5% of the total cost of fish:

Water	Stocking Strategy	FY25Cost	FY26Cost	FY27Cost	FY28Cost	FY29Cost	Total Costs
Chaparral Lake	Traditional	\$19,540	\$20,126	\$20,730	\$21,351	\$21,992	\$103,738
	Total	\$19,540	\$20,126	\$20,730	\$21,351	\$21,992	\$103,738

There is an annual increase of 3.0% built into the fee schedule to address annual adjustments in fish pricing from vendors. If price increases from fish vendors are more than 3.0% annually, the Parties shall meet and confer to determine if this Agreement can be amended to address the cost increase. To allow for the possible inclusion in the City's budget, the Department shall notify the City of any such proposed increase by October 1 before the beginning of the next City fiscal year (July 1) in which the Department proposes the increase to take effect.

These funds shall be used to defray the cost of program operations, including costs for fish required hereunder. Payments made to the Department may be leveraged to obtain federal grant funding or other grant funding opportunities. If this opportunity arises, the City will be notified in writing by the Department, and it may be necessary to verify that all or a portion of the partnership fees do not originate from federal sources.

6. Promptly notify the Department of anticipated and emergency maintenance or management measures that may affect the Community Fishing Program. This may include lake or landscape repairs or construction, water supply or aeration disruptions, and other activities or occurrences that may affect public health, safety, and access to fishing and stocking activities.
7. Maintain the lake and associated facilities to support a year-round sport fishery. This may include timing operational drawdowns and filling, operation strategies and timing for lake aeration and mixing systems, knowing when and whom to call for algae or aquatic plant treatments, knowing how to spot unusual fish behaviors that may indicate problems, and knowing who to call in the event of a fish kill.
8. Maintain water quality in a manner consistent with all other requirements and regulations upon the City. Regularly remove floating or submerged trash and debris from the lakes. Remove and dispose of dead fish in a timely manner and notify the Department Community Fishing Program Manager at 623-236-7262 if there is an unusual amount of dead or dying fish. Actively control excessive aquatic vegetation and algae blooms, and report any known or suspected aquatic invasive species to the Community Fishing Program Manager.
9. Discourage feeding of domestic waterfowl by the public, and harass or remove excess waterfowl as necessary. Discourage populations of fish-eating aquatic birds (i.e., cormorants and herons) through park landscape management and other permissible techniques. Allow the Department to conduct Migratory bird research or depredation activities as permitted by the U.S. Fish and Wildlife Service.
10. For lakes with aeration systems, maintain a fully operational system to support good water quality. Ensure that aeration systems or other lake management systems are not limiting angler access or use, unless necessary to conduct maintenance or repairs. Manage and integrate landscape activities to be compatible with the maintenance of good lake water quality.
11. To the extent possible, assist in the enforcement of State, City and Park codes, rules, regulations and laws (including A.R.S. Title 12 and Title 17, Game and Fish Laws), as applicable. Assist the Department as appropriate in the enforcement by reporting violations or suspected violations to the Department Operation Game Thief hotline (1-800-352-0700), by verbal warnings, and allow the Department to issue citations as necessary to achieve compliance goals. City may adopt Title 17 Rules into Municipal Code to facilitate enforcement.
12. Provide and maintain angler access to shoreline areas at each water. To the extent possible, provide suitable accommodations along the shoreline such as picnic tables, benches, and shade structures for angler use.
13. Provide access to the waters and associated park facilities such as shade structures so that Sport Fishing Education contractors, Department personnel, and volunteer instructors may conduct Sport Fishing Education programs at no charge to the Department. This may include conducting and/or supporting Sport Fishing Education programs (fishing clinics) for the general public in

cooperation with the Department. Specific scheduling information about Department-sanctioned programs will be provided to the City as far in advance as possible.

14. Provide and maintain suitable park and lake access to allow for stocking of fish using trucks and trailers by the Department and their fish contractors at the waters.

The Parties Mutually Agree To:

1. Work in harmony for the common purpose of managing a Community Fishing Program. Encourage a united and professional approach by personnel of both Parties in seeking solutions to problems and challenges that may arise in fish and angler management, lake management, and during fish kills.

2. Department and City staff shall meet annually or as needed to discuss issues, operations and maintenance, planning, budgeting, and other activities relating to park management and the Community Fishing Program, to review accomplishments and to develop and prioritize activities for the coming year.

3. Cooperate and exchange biological, management, and other information useful in the effective operation of a Community Fishing Program.

4. Seek to obtain funding opportunities for projects that: 1) create, enhance, or restore fish habitat, water quality, or angler access; or 2) increase or enhance recreational angling opportunity. These funds may be transferred directly, or through reimbursement, to the City. Funding availability through the Department is uncertain, but may include support through the Sport Fish Restoration Federal Assistance Program, State Wildlife Grant Program, Arizona Heritage Fund, or other sources. To provide for the future transfer of special funds, the Parties agree to enter into mutually acceptable collection agreements. Future agreements will be developed within the framework of this Agreement, and applicable grant and agreement requirements are to be approved in accordance with the policy of each Party.

