

EMERGENCY SERVICES AGREEMENT

THIS EMERGENCY SERVICES AGREEMENT (this "Agreement") is entered into as of the "Effective Date" (as defined herein) by and between the Town of Superior, an Arizona municipal corporation (the "Town"), and Resolution Copper Mining LLC, a Delaware limited liability company ("RCML"), acting by and through its manager, Resolution Copper Company, and not in its own capacity.

RECITALS

A. RCML owns land adjacent to or near the municipal boundaries of the Town, more particularly described in Exhibit A (the "RCML Property"). The RCML Property currently includes several different parcels of land, including the "West Plant Site", the "East Plant Site", and "Smelter Town", each depicted on the map attached hereto as Exhibit A-1.

B. Previously, the Town has provided certain police, fire suppression and ambulance emergency services to RCML for the RCML Property, for which RCML has paid to the Town \$12,500 for each of the calendar years 2004 and 2005, \$40,000 for the calendar year 2006, and \$40,000 for the calendar year of 2007. RCML and Town desire to enter into an agreement for the future provision of such services, as set forth herein.

C. RCML and Town entered into that certain Services and Support Memorandum of Understanding dated September __, 2007, which contemplates RCML and the Town entering into a more definitive agreement in connection with the agreements and principles set forth therein.

D. The Town is willing to enter into this Agreement based on its determination that this Agreement promotes the goals of the Town in furtherance of its public policies, including its land use policies, goals, and other requirements, to promote the public health, welfare, and safety, and in the exercise of its legislative powers and in its sole discretion has elected to enter into this Agreement.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and intending to be legally bound, RCML and the Town agree as follows:

1. **Provision of Emergency Services.** Pursuant to the terms of this Agreement, the Town hereby agrees to provide or cause to be provided certain emergency services described below (collectively the "Emergency Services") to the RCML Property. In the event RCML acquires additional property in the vicinity of the Town through a land exchange with U.S. Government or from BHP Copper Inc., such additional real property shall be considered part of the RCML Property for purposes of this Agreement and the Town shall provide or cause to be provided Emergency Services to all of the RCML Property, including such additional real property. The Town and RCML acknowledge and agree that the level of Emergency Services may vary from time to time. Nothing contained in this Agreement shall be deemed to affect the

provision of similar emergency services or other services for any area within the Town boundaries, including that portion of Smelter Town that is within the Town boundaries.

2. **Description of Emergency Services.** The Emergency Services to be provided by the Town hereunder shall include all of the following services provided by any provider of Emergency Services hereunder, including the Town's police department, paramedics (if any) and fire department (each, an "Emergency Service Provider"), as required by RCML from time to time:

(a) Police services, which shall include response to emergency calls for crimes in progress and other circumstances involving imminent threats to life and property. Investigative police services and security services outside of the Town boundaries shall not be included in the Emergency Services and RCML agrees that it shall obtain such services from law enforcement personnel having jurisdiction over such matters. Notwithstanding the foregoing, RCML, in its discretion, may independently hire individual Town police officers for security services for RCML, provided, however, that the Town has no responsibility for any such service and any such services shall be deemed to be outside the scope of this Agreement.

(b) Fire suppression services, which shall include emergency fire suppression services for fire outbreaks on the surface and in above-ground improvements on the RCML Property. Nothing herein shall require the Town to provide fire suppression services for any underground fire on the RCML Property.

(c) Ambulance services, which shall include ambulance and paramedic services to the extent available to the Town, including emergency life support, first aid, cardiac emergency services, and transport to area hospitals. Nothing herein shall require the Town to provide ambulance services to underground facilities on the RCML Property.

3. **Conditions to Provision of Emergency Services.**

(a) The Town shall provide to the RCML Property the same level of Emergency Services as are provided to residents of the Town within the Town boundaries, with reasonable differences attributable to distance and access routes serving the RCML Property from the location of the Emergency Service Provider within the Town boundaries, and nothing in this Agreement shall require the Town to provide to RCML any Emergency Services which are not provided to the rest of the Town. The Emergency Service Providers may be located in the Town and are not required by this Agreement to be located on the RCML Property.

