

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF SCOTTSDALE
AND
THE CITY OF TEMPE
FOR THE REGIONAL VETERANS COURT**

This Intergovernmental Agreement ("Agreement") is made and entered into this 8th day of September, 2016, by and between the City of Scottsdale, an Arizona municipal corporation ("Scottsdale"), and the City of Tempe, an Arizona municipal corporation ("Tempe"). Scottsdale and Tempe will be referred to individually in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

A. The Parties are authorized and empowered to enter into this Agreement pursuant to Arizona Revised Statutes ("A.R.S.") §§ 11-951 and 11-952 and their respective city charters or such other governing authority.

B. Pursuant to A.R.S. § 22-601, the presiding judge of the superior court in each county may establish a veterans court to adjudicate cases filed in a justice court or a municipal court in the county.

C. On April 15, 2016, the Presiding Judge of the Maricopa County Superior Court issued Administrative Order No. 2016-035 ("Administrative Order"), which established the East Valley Regional Veterans Treatment Court ("Regional Veterans Court") for the municipal courts in the East Valley of Maricopa County, including Tempe Municipal Court, Chandler Municipal Court and Scottsdale Municipal Court and other municipal courts as set forth in the Administrative Order, and provided that each municipal court would establish its own eligibility criteria for referral to the veterans court. The Administrative Order is attached hereto as Exhibit "A" and incorporated herein by reference.

D. Prior to the issuance of this Administrative Order, Tempe had operated its own veterans court. As of the effective date of this Agreement, pursuant to the direction of the Administrative Order, the presiding judges of the participating municipal courts of the Regional Veterans Court agreed to hold dockets at the Tempe Municipal Court, located at 140 East Fifth Street, Tempe, Arizona 85281.

E. Pursuant to A.R.S. § 22-602 and the Administrative Order, any judicial officer qualified to hear cases in any of the participating municipal courts shall have the authority to adjudicate a case referred to the Regional Veterans Court.

F. Tempe employs judges pro tempore who are qualified to hear cases in Tempe Municipal Court ("Tempe Pro Tem Judges").

G. Scottsdale desires to have Tempe Pro Tem Judges adjudicate the cases it refers to the Regional Veterans Court, unless Scottsdale designates its own judge pro tempore ("Scottsdale Pro Tem Judge") to adjudicate cases.

H. Tempe has received grant funding for, and has hired, a Regional Veterans Court coordinator ("Coordinator") to assist in the operation of the Regional Veterans Court.

I. The Parties desire to establish the terms and conditions by which Tempe and Scottsdale will work together on the Regional Veterans Court, including how Scottsdale will reimburse Tempe for the wages of Tempe Pro Tem Judges when they adjudicate Scottsdale cases in the Regional Veterans Court.

NOW, THEREFORE, in consideration of the covenants and promises contained in this agreement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

TERMS

1.0. Recitals. The foregoing recitals are incorporated into this Agreement.

2.0. Purpose. The Parties desire to work cooperatively on the Regional Veterans Court, using Tempe's Municipal Court location, the Coordinator, Tempe Pro Tem Judges and Scottsdale Pro Tem Judges, as applicable.

3.0. Term. The initial term of this Agreement shall be for a period of one (1) year, commencing on September 8, 2016, and ending on September 7, 2017 (the "Initial Term"), unless terminated as otherwise provided in this Agreement. After the expiration of the Initial Term, this Agreement may be renewed for up to three (3) successive one-year terms (each, a "Renewal Term") upon mutual written agreement by the presiding judge of Scottsdale and the presiding judge of Tempe, and filed with both the Scottsdale City Clerk and the Tempe City Clerk. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

4.0. General Operation of Regional Veterans Court. The Parties acknowledge that:

4.1. Location of Court. The presiding judges of the participating municipal courts of the Regional Veterans Court have agreed to hold dockets of cases referred to the Regional Veterans Court at the Tempe Municipal Court.

