

City Clerk
City of Flagstaff
211 W. Aspen Avenue
Flagstaff, AZ 86001

INTERGOVERNMENTAL AGREEMENT

**City of Flagstaff
And
Arizona Board of Regents
for and on behalf of
Northern Arizona University**

This Agreement is made this ____ day of _____, 2021 by and between the City of Flagstaff (the "City"), an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona 86001, and the Arizona Board of Regents, a body corporate with perpetual succession pursuant to the laws of the State of Arizona, for and on behalf of Northern Arizona University ("NAU"), a state university duly organized and existing pursuant to Arizona Revised Statutes §15-1601.A, with an address of Box 4130, Flagstaff, Arizona 86011. NAU and the City may be referred to as a party or, collectively, as the parties in this Agreement.

RECITALS

- A. The City and County jointly own and maintain a public safety software system ("City/County System");
- B. The City and County have entered into an IGA to operate the City/County System;
- C. The City is authorized and desires to extend services of the City/County System to NAU pursuant to its IGA with the County;
- D. NAU will purchase and maintain a voice-trunked radio system ("Radio System");
- E. The City desires to purchase and maintain a proportional share of the Radio System, which will be used for Public Safety, Public Works, administrative and other two-way voice radio operations as may be appropriate through this Agreement;
- F. It is in the best interest of the State of Arizona and the citizens of Flagstaff for NAU and the City to share resources, information and costs of operation to provide more efficient and cost effective solutions for the Radio System.
- G. The City has authority to enter into this Agreement pursuant to Arizona Revised Statutes ("A.R.S.") §§ 11-952 and 41-2632;
- H. NAU has authority to enter into this Agreement pursuant to A.R.S. §§ 11-952 and 15-1625 and Arizona Board of Regents Policy 3-808.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties agree as follows:

1. City Responsibilities.

- 1.1. Automated Information Systems. The City will provide NAU access to the City/County System, which consists of the Intergraph Corporation- Hexagon Safety & Infrastructure Computer Aided

Dispatch (CAD), Records Management System (RMS), Jail Management System (JMS), and other modules that NAU may have an interest in using. City will make all interfaces and technical support available, twenty-four (24) hours a day, seven (7) days per week except during unanticipated downtime and during system backups/upgrades.

1.1.1. Training. Should City/County System operator training be necessary, the City agrees to provide instruction to NAU at an hourly rate as listed in Exhibit A.

1.1.2. Back-up Procedures. City will maintain regular back-up procedures to ensure the integrity of data on the City/County System.

1.1.3. Network and Database Administration. City will provide all network services required to maintain 24 hour/day, 365 day/year operability. City will provide CAD and RMS database administration services, CAD map maintenance, and identification and reporting of software issues to the RMS vendor.

1.2. Radio System.

1.2.1. The City will provide all subscriber units (control, mobile and portable/handheld) to be used by City employees. NAU will be responsible for programming and maintenance by its System Manager as described in section 5.1.4.

1.2.2. The City will provide two console positions in the Flagstaff Dispatch Center should the NAU Police Department Dispatch have to relocate on a short-term basis. Since both agencies will be operating the same radio and CAD consoles, no special equipment will be required. Rerouting of telephone service will require pre-planning with telephone providers as a third party.

1.2.3. The City will assign one person from the Police Department to act as liaison and project manager ("Project Manager") with NAU.

2. NAU Responsibilities.

2.1. Automated Information Systems.

2.1.1. NAU will supply and maintain all equipment required to provide CAD and RMS to the demarcation point established as the connection to the City's computer center. NAU agrees to pay for the installation and cost of any computer equipment or telecommunication circuits which are added to the City computer or telecommunications equipment and are required to complete and/or continue service to NAU. The City will maintain all equipment beyond the demarcation point necessary to maintain operations to NAU.

2.2. Maintenance of Radio System.

2.2.1. NAU will provide access to the Radio System for use by the City.

2.2.2. NAU will procure and maintain a service agreement with an approved service center to maintain, to manufacturer's specifications, the Radio System and any other components or appurtenances necessary for normal operation. The City will pay its pro rata share of

maintenance costs. NAU will invoice the City for its pro rata share of maintenance as needed.

- 2.3. NAU will maintain in force and effect its FCC license for the Radio System. The City will pay a share of the cost of licensing fees as outlined in Exhibit B.

3. Term and Termination.

- 3.1. This Agreement shall become effective upon adoption and signature by the parties (the "Effective Date") and shall continue in force for a period of ten (10) years.
- 3.2. This Agreement may be terminated by either party giving the other party no less than six (6) months prior written notice. In the event this Agreement is terminated both parties shall pay any amounts owed up to the termination date to the other party. Additionally, the City shall be responsible for payment in full of remaining principal and accrued interest as indicated on Exhibit C, at which time the City will own a proportional share of the system.
- 3.3. At least six (6) months prior to the termination or expiration of this Agreement, the parties will begin negotiations to enter into an agreement for the continued use and maintenance of the Radio System.
- 3.4. In the event any part of the jointly owned portion of the Radio System is disposed of, the parties agree to share the proceeds from the sale in the same pro rata share as the purchase.

