

INTERGOVERNMENTAL AGREEMENT

BY AND AMONG

YUMA COUNTY, SUPERIOR COURT OF YUMA COUNTY

AND CITY OF SAN LUIS

FOR COURTHOUSE COURT SECURITY SERVICES

THIS INTERGOVERNMENTAL AGREEMENT, dated this ___ day of August, 2023, by and between CITY OF SAN LUIS, a municipal corporation of the State of Arizona (hereinafter "CITY"), and YUMA COUNTY, a political subdivision of the State of Arizona (hereinafter "COUNTY"), and SUPERIOR COURT OF YUMA 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 San Luis Municipal Court, with office at 767 North William Brooks Avenue, P.O. Box 1670 San Luis, Arizona 85349, (hereinafter "Municipal Court"); and

WHEREAS, COUNTY, is a political subdivision of the State of Arizona, with office at 198 South Main Street, Yuma, Arizona 85364; and

WHEREAS, COURT, Judicial branch of the State of Arizona, with office at 250 West 2nd Street, Yuma, Arizona 85364; 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, on January 11, 2023, Chief Justice Robert Brutinel of the Arizona Supreme Court issued Administrative Order No. 2023-04 that Presiding Judge David M. Haws of the Yuma Superior Court take administrative control of the San Luis Municipal Court due to the lack of a Magistrate; and

WHEREAS, the Administrative Order No. 2023-04 ordered Judge Haws to assign judicial officers as needed to conduct the court business, and ordered the CITY to pay the cost; and

WHEREAS, the Municipal Court, the Yuma County Justice Courts, 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, in June of 2023, Judge Haws assigned Court Security personnel to include in their rotation among the Courts in Yuma County, the San Luis Municipal Court to fill a vacancy in that position; and

WHEREAS, most of the San Luis Municipal Court staff have two years or less in their positions and have little to no experience working in a court environment and so the staff have benefitted having professional Court Security personnel so that they understand what is expected from that position; 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; and

WHEREAS, it is the intent and desire of the parties hereto continue the rotation of Court Security personnel until the City fills the vacancy of Court Security Officer;

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 Yuma County and the San Luis Municipal Court, with the goal being for the Superior Court of Yuma County to provide temporarily security services to the San Luis Municipal Court through court security officers to ensure the safety of all individuals in the San Luis 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 Yuma County and the San Luis Municipal Court.

- B. This Agreement outlines the terms and conditions for the Superior Court of Yuma County to provide trained and experienced Court Security Officers to the San Luis Municipal Court, in order to enhance the overall security measures of the San Luis Municipal Court in preparation for the San Luis Municipal Court filling the vacancy it has in that position.

2. TERM

A. The initial term of the Agreement shall be from June 19, 2023, until the San Luis Court Security Officer position is filled.

3. UNIFIED IMPLEMENTATION OF COURT SECURITY SERVICES FOR COURTHOUSE SECURITY

A. This Agreement authorizes the Superior Court in Yuma County and the San Luis Municipal Court to work together in developing cooperative efforts in providing Court Security to the mutual benefit of the San Luis Municipal Court and the Superior Court in Yuma County located in San Luis, Arizona.

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

C. Normal operational business hours include Monday through Friday, from 8:00 a.m. to 5:00 p.m., or for other special Court events with prior notice to the COURT's Court Security Manager and the Court Administrator.

D. 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.

4. FUNDING

A. The upon the invoice of the COURT, the CITY shall pay the hourly rates of the Court Security Officers who cover the San Luis Municipal Court. If the particular Court Security Officer is working overtime to cover the San Luis Municipal Court, the COURT will bill for the overtime rate. The COURT's bill shall include the salary, and the following employee-related expenses: salary, Social Security and Medicare, Retirement, Workers' and Compensation. Mileage if needed is paid at the rate of 25 miles x \$0.655 x 2.

B. 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.

5. 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.

6. FUTURE CONSIDERATIONS

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

7. TERMINATION. NOTIFICATION OF TERMINATION

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.

8. 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 Yuma.

9. 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 Yuma County, the County Board of Supervisors, the San Luis 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 Yuma.

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 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 Two Million Dollars Aggregate (\$2,000,000), workers' compensation insurance for their respective employees and volunteers, 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 COURT and its officers, employees, agents and directors, when any COURT 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 CITY, or anyone for whom the CITY 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.

Yuma County:
County Administrator
198 South Main Street
Yuma, Arizona 85364

City of San Luis:
City Manager (Copy City Attorney)
1090 East Union Street
P.O. Box 1170
San Luis, AZ 85349

For Billing/Payments:
Superior Court in Yuma County
ATTN: Superior Court Budget Manager
250 West 2nd Street
Yuma, Arizona 85364

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.

YUMA COUNTY

CITY OF SAN LUIS

By: _____
Martin Porchas
Chairperson, Board of Supervisors

By: _____
Nieves Riedel, Mayor

ATTEST: _____
Clerk of the Board

ATTEST: _____
City Clerk, Sonia Cornelio

APPROVED AS TO FORM AND SUBSTANCE

Hon. David M. Haws
Presiding Superior Court Judge
Yuma 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 Yuma County

City Attorney, Kay Marion Macuil
Attorney for City of San Luis