

INTERGOVERNMENTAL AGREEMENT

BY AND AMONG

COCONINO COUNTY AND CITY OF FLAGSTAFF

FOR COURTHOUSE COURT SECURITY SERVICES

THIS INTERGOVERNMENTAL AGREEMENT, dated this ___ day of _____, 2023, by and between CITY OF FLAGSTAFF, a municipal corporation of the State of Arizona (hereinafter "CITY"), and COCONINO COUNTY, a political subdivision of the State of Arizona (hereinafter "COUNTY"), and SUPERIOR COURT OF COCONINO COUNTY, Judicial branch of the State of Arizona (hereinafter the "COURT"), witnesses as follows:

RECITALS:

WHEREAS, Section 11-952 of the Arizona Revised Statutes authorizes the various political subdivisions of the State to enter into agreements providing for the joint exercise of their respective governmental powers for the public benefit; and

WHEREAS, Subsection (J) of Section 11-952 of the Arizona Revised Statutes authorizes public agencies to enter into agreements with the superior court, justice courts and municipal courts for related services and facilities of such courts; and

WHEREAS, CITY staffs and operates a limited jurisdiction, non-record Court, to wit: The Flagstaff Municipal Court, with office at 101 W. Cherry Avenue, Flagstaff, Arizona 86001, (hereinafter "Municipal Court"); and

WHEREAS, COUNTY, is a political subdivision of the State of Arizona, with office at 219 East Cherry Avenue, Flagstaff, Arizona 86001; and

WHEREAS, COURT, Judicial branch of the State of Arizona, with office at 200 North San Francisco Street, Flagstaff, Arizona 86001; and

WHEREAS, Arizona State Constitution at Art. VI § 1 dictates all judicial power be vested in an integrated judicial department, and at Art. VI § 3 that the Supreme Court shall have administrative supervision over all courts of the State, and that the Supreme Court's Administrative Order No. 93-30, approving Administrative Rule V-A at subsection IIIA, stipulates that the Presiding Judge of the County shall exercise administrative supervision over all the courts in the county, including Justice and Municipal Courts, and that the Supreme Court's Administrative Order No. 95-45 mandates uniform education standards and policies for all the courts; and

WHEREAS, the Municipal Court, Flagstaff Justice Court and the Superior Court (hereinafter

collectively the "Courts") share commonalities in practice and procedure in many areas including security, interpreting, automation, court rules, court procedures, appellate procedure, case management, collections, probation, and other business and judicial practices; and

WHEREAS, the CITY, COUNTY and the COURT have entered into a previous Intergovernmental Agreement to provide for the consolidated administration of Courts within the COUNTY; and

WHEREAS, it is the intent and desire of the parties hereto to provide for uniform and consistent professional court security services in the Courts to the greatest extent possible under the laws of the State of Arizona.

WHEREAS, the Flagstaff Municipal Court is seeking coordinated Court Security Services from the COURT.

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth, the parties agree as follows:

1. PURPOSE OF THIS AGREEMENT

- A. The purpose of this Agreement is to establish a partnership between the Superior Court of Coconino County and the Flagstaff Municipal Court, with the goal being for the Superior Court of Coconino County to provide security services to the Flagstaff Municipal Court through court security officers to ensure the safety of all individuals in the Flagstaff Municipal Court. Partnering allows for more efficient and effective use of resources and provides opportunities to collaborate to provide consistent, unified and professional court security in the Superior Court of Coconino County and the Flagstaff Municipal Court.
- B. This Agreement outlines the terms and conditions for the Superior Court of Coconino County to provide trained and experienced Court Security Officers to the Flagstaff Municipal Court, in order to enhance the overall security measures of the Flagstaff Municipal Court.

2. TERM

- A. The initial term of the Agreement shall be from the date hereof, for ten consecutive fiscal years unless terminated by either party hereto pursuant to the provisions hereof.

3. UNIFIED IMPLEMENTATION OF COURT SECURITY SERVICES FOR COURTHOUSE SECURITY

- A. This Agreement authorizes the Superior Court in Coconino County and the Flagstaff Municipal Court to work together in developing cooperative efforts in providing Court Security to

the mutual benefit of the Flagstaff Municipal Court and the Superior Court in Coconino County located in Flagstaff, Arizona.

B. Under normal circumstances, the COURT shall provide Court Security Officers for Courthouse security (hereinafter "Court Security Services") for the CITY Flagstaff Municipal Court during normal operational business hours and special Court events.

