

RESOLUTION NO. 2024-21

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF FOUNTAIN HILLS, MARICOPA COUNTY, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA ON BEHALF OF THE SUPERIOR COURT OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA ("SUPERIOR COURT"),

WHEREAS, the Town desires to coordinate with the Superior Court to coordinate certain jury services for the Town of Fountain Hills municipal court; and

WHEREAS, the Town and municipal court have historically entered into this relationship; and

WHEREAS, the County of Maricopa, through its Superior Court, has the recourse and ability to provide such services.

BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. That the Town, through its Mayor and Council, hereby approves the Intergovernmental Agreement (the "Agreement"), in substantially the form attached hereto as Exhibit A.

SECTION 2. Pursuant to the terms of the Agreement, the Town hereby authorizes the expenditure of \$300 per year, and a cumulative total of not more than \$500 and XX/100 (\$500).

SECTION 3. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Resolution.

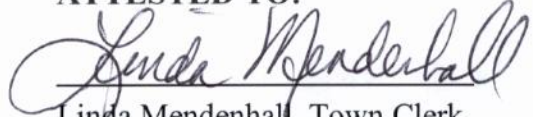
[Signatures on following page]

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Maricopa County, Arizona, this ____ day of ___, 2024.

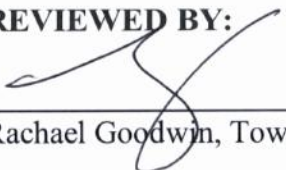
FOR THE TOWN OF FOUNTAIN HILLS:


Ginny Dickey, Mayor

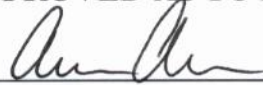
ATTESTED TO:


Linda Mendenhall, Town Clerk

REVIEWED BY:


Rachael Goodwin, Town Manager

APPROVED AS TO FORM:


Aaron D. Arnson, Town Attorney

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY
and
THE TOWN OF FOUNTAIN HILLS, ARIZONA

This Intergovernmental Agreement (“IGA” or “Agreement”), is entered into between the State of Arizona on behalf of the Superior Court of Arizona, in and for the County of Maricopa (“Superior Court”), and the Town of Fountain Hills, Arizona, a municipal corporation, on behalf of its municipal court (“Municipal Court”), for jury services. The Superior Court and the Municipal Court are sometimes collectively referred to, herein, as “parties” and sometimes individually as “party.”

1. RECITALS

WHEREAS, the Superior Court has historically offered certain jury services to certain municipal courts in Maricopa County; and

WHEREAS, Municipal Court desires to use the jury services offered by the Superior Court;

THEREFORE, in consideration of the mutual agreement expressed herein, the parties agree as follows:

2. PURPOSE

The purpose of this IGA is to provide jury services as specified herein.

3. AUTHORITY

The Superior Court has the duty and authority to summon jurors. A.R.S. § 21-301 *et seq.* The Municipal Court has the duty and authority to summon jurors. A.R.S. §§ 21-301 *et. seq.*, 22-401 *et. seq.* The parties are authorized to enter into this IGA pursuant to A.R.S. § 11-952(J).

4. TERM AND RENEWAL; TERMINATION

- A. This IGA shall be effective July 1, 2024, and shall expire June 30, 2026. The parties may renew this IGA in writing for four additional two-year terms, to expire no later than June 30, 2034. If the Municipal Court wishes to renew this IGA, it must notify the Superior Court at least ninety (90) days in advance of its expiration. If Town Council approval is required and has been obtained to enter into this IGA, renewal may be executed by the Municipal Presiding Judge or the Town Manager. The Municipal Court understands and

agrees that the Superior Court may increase the cost per summons or cost per compact disc ("CD") at the time of renewal to reflect an increase in actual costs.

- B. Either party may terminate this IGA for any reason upon thirty (30) days' written notice. Either party may terminate this IGA immediately if the other party materially breaches the IGA. Either party may terminate this IGA due to non-availability of funds, as stated in paragraph 17. Upon termination, all property used in performance of this IGA shall be returned to the party owning the property or entitled to possession.
- C. This IGA supersedes all prior agreements between the parties for jury services. Any amendments to this IGA must be in writing and signed by both parties.