(b) Emergency Services shall be provided by the Town on as as-needed, on-call basis. Each Emergency Service Provider shall respond to any request for Emergency Services on the RCML Property pursuant to its regular response protocol for emergency calls. RCML acknowledges that the Emergency Services shall be provided based on the priority of such request, and that at the time of a request for Emergency Services an Emergency Service Provider may not be able to respond due to prior or higher priority requests within the Town's municipal boundaries or elsewhere on the RCML Property. In such event, the Emergency Services Provider shall use all reasonable efforts to respond to requests for Emergency Services

as soon as possible. RCML acknowledges that it may have to seek Emergency Services from the County of Pinal, Arizona ("County") or elsewhere.

(c) Nothing herein shall be deemed to limit the right of RCML to obtain the same or similar Emergency Services from other entities that may offer to provide the same from time to time, including the County and from its own forces, or to limit RCML's use of Emergency Services exclusively to the Town.

4. **Payment for Emergency Services.**

(a) Pursuant to the terms of this Agreement, the Town shall invoice RCML for the following amounts, and RCML shall pay to the Town in advance an annual lump sum payment amount equal to One Hundred Thousand Dollars (\$100,000) per year, as may be adjusted upward as provided herein. The initial payment shall be made on or before April 15, 2008 to cover the Town fiscal year period from July 1, 2008 to June 30, 2009. Each subsequent payment shall be made on or before February 15 of each year during the term of this Agreement, which payment shall be applicable to services provided during the following Town fiscal year beginning July 1 and ending June 30 of the relevant years. For each payment made after the initial payment, the amount of the payment shall be the amount of the payment for the previous year, adjusted by the percentage change of the Implicit Price Deflator from the previous year. For example, the payment for 2008 shall be \$100,000. If the Implicit Price Deflator shows a 3% increase from 2008 to 2009, the payment to be made on or before February 15, 2009 shall be \$103,000. Similarly, if the Implicit Price Deflator shows a 3% increase from 2009 to 2010, the payment to be made on or before February 15, 2010 shall be \$106,090 (which is 103% of \$103,000). As used herein, the term "Implicit Price Deflator" means the United States Department of Commerce, Bureau of Economic Statistics, Implicit Price Deflator for Gross Domestic Product, or its successor index, using as the base year the immediately preceding calendar year for such adjustments. Any such amounts due hereunder shall be rounded to the nearest whole dollar amount. The Town acknowledges that RCML has previously paid for the provision of Emergency Services for the period beginning on the Effective Date until July 1, 2008.

(b) The Town shall include in its annual budget each year an amount equal to the amount of the payment made by RCML for the relevant year pursuant to this Agreement. The parties acknowledge that the provision of Emergency Services to the RCML Property shall be funded by RCML as set forth herein, and shall not be provided from the Town's general funds. Such funds shall supplement the public safety portion of the Town's budget as enhancements to and increases in the Town budget for such items, and shall not supplant any portions that would otherwise be provided by the Town. In the event the Town fails to include the amount of payment made by RCML in its applicable annual budget, it shall not be an Event of Default hereunder and the Town shall promptly return the payment to RCML by July 1 of such year.

(c) The amounts paid by RCML hereunder shall only be applied to that portion of the Town's budget for public safety, including police, fire, and ambulance departments, and shall not be expended for any other purpose.

5. **Term of Emergency Services Obligations.** Subject to the provisions set forth in this Agreement, the initial term of this Agreement shall be a five (5) year term commencing on July 1, 2008, and expiring on June 30, 2013, as automatically extended or earlier terminated pursuant to the terms hereof. The term of this Agreement shall continue on an evergreen year-to-year basis, unless terminated as set forth herein. Either party shall have the right to terminate the obligations set forth in this Agreement upon the expiration of the initial five (5) year term, or on any anniversary thereafter, by providing prior written notice of termination to the other party at least one year in advance of such termination.