4. Costs/Ownership of Equipment.

- 4.1. NAU will have sole ownership of the Radio System until the City pays the Purchase Costs, at which time the City will own a proportional share of the Radio System.
- 4.2. NAU will reimburse the City for the costs outlined in Exhibit A. The City will update Exhibit A annually for budgeted amounts and adjusted for actual cost differences from the prior fiscal year, should there be a difference from budget. Updates to Exhibit A shall be documented through an amendment to this Agreement and signed by authorized signatories of both parties. City shall notify NAU no later than March 1 in each fiscal year of any estimated adjustment for the following fiscal year, which shall be applied prospectively. Adjustment for actual expenses for the prior fiscal year will occur no later than August 15, with any additional refund or payment processed by September 15.
- 4.3. The City will reimburse NAU for the costs outlined in Exhibit B. NAU will update Exhibit B annually for budgeted amounts and adjusted for actual cost differences from the prior fiscal year, should there be a difference from budget. Updates to Exhibit B shall be documented through an amendment to this Agreement and signed by authorized signatories of both parties. NAU shall notify the City no later than March 1 in each fiscal year of any estimated adjustment for the following fiscal year, which shall be applied prospectively. Adjustment for actual expenses for the prior fiscal year will occur no later than August 15, with any additional refund or payment processed by September 15.
- 4.4. City will pay NAU, without demand, the final interest and principal as outlined in Exhibit C on or before July 1, 2021.

- 4.5. All costs for maintenance and supervision of systems, controllers, servers, repeaters or related system hardware and software will remain the responsibility of the owner of that portion of the system. Each party is responsible for user workstations, licensing, mobile and handheld radios, remotes and any related antennas power supplies or support equipment.
- 4.6. Each party owns the equipment, software, hardware and other property that it has previously procured, and, unless subsequently agreed to by written modification to this Agreement, no transfers of ownership will occur when such property is added to either system. Unless otherwise provided in this Agreement, each party will be responsible for all costs of operations, repair and replacement for the property that party owns.

5. System Management.

- 5.1. NAU will designate a System Manager who will have the authority and responsibility to:
 - 5.1.1. Direct the day-to-day operations and use of the Radio System;
 - 5.1.2. Develop, in consultation with Radio System users, the protocols and policies for the operation and use of the Radio System, and distribute written copies of such protocols and policies to the City;
 - 5.1.3. Review and approve plans for additions to the Radio System;
 - 5.1.4. Maintain the security of the Radio System through control of system programming codes and other reasonable means and to coordinate all requests for equipment reprogramming.
- 5.2. The parties agree that the order of priority for access to and use of the Radio System shall be as follows:
 - 5.2.1. Law Enforcement operations;
 - 5.2.2. Public works, NAU and City, as they relate to public safety and emergency situations;
 - 5.2.3. Routine public works, transportation, maintenance operations;
 - 5.2.4. Administration.
- 5.3. The City agrees to comply with the protocols and policies for Radio System operations and use developed by the System Manager.
- 5.4. The City agrees to fund a proportional share of a System Manager position at NAU as outlined in Exhibit B. Such cost shall include the System Manager's salary and employee-related expenses; employee salary-related expenses may be adjusted at any time during this Agreement as necessary to cover salary adjustments by mutual written agreement of the contract administrator for the City and the duly authorized representative of NAU.
- 5.5. NAU will maintain a database of subscriber information and make this information available to the City Project Manager as needed for coordination of programming and to avoid operational conflicts. NAU will maintain the security access codes for programming in a secure manner to prevent unauthorized access to the radio network.

5.6. NAU and the City will jointly plan for replacements, enhancements and expansion of the Radio System as needed.

6. **Shared Information.** The City and NAU will share access to each other's incident-based information stored on the City/County System. This does not include internal information, personnel records or student records. Both parties recognize the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (1968), as amended, and no exchange of information shall violate those provisions. Neither party may release any information received from or concerning the other party without prior written permission of that party, except as may be legally required. Such releases must be in compliance with State laws, Arizona Criminal Justice Information System rules, and each party's internal policies and procedures.
7. **NAU and City Employees.** Employees of the respective parties shall not be considered employees or agents of the other party, and the parties agree that they shall retain sole responsibility and authority over their respective employees.
8. **Liability.** 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 fees) (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, official, agents, employees, or volunteers.
9. **Inspection of Records.** All books, accounts, reports, files and other records relating to this Agreement shall be subject at all reasonable times to inspection or audit by the Arizona Board of Regents, Northern Arizona University, the Auditor General of the State of Arizona, the City of Flagstaff, or their agents for five (5) years after completion of this Agreement. Such records shall be produced at Northern Arizona University; the City of Flagstaff or such other reasonable location as designated by the requesting party.
10. **Notices.** Unless otherwise specified herein, any notice or other communication required or permitted to be given under this Agreement shall be in writing and sent to the address given below for the party to be notified, or to such other address, notice of which is given in compliance with this section:

If to the City:

Dan Musselman, Chief of Police
City of Flagstaff
911 E. Sawmill Road
Flagstaff, AZ 86001

Patrick Brown, Purchasing Director
City of Flagstaff
211 W. Aspen Avenue
Flagstaff, AZ 86001

City Contract Administrator

If to NAU:

Melissa Freshour , Interim Chief of Police
Northern Arizona University
Box 5602
Flagstaff, AZ 86011

Contracts, Purchasing and Risk
Management
PO Box 4124
Flagstaff, AZ 86011

11. **Insurance.**

- 11.1. NAU shall maintain adequate insurance (through the State's Risk Management Division, which is a self-insurance program) to cover any liability arising from the acts and omissions of NAU's agents and employees arising out of the performance of this Agreement. NAU shall not be responsible for maintaining insurance coverage for liability arising from the acts or omissions of the City's employees or agents.
- 11.2. The City shall maintain adequate insurance to cover any liability arising from the acts or omissions of the City's employees or agents arising out of the performance of this Agreement. The City shall not be responsible for maintaining insurance to cover liability arising from the acts or omissions of employees or agents of NAU.
- 12. Authority to Contract.** Each party represents and warrants that it has full power and authority to enter into this Agreement and perform its obligations hereunder and has taken all required acts or actions necessary to authorize the Agreement.
- 13. Integration; Modification.** The parties acknowledge and agree that they have not relied upon any statements, representations, agreements or warranties except as expressed in this Agreement, and that this Agreement constitutes that parties' entire agreement with respect to the matters addressed herein. All prior or contemporaneous agreements and understandings, oral or written, with respect to such matters are hereby superseded and merged in this Agreement. This Agreement may be modified or amended only by written agreement executed by authorized representatives of both parties.
- 14. Waiver.** No failure to enforce any condition or covenant of this Agreement shall imply or constitute a waiver of the right to insist upon performance of such condition or covenant, or of any other provision hereof, nor shall any waiver by either party of any breach of any one or more conditions or covenants of this Agreement constitute a waiver of any succeeding or other breach hereunder.
- 15. Severability.** In the event that a court of competent jurisdiction shall hold any part or provision of the Agreement void or of no effect, the remaining provisions of this Agreement shall remain in full force and effect, to the extent that the continued enforcement of such remaining terms shall continue to reflect substantially the intent of the parties hereto.
- 16. Dispute Resolution.** The parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.
- 17. Compliance with All Laws.** Both parties shall comply with all federal and state laws, rules, regulations, standards and Executive Orders, as applicable, without limitation to those designated within this Agreement. Any changes in the governing laws, rules and regulations during the term of this Agreement shall apply but do not require an amendment.
- 18. Non-Discrimination.** The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration (Executive Order 13465 – Employment Eligibility Verification, E-Verify; 73 FR 67704), nondiscrimination (Executive Order 11246), and affirmative action. The parties shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

19. **ADA.** Each party shall comply with applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 United States Code. 12101-12213) and all applicable federal regulations under the Act, including 28 Code of Federal Regulation Parts 35 and 36.
20. **Conflict of Interest.** The requirements of A.R.S. § 38-511 apply to this Agreement. The parties may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of a party is, at any time while this Agreement or any extension is in effect, an employee, agent or consultant of the other party with respect to the subject matter of this Agreement.
21. **Non-appropriation.** Every payment obligation of the parties under this Agreement is conditioned upon the availability of funds appropriated and allocated for the payment of such obligation. If funds are not appropriated, allocated and available or if the appropriation is changed by the legislature resulting in funds no longer being available for the continuance of this Agreement, this Agreement may be terminated by the parties at the end of the period for which funds are available. No liability shall accrue to the parties in the event this provision is exercised, and the parties shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
22. **No Third-Party Beneficiaries.** Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or affect the legal liability of any party to the Agreement by imposing any standard of care different from the standard of care imposed by law.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials.