4.2. Referral. Scottsdale, Tempe and other participating municipal courts may refer cases to the Regional Veterans Court for adjudication, as determined by their respective established eligibility criteria.

4.3. Scheduling. The Coordinator or Tempe Contract Administrator will designate the days that each participating municipal court's referred cases will be adjudicated at the Regional Veterans Court.

4.4. Administration. Court administration for each participating court will establish its own case referral process, determine how its cases will be handled in the case management system, and establish how fines, fees, surcharges and any other costs will be allocated.

4.5. Jurisdiction. The originating court will retain jurisdiction of any case referred to the Regional Veterans Court.

5.0. Veterans Court Judge.

5.1. Qualifications; Employment.

5.1.1. Tempe Pro Tem Judges. Tempe represents that Tempe Pro Tem Judges are judicial officers qualified to hear and adjudicate cases in Tempe Municipal Court and that Tempe currently employs these judges as part-time judges pro tempore. The Parties acknowledge that Tempe Pro Tem Judges, in adjudicating cases for the Regional Veterans Court, will be working under the jurisdiction and control of Tempe.

5.1.2. Scottsdale Pro Tem Judges. Scottsdale may, at any time during this Agreement, designate one or more qualified, appointed Scottsdale judges pro tempore to hear and adjudicate Scottsdale cases in the Regional Veterans Court. Tempe shall allow Scottsdale Pro Tem Judges to operate out of the Tempe Municipal Court during Scottsdale's scheduled hours for hearing Scottsdale's referred Regional Veterans Court cases. Sections 5.2 through 5.5 of this Agreement will not apply when a Scottsdale Pro Tem Judge hears a case.

5.2. Duties. Tempe shall ensure that a Tempe Pro Tem Judge or another qualified judicial officer is available to hear and adjudicate cases referred to the Regional Veterans Court by Scottsdale or, if a judicial officer is not available, it shall provide Scottsdale with at least two business days' notice.

5.3. Payroll. Tempe shall include Tempe Pro Tem Judges on Tempe's payroll and pay their wages and employee-related expenses, including any benefits and taxes, for their work as judges pro tempore, including adjudicating Regional Veterans Court cases.

5.4. Reimbursement of Wages. Scottsdale shall reimburse Tempe for the actual costs of a Tempe Pro Tem Judge, currently a rate of \$60.00 per hour plus employee-related expenses for a total of \$70.21 per hour, but only for the hours that the Tempe Pro Tem Judge hears and adjudicates Scottsdale cases referred to the Regional Veterans Court. Compensation will not be paid for travel time or mileage, and no costs or additional expenses will be paid except as may be otherwise mutually agreed in writing by the Contract Administrators.

5.5. Reimbursement Payments. Scottsdale shall reimburse Tempe quarterly, based upon the number of hours (recorded based on each one tenth (0.10) of any hour) of Scottsdale cases adjudicated in the Regional Veterans Court, and within 30 days of receipt of invoice by Tempe. Each invoice statement shall include the name of the Tempe Pro Tem Judge, a record of time expended, the case number, and work performed in sufficient detail to justify payment.

6.0. Coordinator. Tempe represents that it has employed the Coordinator to assist in the operation of the Regional Veterans Court using State of Arizona Veterans' Donations grant funds. The position is 100% grant-funded this first year and application will be made annually for decreasing funding each subsequent grant year through year four. Municipalities participating in the Regional Veterans Court program will share in the off-set amounts, which will be established by a separate agreement. The Parties acknowledge that the Coordinator will be working under the jurisdiction and control of Tempe.

6.1. Duties. The Coordinator shall establish the priority of cases to be heard in the Regional Veterans Court, handle the scheduling of cases, coordinate with the clerks of each

participating court, and coordinate with the U.S. Department of Veterans Affairs for the provision of treatment services to eligible veterans in the Regional Veterans Court.