5. DUTIES OF SUPERIOR COURT

- A. If the Municipal Court in paragraph 6, below, elects to have the Superior Court print and mail summons, the Superior Court shall do the following on behalf of the Municipal Court:
 - i. The Superior Court will print and mail a summons to potential jurors on behalf of the Municipal Court. The potential jurors will be selected to receive a summons from a master jury list in accordance with state law. *See* A.R.S. § 21-301 *et seq.* In addition to printing and mailing the summonses, the Superior Court will field phone calls about postponements, excuses, and disqualifications.
 - ii. The Superior Court shall include the phone number provided by the Municipal Court on all summonses for potential jurors issued a summons to call and listen to a recording and/or to inquire about whether they must report at the date and time specified in the summons. The Superior Court is not responsible for maintaining or staffing this phone line or recording.
 - iii. The Superior Court shall process the payment of jury fees and mileage reimbursements.
 - iv. The Superior Court is not responsible for setting up the Remote Access Services ("RAS") account or providing maintenance or services related to the RAS account. The RAS accounts and related maintenance or services are provided through the Office of Enterprise Technology ("OET").
- B. If the Municipal Court in paragraph 6, below, elects to have the Superior Court provide a CD with the names and addresses of potential jurors to whom the Municipal Court may issue its own summonses, the Superior Court shall provide a CD within ten (10) business days with one-hundred (100) such names. If the Municipal Court elects to have the Superior Court provide a CD, the CD is the only product or service provided by the Superior Court, and the Superior Court will not: print and mail the summonses; field phone calls about postponements, excuses, disqualifications; or process payment of jury fees and mileage reimbursements.

- C. The Superior Court shall submit bills to the Municipal Court on a quarterly basis, except the Superior Court may bill for the CDs and RAS accounts at the time they are provided.

6. DUTIES OF MUNICIPAL COURT

- A. On or before the start of the term of this IGA and any renewal terms, the Municipal Court shall elect in writing to the Superior Court Jury Office whether the Municipal Court wants the Superior Court to print and mail summonses, wants a RAS account, and/or wants a CD with the names and addresses of potential jurors to whom the Municipal Court may print and issue its own summonses. The Municipal Court may make its election by checking one of the options below, or it may otherwise make this election in writing to the Superior Court Jury Office.

____ Print and Mail Summons ____ CD with Juror Names **3-** Number of RAS accounts

- B. The Municipal Court agrees to pay the following fees, depending on the elections made by the Municipal Court:

- i. A fee of \$2.90 for each summons printed and mailed by the Superior Court on behalf of the Municipal Court.
- ii. The Municipal Court shall reimburse the Superior Court for the daily attendance fees and mileage reimbursements the Superior Court pays to jurors on behalf of the Municipal Court.
- iii. A \$50.00 activation fee and an \$8.00 monthly subscriber fee for each RAS account. Each person who enters data or has access through a RAS account must have his/her own account. The Municipal Court must notify the Superior Court and OET when the Municipal Court changes RAS account users. If the Superior Court incurs additional fees or costs from OET related to RAS accounts for the Municipal Court, the Municipal Court shall reimburse the Superior Court for such reasonable and justifiable fees or costs.
- iv. A fee of \$25.00 for each 100 potential jurors listed on the CD.
- v. A fee of \$150.00 if the Municipal Court fails to timely enter juror data, as set forth below.

- C. If the Municipal Court elects to have the Superior Court print and mail summons on its behalf, the Municipal Court is responsible for the following:

- i. By July 1 of each year, the Municipal Court shall provide the Superior Court with information on the number of jurors to be summoned and on which days they shall be summoned. The Municipal Court shall notify the Superior Court at least seven (7) weeks in advance of any changes in the number of summonses needed and the dates for which summonses shall be sent. Each year, by the first Friday in

November, the Municipal Court shall provide the Superior Court with blackout dates for the next year. Blackout dates are days on which the Municipal Court knows at the beginning of the year it will not need jurors to appear for service during that year.