6. **Events of Default; Remedies.**

(a) Events of Default. The occurrence of any of the following events shall constitute an "Event of Default" (whether such events shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body) and shall be just cause for termination:

(i) a party's failure to make any payment due hereunder on any due date thereof, which is not cured within ten (10) business days after written notice of the same has been given by the non-defaulting party; provided, however, that in the event the Town fails to include such amounts in the relevant budget, non-payment by RCML shall not be an Event of Default hereunder;

(ii) a party's failure to observe or perform any of its other covenants and obligations under this Agreement and its failure to fully cure the same within thirty (30) days after written notice thereof to such party; provided, however, that failure by the Town to include the payments by RCML in its annual budget shall not be an Event of Default hereunder;

(iii) any representation or warranty of a party herein or in any document or certificate furnished to the other party in connection herewith or pursuant hereto shall prove to be incorrect in any material respect; and

(iv) a party shall (A) become insolvent; (B) generally not pay its debts (trade or other) as they become due; (C) file, or consent by answer or otherwise to the filing against it of, a petition of relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction; (D) make an assignment for the benefit of its creditors; (E) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property; or (F) take corporate action for the purpose of any of the foregoing; (G) or if a court or governmental authority of competent jurisdiction shall enter an order appointing, without consent by a party, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of a party, or if any such petition shall be filed against a party and such condition is not reversed or such petition

shall not be dismissed within thirty (30) days; or (H) any similar event in any jurisdiction in which a party is in operation has occurred.

(b) Remedies. Upon the occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing, the non-defaulting Party may, at its option, declare the Agreement to be in default, except in the case of any event in Section 6(a)(iv) occurring, in which case this Agreement shall automatically be in default and shall automatically terminate without notice to the non-defaulting party. Except with respect to an event in Section 6(a)(iv), at any time after any other Event of Default, and so long as the same is continuing, the non-defaulting party may do one or more the following with respect to all or any part of the Agreement as the non-defaulting party in its sole discretion shall elect, to the extent permitted by, and subject to compliance with any mandatory requirements of applicable law then in effect:

(i) The non-defaulting party may proceed by appropriate court action or actions to enforce specific performance of this Agreement for the applicable fiscal year and/or or to recover damages for the breach thereof; provided, however, the amount of the damages that may be recovered is capped at the amount paid by RCML for the year in which the Event of Default occurred;

(ii) Where RCML is the non-defaulting party, RCML may suspend any payment contemplated in this Agreement pending any cure of such Event of Default;

(iii) The non-defaulting party may terminate this Agreement.

(iv) Notwithstanding anything herein to the contrary, in the event the Town fails to include in its annual budget payments by RCML as contemplated hereunder, RCML shall have the right to suspend any payment contemplated in this Agreement and may terminate this Agreement effective as of the subsequent June 30.

(c) Remedies Cumulative. Each and every remedy hereby specifically given a non-defaulting party shall be in addition to every other remedy specifically so given, and each and every remedy may be exercised from time to time individually or simultaneously and as often and in such order as may be deemed expedient by the non-defaulting party. All such remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others.

(d) Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by RCML or the Town for the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same of any other covenant or condition of this Agreement.

7. Miscellaneous Provisions.

(a) Notice. All notices required or permitted under this Agreement shall be in writing and shall be sent by either personal delivery, a reputable overnight courier which keeps receipts of delivery (such as UPS or Federal Express), through the facilities of the United States Post Office, postage prepaid, certified or registered mail, return receipt requested. Any such notice shall be effective upon delivery, if delivered by personal delivery or overnight courier, and

seventy-two (72) hours after dispatch, if sent by U.S. postal service in accordance with the above. Notices sent to the respective parties shall be sent to the following addresses unless written notice of a change of address has been previously given pursuant hereto:

To Town: Town of Superior
734 W. Main St.
Superior, Arizona 85273
Attention: Mayor

To RCML: Resolution Copper Mining LLC
c/o Resolution Copper Company
102 Magma Heights
Superior, Arizona 85273
Attention: President
Tel: 520 689 3341
Fax: 520 689 2471

(b) **Applicable Law.** This Agreement shall be governed by and interpreted under the laws of the state of Arizona, excluding any conflict of law principles that would require the application of the law of any other jurisdiction.