6.2. Change in Employment. If the Coordinator will no longer be employed by Tempe and Tempe determines not to reassign the Coordinator's duties to another Tempe employee or contractor, Tempe shall provide Scottsdale with at least 90 days' notice so the Parties can determine how such duties will be handled.

7.0. Court Costs. Tempe shall pay for any other costs incurred in operating the Regional Veterans Court, including without limitation, utilities in the Tempe Municipal Court and office supplies, but excluding any costs incurred by Scottsdale in using Tempe's network connection, which costs are the responsibility of Scottsdale.

8.0. Indemnification. To the fullest extent permitted by law, each Party shall indemnify, defend and hold harmless the other Party and its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings, related to, arising from or out of, or resulting from any acts, errors, mistakes, omissions or negligent, reckless, or intentional actions caused in whole or in part by the other Party relating to work or services in the performance of this Agreement, including, but not limited to, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of the Party's or its subcontractor's employees.

8.1. Insurance provisions set forth in this Agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this Section shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

9.0. Insurance Coverage. Each Party will obtain such public liability insurance as is reasonably necessary to protect against claims, losses or judgments that might be occasioned by the negligent acts or omissions of the Party, their employees and agents, during the time that the respective Party is performing acts pursuant to this Agreement. The minimum amount of such coverage shall be in the amount of \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate, and a \$2,000,000 General Aggregate Limit, and either or both Parties may be self-insured. The Parties acknowledge that Scottsdale and Tempe are self-insured as provided in A.R.S. § 11-981 and that this self-insurance fully complies with the requirements under this Section.

9.1. Workers' Compensation. Tempe Pro Tem Judges, the Coordinator and other Tempe employees assisting with the Regional Veterans Court shall not be considered "employees" of Scottsdale, and Scottsdale employees other than Scottsdale Pro Tem Judges assisting with the Regional Veterans Court shall not be considered "employees" of Tempe. Accordingly, such employees of one Party shall not be entitled to employee benefits normally provided to bona fide employees of the other Party. Nothing in this Agreement or its performance, except as provided in A.R.S. § 23-1022(D) and described below, shall be construed to result in any person being the officer, agent, employee, or servant of either Party when such person, absent this Agreement and the performance thereof, would not in law have such status. Notwithstanding the foregoing, Scottsdale Pro Tem Judges, while adjudicating cases for the Regional Veterans Court at Tempe Municipal Court, and any employees of either

Copy to: City of Tempe
P. O. Box 5002
Tempe, AZ 85280
ATTN: City Attorney

12.0. Miscellaneous.

12.1. Invalid Provisions. In the event any term, condition, covenant, stipulation, agreement or provision herein contained is held to be invalid or unenforceable for any reason, the invalidity of any such term, condition, covenant, stipulation, agreement or provision shall in no way affect any other term, condition, covenant, stipulation, agreement or provision herein contained.

12.2. Paragraph Headings. The paragraph headings contained herein are for convenience in reference and not intended to define or limit the scope of any provision of this Agreement.

12.3. Attorneys' Fees. In the event either Party brings any action for any relief, declaratory or otherwise, arising out of this Agreement, or on account of any breach or default hereof, the prevailing Party shall be entitled to receive from the other Party reasonable attorneys' fees and reasonable costs and expenses, determined by the court, sitting without jury, which shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

12.4. No Third Party Beneficiaries. No person or entity shall be a third party beneficiary to this Agreement.

12.5. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior agreement, understanding, negotiation or representation regarding the Regional Veterans Court.

12.6. Further Assurances. The Parties agree to do such further acts and things and to execute and deliver such additional Agreements and instruments as either Party may reasonably require to consummate, evidence, confirm or carry out the Agreement contained herein.

12.7. Scottsdale Contract Administrator. The contract administrator for Scottsdale ("Scottsdale Contract Administrator") shall be the Scottsdale City Court Administrator, who at the time of execution of this Agreement is Julie Dybas, or designee. The Scottsdale Contract Administrator will be responsible for administering the terms of this Agreement for Scottsdale, and will be the contact between Scottsdale and Tempe.