City of Flagstaff

Northern Arizona University

Paul Deasy

Mayor

Dated: _____

Attest:

City Clerk

Dated: _____

Approved as to form and as being within the powers and authority granted under the laws of the State of Arizona to the City of Flagstaff:

City Attorney

Dated: _____

Name: _____

Title: _____

Dated: _____

Attest:

Dated: _____

Approved as to form as being within the powers and authority granted under the laws of the State of Arizona to the Arizona Board of Regents:

University Counsel

Dated: _____

Exhibit A

City of Flagstaff Costs to be Reimbursed by NAU

Estimated

| | |
|------------------------------------|---------------------------------------|
| Contract for IT Services with CCSO | @ 4%, currently estimated at \$38,000 |
| RMS capital replacement (annual) | @ 18% of RMS positions = see below |
| RMS Maintenance (annual) | |
| RMS upgrades (as scheduled) | |
| CAD capital replacement (annual) | @ 14% of CAD positions = see below |
| CAD Maintenance (annual) | |
| CAD upgrades (as scheduled) | |

NETWORK BREAKDOWN*

| | NAU # | TOTAL | NAU % |
|---------------|-----------|------------|------------|
| RMS Positions | 33 | 183 | 18% |
| CAD Positions | 2 | 14 | 14% |
| TOTAL | 35 | 197 | 18% |

*Estimated figures reflect the current number of CAD related positions for NAU. It is understood and accepted that “seat” numbers may change, either increase or decrease, and the percentage for associated line-item costs will also be adjusted based on total CAD seats and actual user numbers.

2021 cost breakdown

CAD/RMS Maintenance @ \$286,000 annually (estimate)

Annual maintenance costs are split between partner agencies based on actual software use

CAD/RMS Upgrades @ proportional % of cost at the time of upgrade

ADDITIONAL COSTS TO BE BILLED AS INCURRED

1. Training at \$25 per hour

Exhibit B

NAU Costs to be Reimbursed by the City

Estimated based upon the current employee and position status at NAU.

| | |
|-----------------------------|--------------------|
| System Manager Salary @ 50% | \$35,535.00 |
| System Manager ERE @ 50% | <u>\$ 7,333.00</u> |
| Total 2021 Cost | \$42,868.00 |

Additional Costs to be billed as incurred

1. Costs Exceeding covered maintenance.
2. Federal Communications Commission (“FCC”) licensing fees.

→ file: Emergency Communications System

PUBLIC SAFETY COMMUNICATIONS SYSTEM (NAU)

| Maturity | Principal | Interest Rate | Interest | Total Debt Service | Total FY Debt Service |
|----------|-----------------------|---------------|-------------------|---------------------|-----------------------|
| 1/1/2012 | | | \$28,456.47 | \$28,456.47 | |
| 7/1/2012 | \$289,955.86 | 2.40% | 47,427.44 | 337,383.30 | \$365,839.77 |
| 1/1/2013 | | | 43,947.97 | 43,947.97 | |
| 7/1/2013 | 369,403.77 | 2.40% | 43,947.97 | 413,351.74 | 457,299.71 |
| 1/1/2014 | | | 39,515.13 | 39,515.13 | |
| 7/1/2014 | 378,269.46 | 2.40% | 39,515.13 | 417,784.59 | 457,299.72 |
| 1/1/2015 | | | 34,975.89 | 34,975.89 | |
| 7/1/2015 | 387,347.93 | 2.40% | 34,975.89 | 422,323.82 | 457,299.71 |
| 1/1/2016 | | | 30,327.72 | 30,327.72 | |
| 7/1/2016 | 396,644.28 | 2.40% | 30,327.72 | 426,972.00 | 457,299.72 |
| 1/1/2017 | | | 25,567.99 | 25,567.99 | |
| 7/1/2017 | 406,163.74 | 2.40% | 25,567.99 | 431,731.73 | 457,299.72 |
| 1/1/2018 | | | 20,694.02 | 20,694.02 | |
| 7/1/2018 | 415,911.67 | 2.40% | 20,694.02 | 436,605.69 | 457,299.71 |
| 1/1/2019 | | | 15,703.08 | 15,703.08 | |
| 7/1/2019 | 425,893.55 | 2.40% | 15,703.08 | 441,596.63 | 457,299.71 |
| 1/1/2020 | | | 10,592.36 | 10,592.36 | |
| 7/1/2020 | 436,114.99 | 2.40% | 10,592.36 | 446,707.35 | 457,299.71 |
| 1/1/2021 | | | 5,358.98 | 5,358.98 | |
| 7/1/2021 | 446,581.75 | 2.40% | 5,358.98 | 451,940.73 | 457,299.71 |
| | <u>\$3,952,287.00</u> | | <u>529,250.19</u> | <u>4,481,537.19</u> | <u>4,481,537.19</u> |

Barbara Goodrich

Barbara Goodrich
Management Services Director
City of Flagstaff

9/2/11
Date

Jennus Burton

Jennus Burton
Vice President for Finance and Administration
Northern Arizona University

09-SEP-11
Date