C. Normal operational business hours include Monday through Friday, from 7:30 a.m. to 4:30 p.m., or for other special Court events with prior notice to the COURT Chief Court Security Officer.

D. Under this Agreement, and as explained in the "Funding" section of this Agreement, the CITY will provide funding for two additional Full Time Equivalent Court Security Officer II positions to work in the coordinated Court effort. The CITY will also pay for operational expenses related to the positions. Operational expenses include, but are not limited to, uniform allowances, weapons and travel for work related trainings and conferences. All operational expenses, prior to purchasing, will be approved by the CITY Deputy Court Administrator.

E. The two Court Security Officers whose positions are to be funded by the CITY will be regular employees of the COURT. The COURT shall retain these individuals as employees of the COUNTY pursuant to all applicable employment requirements of the COUNTY. Direct supervisory responsibility for the Court Security Officers will belong to the COURT's Chief Court Security Officer and the COURT's Deputy Chief Court Security Officer. The COURT shall recruit, hire, supervise, manage, evaluate, and train the two CITY-funded Court Security Officers. The COURT will also maintain a work schedule for all Court Security Officers in coordination with the CITY Deputy Court Administrator.

F. The CITY-funded Court Security Officers will be pooled with the current COUNTY Court Security Officer Full-Time Employees (FTEs). These Court Security Officers will be assigned work duties for both the COUNTY and the CITY. These work assignments may be on a rotational basis, again managed by the COURT Chief Court Security Officer. While the two Court Security Officer positions are to be funded by the CITY, any of the Court Security Officers within the aforementioned pool – whether they are the CITY-funded Court Security Officers or the current COUNTY Court Security Officer FTEs – may be assigned the work duties for the CITY.

G. In the event of an extreme staffing shortage, the COURT may not be able to facilitate Court Security Services at both the CITY and Superior COURT. Should this event occur, the CITY will need to temporarily provide its own Court Security Services until adequate staffing levels can be reestablished. If this event occurs for more than two (2) business days at any period of time throughout the term of this agreement, the COURT shall pro-rate the amount billed to the CITY for the CITY-funded Court Security Officers.

4. DUTY SCHEDULE & OTHER NOTICES

A. The CITY will provide the COURT Chief Court Security Officer and the COURT

Deputy Chief Court Security Officer with a weekly copy of the CITY Court calendar no later than 2:00 p.m. on the *Friday* prior to the following week's court schedule. This is to ensure adequate Court Security Officer coverage for any events requiring Court Security services.

B. This agreement requires that the CITY contact the COURT Chief Court Security Officer and the COURT Deputy Chief Court Security Officer for any communication, schedule changes, personnel issues, or special requests with at least a 48-hour notice, if possible. If 48-hour notice is not possible, the CITY and the COURT will coordinate, modify and accommodate in consultation with each other.

C. This agreement requires that the COURT contact the CITY Deputy Court Administrator for any communication, schedule changes, personnel issues, or special requests with at least a 48-hour notice, if possible. If 48-hour notice is not possible, the CITY and the COURT will coordinate, modify and accommodate in consultation with each other.

5. FUNDING

A. As indicated in Section 3(D) of this Agreement, the CITY will fund two Full-Time Equivalent Court Security Officer II positions including employee-related expenses along with operational expenses related to these two positions.

The CITY may require additional Court Security Officers exceeding the two (2) full time employees (FTE(s)). For the additional services, the CITY of Flagstaff Municipal Court will be billed for the additional hours. Any increase in the CITY's need for Court Security Officers will be agreed upon in writing between the Superior Court Administrator and City Court Administrator at least one week in advance. To fulfill any increase in the CITY's need for Court Security Officers, the COURT will use on-call temporary court security staff. If at any time, the CITY determines a permanent need in the increase of Court Security Officers, the COURT will add additional FTE(s) funded by the CITY. Such a request for additional FTEs shall be established in writing from the CITY, and if the COURT agrees, the agreement shall be in writing in the form of an amendment to this Intergovernmental Agreement.

Although these are COURT positions, the two Court Security Officer II positions are to be fully (100%) funded by the CITY and as delineated below. Percentages of funding will not be changed unless agreed to in writing by the parties to this Agreement.

B. The CITY is to provide full (100%) funding of total salary and employee-related expenses for the two court security officer positions, as well as for operational expenses related to the two Court Security positions not covered under "employee-related expenses," as well as for any additional Court Security services that the CITY of Flagstaff Municipal Court may require. This percentage will remain the same should the COUNTY modify its salary structure, provide for salary increases or decreases for any reason or provide merit, overtime, incentive or any other type of compensation or benefit.