(c) **Further Assurances.** Each party agrees to undertake and perform all further acts that are reasonably necessary to carry out the intent and purposes of the Agreement at the request of the other party.

(d) **No Agency, Joint Venture, or Partnership.** It is specifically understood and agreed to by the parties that the RCML operations are a private venture, and this Agreement in no way creates any type of agency relationship, joint venture, or partnership among RCML and the Town.

(e) **Construction.** This Agreement has been reviewed and revised by legal counsel for RCML and the Town, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control the meaning or construction of any of the provisions hereof.

(f) **Severability, Invalidity.** If any provision of this Agreement shall be held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction or as a result of any legislative action, such holding or action shall be strictly construed. Furthermore, provided the parties are still able to retain all of the material benefits of their bargain hereunder, such provision shall be construed, limited, or if necessary, severed, but only to the extent necessary to eliminate such invalidity or unenforceability, and the other provisions of this Agreement shall remain unaffected and this Agreement shall be construed and enforced as if such provision in its original form and content had never comprised a part hereof.

(g) **Dispute Resolution.** Under all circumstances, any disputes that are not otherwise resolved by agreement of the parties shall be resolved by litigation. Any litigation

shall be instituted only in a court of competent jurisdiction, whether state or federal, located within the city of Phoenix, Arizona. If any such litigation is commenced, each party irrevocably consents and submits to personal jurisdiction of any such court and to the service of process upon them in accordance with the rules or statutes governing service of process; provided that nothing in this Section 7(g) shall be deemed to prevent either party from seeking to remove any action to federal court in Phoenix, Arizona. EACH PARTY FURTHER WAIVES TO THE FULL EXTENT PERMITTED BY LAW (i) THE RIGHT TO TRIAL BY JURY, (ii) ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO VENUE IN ANY SUCH LITIGATION IN A COURT OF COMPETENT JURISDICTION, WHETHER STATE OR FEDERAL, IN PHOENIX, ARIZONA, AND (iii) ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(h) **Effective Date.** The “**Effective Date**” of this Agreement means the date on which both parties have signed this Agreement and it has been first ratified by the Town Council.

(i) **Entire Agreement, Amendment.** This Agreement, together with all exhibits and attachments, constitutes the entire agreement between the parties and supersedes any prior understandings, agreements, or representations, verbal or written, and specifically supersedes the Services and Support Memorandum of Understanding. Except as expressly provided herein, this Agreement shall not be amended except in a written form executed by both of the parties. In the case of the Town, such amendment shall be made pursuant to a vote of the Town Council taken with the same formality as the vote approving this Agreement.

[Signatures on following page.]

IN WITNESS WHEREOF, RCML and the Town have executed this Agreement by their duly authorized representatives effective as of the Effective Date.

RCML:

RESOLUTION COPPER MINING LLC,
a Delaware limited liability company

By: Resolution Copper Company, as Manager
and not in its own behalf.

By: [Signature]

Print Name: David Salisbury

Title: President, Resolution Copper Company,
as Manager

Date: April 17, 2008

TOWN:

THE TOWN OF SUPERIOR, a municipal
corporation

By: [Signature]

Print Name: Mayor Michael Hing

Title: Mayor

Date: _____, 2008

Attested to:

By: [Signature]

Print Name: Melania Oliver

Title: Interim Town Manager

Date: _____, 2008

Approved as to Form:

By: [Signature]

Print Name: Michael F. Beers

Title: Town Attorney

Date: _____, 2008