- ii. The Municipal Court shall operate a phone line for jurors to call to inquire whether they must report on the date and time specified on their summons. The Municipal Court shall provide the Superior Court with the phone number and any changes to the phone number so the Superior Court can include it on the summons. The Municipal Court is solely responsible for the costs, maintenance and staffing associated with this phone line.
- iii. Within three (3) business days of the first day a juror reports for jury service in the Municipal Court, the Municipal Court shall provide the Superior Court with information regarding individuals who have reported for jury service in response to a summons sent by the Superior Court pursuant to this IGA as follows:
 - a. The Municipal Court may use the Superior Court's form. The Municipal Court shall type the information requested in the form in order to ensure accurate information is processed by the Maricopa County Superior Court; or
 - b. If the Municipal Court has elected to have RAS account card access and paid the associated fees for such access, the Municipal Court may enter the data into the program the Superior Court uses for juror management (currently, Clearview Jury). The Superior Court may provide general direction regarding how to enter the data in Clearview Jury (or any other program the Superior Court later decides to use for juror management). However, the Municipal Court is responsible for all technical support of its computer system and training of its employees.
 - c. If the Municipal Court fails to enter the data within the three (3) business days described, the Superior Court will charge the Municipal Court a fee of \$150.00 for each day for which juror information is not entered to cover additional costs for re-running billing data, analyzing billing data, and re-entry into billing spreadsheets.
- D. If the Municipal Court elects to have the Superior Court provide a CD of names and addresses, the Municipal Court is responsible for all of its own jury services, including but not limited to printing and mailing the summonses, fielding phone calls relating to jury service, and processing payment of jury fees and mileage reimbursements.
- E. The Municipal Court is responsible for enforcement of any juror summonses issued on behalf of its court, including contempt notices, hearings, proceedings, procedures, and/or other enforcement measures. The Superior Court is not obligated by this IGA to conduct any contempt or enforcement proceedings on behalf of the Municipal Court.

- F. The Municipal Court is not authorized and shall not permanently excuse any jurors. The Municipal Court shall refer any jurors seeking to be permanently excused to the Superior Court, regardless of whether the Superior Court printed and mailed the summons or the Municipal Court printed and mailed the summons.
- G. The identity of jurors or potential jurors is sensitive, confidential, and protected by statute and court rule. The Municipal Court agrees to restrict access to information provided under this agreement to individuals who are authorized to access such information for the completion of their official duties.
- H. The Municipal Court shall comply with the Minimum Accounting Standards and Generally Accepted Accounting Principles related to financial transactions involving jurors.
- I. The Municipal Court shall remit payment to the Superior Court within thirty (30) calendar days of receiving a bill from the Superior Court.

7. INDEMNIFICATION

Each party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "Indemnatee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorneys' 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 Indemnatee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

In addition, each party shall cause its contractor(s) and subcontractor(s), if any, to indemnify, defend, save and hold harmless the other party, any jurisdiction or agency of that other party, and that other party's respective directors, officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation—hereinafter, referred to as "Claims") for bodily injury, personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor(s) and/or subcontractor(s), or any of the directors, officers, agents, or employees of contractor(s) and/or subcontractor(s) for any work arising out of this Agreement. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor(s) and/or subcontractor(s) to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by such contractor(s) and/or subcontractor(s) from and against any and all claims. It is agreed that such contractor(s) and/or subcontractor(s) will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

8. INSURANCE

Both parties are insured as governmental entities and therefore no insurance certificates are required by either party pursuant to this IGA. If the Municipal Court uses a contractor(s) to perform services in relation to this Agreement, the below insurance requirements shall apply, and shall apply to any subcontractor(s) of contractor(s).

Insurance Requirements for Any Contractors Used by Municipal Court:

The insurance requirements, herein, are minimum requirements and in no way limit the indemnity covenants contained, herein. The State of Arizona in no way warrants that the minimum limits below are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this IGA by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal and advertising injury and broad form contractual liability.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Blanket Contractual Liability – Written and Oral \$1,000,000
- Damage to Rented Premises \$ 50,000
- Each Occurrence \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: **“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.”** Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
- b. Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used by Contractor in the performance of this IGA.

- Combined Single Limit (CSL) \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: **“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor.”** Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
- b. Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- c. Policy shall contain a severability of interest provision.

3. Workers' Compensation and Employers' Liability

- Workers' Compensation Statutory
- Employers' Liability

Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$ 1,000,000
- a. Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. § 23-901 *et. seq.*, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies are to contain, or be endorsed to contain, the following provisions:

1. The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary insurance and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S § 41-621 (E).
2. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of its contract with the other governmental entity(ies) party to this IGA.

C. NOTICE OF CANCELLATION: With the exception of ten (10) day notice of

cancellation for non-payment of premium, any changes material to compliance with this IGA in relation to the insurance policies above shall require thirty (30) days written notice to the State of Arizona. Such notice shall be sent directly to the Department and shall be sent by certified mail, return receipt requested.

- D. ACCEPTABILITY OF INSURERS: Contractor's insurance shall be placed with companies duly licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII or duly authorized to transact Workers' Compensation insurance in the State of Arizona. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- E. VERIFICATION OF COVERAGE: Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this IGA must be in effect at or prior to Contractor's commencement of work under this IGA and remain in effect for the duration of Contractor's work under this IGA. Failure to maintain the insurance policies as required by this IGA, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this IGA shall be sent directly to the Department. The State of Arizona project/contract number and project description are to be noted on each certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this IGA at any time.