The COUNTY shall provide notice to the City Deputy Court Administrator of all salary

changes and all substantial increases in benefits that will result in increased payments by the CITY to the COUNTY within 30 days of the change. All overtime must be approved by the City Deputy Court Administrator before the hours are worked. Should the CITY's funding not be available for any reason, then the COUNTY will not be required to continue the positions or fund the positions.

C. 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 any of the parties or any other agency of the State of Arizona at the end of the period for which funds are available. No liability shall accrue to any of the parties or any other agency of the State of Arizona in the event this provision is exercised, and none of the parties nor any other agency of the State of Arizona shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

6. THE COURTS TO RETAIN SEPARATE IDENTITIES

Notwithstanding the provisions of the Agreement, each of the Courts shall, at all times, retain its separate, legal identity. Additionally, no promises made or obligations incurred pursuant to this Agreement shall relieve any public agency of any obligation or responsibility imposed on it by law.

7. FUTURE CONSIDERATIONS

This Agreement shall not limit future considerations of cooperation and consolidation of Courts between the CITY and COUNTY in regard to shared facilities, unified personnel systems, traffic school contracts or any other aspect of administration or Court operations.

8. TERMINATION; NOTIFICATION OF TERMINATION

Any of the parties may terminate this IGA, with or without cause, upon 30 days' written notice to the other party at the addresses indicated below. At the time of termination, the COURT shall invoice the CITY for security services provided up to the date termination becomes effective, which the CITY shall pay within 30 days thereafter. Should this Agreement be terminated due to unavailability of funds, as explained in the Funding section, no liability shall accrue to any of the parties or any other agency of the State of Arizona, and none of the parties nor any other agency of the State of Arizona shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

Upon termination of this Agreement, any property purchased by any one of the parties for purposes of carrying out its obligations under this Agreement shall be returned to the party that purchased the property.

9. APPROVAL OF PRESIDING JUDGE REQUIRED

Notwithstanding any other provision of this Agreement, the Agreement shall be of no force and effect until and unless approved by the Presiding Judge of the Superior Court of the State of Arizona in and for the County of Coconino.

10. AMENDMENTS; INTEGRATION

This Agreement constitutes the entire agreement of the parties relating to the subject matter hereof. All amendments or modifications of the Agreement shall be in writing and approved by the Superior Court in Coconino County, the County Board of Supervisors, the Flagstaff City Council, legal counsel for both such Court and City Council and the Presiding Judge of the Superior Court of the State of Arizona in and for the County of Coconino.

11. 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 and mediation, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.

12. INSURANCE

The COUNTY (for itself and the COURT) and the CITY shall maintain in force and effect during the term of this Agreement commercial general liability insurance of no less than One Million Dollars (\$1,000,000) per occurrence and property insurance in an amount sufficient to cover any property used by any of the parties to fulfill their obligations under this Agreement.

13. MUTUAL INDEMNIFICATION

Except as provided below and to the extent permitted by law, each party to this Agreement (as “Indemnitor”) agrees, to defend, indemnify, and hold harmless the other parties, and such party’s officers, officials, employees, agents, and directors (collectively, “Indemnitees”) from and against any and all claims, demands, losses, liabilities, causes of action and costs (including expert witness fees, reasonable attorney fees and costs of defense and appellate appeal) herein referred to as “Claims”, which may be imposed upon, incurred by or asserted against the Indemnitees, attributable (directly or indirectly) to, or arising in any manner by reason of, the negligence, acts, errors, or omissions of any agent, officer, servant, or employee of the Indemnitor, or anyone for whom the Indemnitor may be legally liable, in the performance of this Agreement.

Notwithstanding the mutual indemnification provisions above, the CITY agrees to defend, indemnify, and hold harmless COUNTY, and their officers, employees, agents and directors, when any COUNTY officer, employee, agent or director is acting in the capacity of an agent of the CITY when enforcing CITY ordinances. The CITY own’s indemnification under this paragraph shall apply to any and all claims, demands, losses, liabilities, causes of action and costs (including expert witness fees, reasonable attorney fees and costs of defense and appellate appeal) herein referred to as “Claims”, which may be imposed upon, incurred by or asserted against the

Indemnitees, attributable (directly or indirectly) to, or arising in any manner by reason of, the negligence, acts, errors, or omissions of any agent, officer, servant, or employee of the Indemnitor, or anyone for whom the Indemnitor may be legally liable, in the performance of this Agreement.