5. Budget and provide the necessary funding to fulfill its respective obligations under this Agreement.

General Provisions:

1. Effective Date and Duration. This Agreement shall not be in effect until signed by all Parties hereto. Unless terminated earlier by operation of the terms of this Agreement, or by agreement of the Parties in writing, this five (5) year Agreement will terminate on June 30, 2029.

2. Termination Generally. Either Party may terminate this Agreement upon sixty (60) days' written notice to the other Party. Upon termination, all work performed pursuant to this Agreement will cease, and all unencumbered monies deposited for use by the Department will be returned to the City. The Parties do not anticipate having to dispose of any property upon termination of this

Agreement. However, to the extent that such disposition is necessary, property shall be returned to the original owner.

3. Notices. All written notices concerning this Agreement shall be delivered in person or sent by certified mail, return receipt requested, or first class mail, postage prepaid, to the Parties as follows:

A. To the City:
Sunny Nakagawa
City of Scottsdale Parks and Recreation
7447 East Indian School Road, Suite 300
Scottsdale, AZ 85251

B. To the Department:
Ms. Julie Carter
Arizona Game and Fish Department
5000 West Carefree Highway
Phoenix, Arizona 85086

4. Non-Discrimination. In the event it applies, the Parties hereby agree to comply with all Federal and State nondiscrimination orders and statutes as may apply, including Title VI, Title IX of the Civil Rights Act, Section 504 of the Rehabilitation Act, and the Governor's Executive Order No. 23-01 and 09-9, entitled Non-Discrimination in Employment.

5. Audit. Pursuant to A.R.S. § 35-214, all books, accounts, reports, files, electronic data, and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the State of Arizona for five (5) years after completion of this Agreement.

6. Arbitration. To the extent required pursuant to A.R.S. § 12-1518, and any successor statutes, the Parties agree to use arbitration, after exhausting all applicable administrative remedies, to resolve any dispute arising under this Agreement, where not in conflict with Federal Law, with each Party to bear its own attorney's fees and costs.

7. Termination for Conflict of Interest. This Agreement is subject to termination pursuant to A.R.S. § 38-511.

8. Termination for Non-Availability of Funds. Every obligation of the Parties under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds for the continuance of this Agreement are not allocated or are not available, this Agreement shall terminate automatically on the date of expiration of funding. In the event of such termination, the Parties shall incur no further obligation or liability under this Agreement other than for payment of services rendered prior to the expiration of funding.

9. Other Agreements. This Agreement in no way restricts either Party from participating in similar activities with other public or private agencies, organizations, or individuals.

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10. Compliance with Applicable Law. All work performed pursuant to this Agreement shall be in compliance with all applicable state and federal laws and regulations.

11. Severability. In the event that any provision of this Agreement or portion thereof is held invalid, illegal, or unenforceable, such provision or portion thereof shall be severed from this Agreement and shall have no effect on the remaining provisions of this Agreement, which shall remain in full force and effect.

12. Illegal Immigration. The Parties agree to comply with Executive Order 2005-30, "Ensuring Compliance with Federal Immigration Laws by State Employers and Contractors," the provisions of which are hereby incorporated by reference.

13. Employer-Employee Relationship. It is not intended by this Agreement to, and nothing contained in this Agreement shall be construed to, create any partnership, joint venture, or employment relationship between the Parties or create any employer-employee relationship between City and any State employee, or between State and any City employee. Neither Party shall be liable for any debts, accounts, obligations, or other liabilities whatsoever of the other, including (without limitation) the other Party's obligation to withhold Social Security and income taxes for any of its employees.

14. Indemnity. Each Party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other Party (as "indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees, hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

15. Records Retention. In accordance with A.R.S. § 41-151.12 (GS 1018), all books, accounts, reports, files, electronic data, and other records relating to this Agreement shall be retained for a period of six (6) years after Agreement is fulfilled, expired, canceled or revoked.

16. Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and correctly sets forth the rights, duties, and obligations of each to the other as of its date. All prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. The provisions hereof may be abrogated, modified, rescinded, or amended in whole or in part only by mutual written consent executed by the Parties.

17. Compliance with E-Verify Program. To the extent applicable under the provisions of A.R.S. § 41-4401, each Party and its contractors and subcontractors warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-Verify requirements under A.R.S. § 23-214(A). A breach of the above-mentioned warranty by either Party shall be deemed a material breach of this Agreement and may result in

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ARIZONA GAME AND FISH COMMISSION

By: _____
Ty Gray
Secretary to the Commission and
Director, Arizona Game and Fish Department

_____ Date

APPROVAL OF THE ARIZONA GAME AND FISH COMMISSION ATTORNEY:

I have reviewed the above-referenced Intergovernmental Agreement between the City of Scottsdale, Arizona and the Arizona Game and Fish Commission and declare this Agreement to be in proper form and within the power and authority granted to the Arizona Game and Fish Commission under the laws of the State of Arizona.

Dated this _____ day of _____, 2024 _____
Attorney
Arizona Game and Fish Commission