- F. SUBCONTRACTORS: Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the State of Arizona separate certificates for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- G. APPROVAL: Any modification or variation from the *insurance requirements* in this IGA must have prior approval from the State of Arizona Department of Administration, Risk Management Division, whose decision shall be final. Such action will not require a formal contract amendment, but may be made by administrative action.
- H. EXCEPTIONS: In the event the Contractor or sub-contractor(s) is/are a public entity, then the insurance requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the Contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university then none of the above shall apply.

9. AUDIT OF RECORDS

Pursuant to A.R.S. §§ 35-214 and 35-215, both parties shall retain all data, books and other records (“records”) relating to this Agreement for a period of five years after completion of the Agreement. All records of a party shall be subject to reasonable inspection and audit by the other party at reasonable times. Upon request, either party shall produce the original of any, or all such records.

10. CANCELLATION FOR CONFLICT OF INTEREST

The requirements of A.R.S. § 38-511 apply to this Agreement. Either party 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 either party is, at any time while this Agreement or any extension is in effect, an employee or agent of the other party, or a consultant to any other party with respect to the subject matter of this Agreement.

11. NON-DISCRIMINATION

Both parties shall comply with Executive Orders 2009-09 and 2023-01, which mandate that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. Both parties shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability. The parties shall comply with Executive Order 2023-09 prohibiting race-based hair discrimination.

12. COMPLIANCE REQUIREMENTS UNDER A.R.S. § 41-4401—IMMIGRATION LAWS AND E-VERIFY REQUIREMENT

A. Both parties warrant compliance with all federal immigration laws and regulations relating to employees and warrant compliance with A.R.S. § 23-214, Subsection A, which reads: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.”

B. A breach of the warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the IGA and the other party may be subject to penalties up to and including termination of the Agreement.

C. Both parties retain the legal right to audit the documentation of any employee working in relation to this IGA to ensure that the other party, or any contractor or subcontractor are in compliance with the warranty under paragraph 12(A).

13. APPLICABLE LAW

This Agreement shall be construed in accordance the laws of the State of Arizona.

14. LEGAL OBLIGATIONS

This IGA does not relieve either party of any obligation or responsibility imposed upon it by law.

15. ARBITRATION

The parties 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.

16. WAIVER AND MODIFICATION

None of the provisions of the Agreement may be waived, changed or altered except in writing signed by both parties.

17. AVAILABILITY OF FUNDS

Every payment obligation of the parties under this Agreement is conditioned upon the availability of funds allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the parties or any other agency of the State of Arizona at the end of the period for which funds are available. No legal liability on the part of the parties or any other agency of the State of Arizona for any payment may arise under this Agreement as long as funds are made available for performance of this Agreement. If the necessary funds are not made available, then that party shall provide written notice to the other party and may cancel this Agreement without further obligation. No liability shall accrue to either of the parties or any other agency of the State of Arizona in the event this provision is exercised, and neither 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 of this Agreement under this paragraph, including payments or damages for purchases or subcontracts entered into in anticipation of funding.

18. NOTICES

All notices, claims, request, and demands under this IGA are to be in writing and served in person or via certified (return receipt requested) United States mail, postage prepaid, addressed as follows:

If to the Superior Court:	Superior Court in Maricopa County Jury Administrator 175 W. Madison St. Phoenix, AZ. 85003-2243 Attn: Jury Manager
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If to Municipal Court:	Fountain Hills Municipal Court Attn: Court Administrator 16705 E Ave of the Fountains Fountain Hills, Arizona 85268
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or at such other address as shall be indicated in writing by each party, through an amendment to this IGA. Service by certified mail will be deemed to occur on the postmark date borne by the return receipt.

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SIGNATURES FOLLOW

In witness whereof, the parties, hereto, have executed this IGA on the date written below:

Honorable Joseph Welty DATE
Presiding Judge
Superior Court of Arizona
in Maricopa County

Honorable Robert Melton DATE
Chief Presiding Judge
Fountain Hills Municipal Court

ATTEST:

Fountain Hills Town Clerk DATE

**IN ACCORDANCE WITH A.R.S. § 11-952 THIS CONTRACT HAS BEEN REVIEWED
BY THE UNDERSIGNED WHO HAVE DETERMINED THAT THIS CONTRACT IS IN
APPROPRIATE FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED
TO EACH RESPECTIVE PUBLIC BODY.**

ARIZONA ATTORNEY GENERAL'S OFFICE JULIE M. KRIEGH, CITY ATTORNEY

By: _____
Assistant Attorney General DATE

By: _____
Assistant Chief Counsel DATE