14. NOTICES

All notices or demands required to be given pursuant to this Agreement shall be given to the other parties in writing, delivered by hand or U.S. Mail, at the address given below. Notices shall be deemed received on the date delivered, if delivered by hand, and on the date of mailing if mailed.

Coconino County:
Corey Ringenberg
Special Assistant to the County Manager's Office
219 E. Cherry Ave.
Flagstaff, AZ 86001
928-679-8626

City of Flagstaff:
City Manager
City of Flagstaff
211 W. Aspen Avenue
Flagstaff, AZ 86001

For Billing/Payments:
Superior Court in Coconino County
ATTN: Jan Cody, Administrative Senior Manager
200 N. San Francisco Street
Flagstaff, AZ 86001
Jcody@courts.az.gov
928-679-7507

15. CANCELLATION FOR CONFLICT OF INTEREST

Pursuant to the provisions of A.R.S. § 38-511, a party may cancel this Agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the party is, at any time while this Agreement or any extension thereof is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party to this Agreement with respect to the subject matter of this Agreement.

16. NON-DISCRIMINATION

The parties shall comply with the provisions of Arizona Executive Orders No. 2023-01, 2009-09, and 2023-09, which are incorporated into this Agreement by reference as if fully set forth herein. Additionally, the parties shall comply with all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

17. WORKERS COMPENSATION

Pursuant to A.R.S. § 23-1022(D), employees of each of the parties "who work[] under the

jurisdiction or control of or within the jurisdictional boundaries of another” one of the parties pursuant to this Agreement “is deemed to be an employee of both” parties for the purposes of workers’ compensation, and “[t]he primary employer shall be solely liable for the payment of workers’ compensation benefits for the purposes” of that statute. A notice to this effect, as required by A.R.S. § 23-1022(E), shall be posted by each of the parties in their principal office or human resource office.

18. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties. This Agreement terminates and supersedes all prior understandings, agreements, and administrative orders of the Superior Court on the subject matter hereof.

19. IMMIGRATION LAW COMPLIANCE

Under the provisions of A.R.S. § 41-4401, each party hereby warrants that each party and all of its subcontractors (if any) are in compliance with, will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulations that relate to their employees and A.R.S. § 23-214 (A) (hereinafter “Contractor Immigration Warranty”).

A. Breach of the Contractor Immigration Warranty shall constitute a material breach of this Agreement and shall subject the breaching party to penalties up to and including termination of this Agreement at the sole discretion of the non-breaching parties.

B. Each party retains the legal right to inspect the papers of any contractor or subcontractor employee of the other parties who work on this Agreement to ensure that the contractor or subcontractor is complying with the Contractor Immigration Warranty. Each party agrees to assist the other parties in regard to any such inspections.

C. Each party may, at its sole discretion, conduct random verification of the employment records of the other parties and any of their subcontractors to ensure compliance with Contractor’s Immigration Warranty. Each party agrees to assist the other parties in regard to any random verifications performed.

D. A party will not be considered in material breach of this Agreement or the Contractor Immigration Warranty if the party establishes that it has complied with the employment verification provision prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214, Subsection A.

E. The foregoing provisions of subparagraphs A-E of this article must be included in any contract that a party enters into with any and all its subcontractors who provide service under this Agreement or any subcontract.

20. RECORD RETENTION

To the extent required by A.R.S §§ 35-214 and 35-215, each party shall retain all books, accounts, reports, files and other records relating to the Agreement and to make such records available at all reasonable times for inspection and audit by the other parties, or their agents, during the term of and for a period of five years after the completion of the agreement. Upon request, the party producing the records shall produce the original of any or all such records at the offices of the party.

21. ASSIGNMENT OF ANTITRUST VIOLATIONS

The CITY assigns to the COURT any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to the CITY toward fulfillment of this Agreement.

Signature Page Follows

IN WITNESS WHEREOF, the parties hereto have approved and executed this Intergovernmental Agreement for courthouse court security services as of the day and year first above written.

COCONINO COUNTY

CITY OF FLAGSTAFF

By: _____
Patrice Horstman
Chairperson, Board of Supervisors

By: _____
Becky Daggett, Mayor

ATTEST: _____
Clerk of the Board

ATTEST: _____
City Clerk

APPROVED AS TO FORM AND SUBSTANCE

Hon. Dan Slayton
Presiding Superior Court Judge
Coconino County, Arizona

Approved as to form and found to be within power and authority of each respective governing body by its undersigned legal counsel:

Deputy County Attorney
Attorney for Coconino County

City Attorney
Attorney for City of Flagstaff