12.8. Tempe Contract Administrator. The court administrator for Tempe Municipal Court ("Tempe Contract Administrator"), who at the time of execution of this Agreement is Deborah Schaefer or designee, shall work together with the Scottsdale Contract Administrator. The Tempe Contract Administrator will be responsible for administering the terms of this Agreement for Tempe, and will be the contact between Scottsdale and Tempe.

12.9. Law Governing; Venue. This Agreement shall be governed by the laws of the State of Arizona, and suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

12.10. Non-assignability. This Agreement is not assignable by either Party.

12.11. Severability. If any term or provision of this Agreement shall be found to be illegal or unenforceable, then notwithstanding such illegality or unenforceability, this Agreement shall remain in full force and effect and such term or provision shall be deemed to be deleted.

12.12. Arizona Legal Workers Act. To the extent applicable under A.R.S. § 41-4401, the Parties warrant compliance, on behalf of themselves and any and all subcontractors, with all federal immigration laws and regulation that relate to their employees and compliance with the E-Verify requirements under A.R.S. § 23-214(A). A Party's breach of the above-mentioned warranty shall be deemed a material breach of this Agreement and the non-breaching Party may terminate this Agreement. The Parties retain the legal right to inspect the papers of the other Party to ensure that the Party is complying with the above-mentioned warranty under this Agreement.

12.13. Availability of Funds. This subsection will control despite any provision of this Agreement or any exhibit or other agreement or document related to this Agreement. The provisions of this Agreement for payment of funds or the incurring of expenses by the Parties shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. Each Party shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement and each Party shall keep the other Parties fully informed as to the availability of funds for this Agreement. The obligation of each Party to make any payment pursuant to this Agreement is a current expense of such Party, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of such Party. If the City Council of either Party fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and each Party shall be relieved of any subsequent obligation under this Agreement.

12.15. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document.

[Signatures on following pages.]

IN WITNESS WHEREOF, the Parties have executed this Agreement by signing their signatures, as of the date first written above.

CITY OF SCOTTSDALE, an
Arizona municipal corporation

ATTEST:

W. J. "Jim" Lane
Mayor

Carolyn Jagger
City Clerk

REVIEWED BY:

Katherine Callaway
Risk Management Director

In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorney acknowledges: 1) that she has reviewed the above Agreement on behalf of Scottsdale; and, 2) that, as to Scottsdale only, has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

Bruce Washburn
Scottsdale City Attorney
By: Kimberly McIntier
Assistant City Attorney

CITY OF TEMPE, an Arizona
municipal corporation

ATTEST:

Mark W. Mitchell, Mayor

Brigitta M. Kuiper, City Clerk

In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorney acknowledges: 1) that she has reviewed the above Agreement on behalf of Tempe; and, 2) that, as to Tempe only, has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

Judith R. Baumann, City Attorney
By: Kara Stanek
Assistant City Attorney

Exhibit "A"

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

IN THE MATTER OF THE EAST VALLEY }
REGIONAL VETERANS COURT }

ADMINISTRATIVE ORDER
No. 2016 - 035

The Presiding Judges in several East Valley municipal courts seek to establish a regional Veterans Court pursuant to A.R.S. § 22-601, in order to maximize available resources and ensure the participation of a Veterans Justice Outreach specialist (VJO) from the U.S. Department of Veterans Affairs (V.A.). Each participating court will continue to establish which of its cases will be referred to the Veterans Court docket and each court will continue to maintain its cases in its case management system. However, the Veterans Court docket will be held at a centralized location to share resources and lessen the impact to the VJO from having to travel to multiple court locations throughout the valley. Therefore,

IT IS ORDERED establishing a Regional Veterans Treatment Court for the municipal courts in the East Valley of Maricopa County, referred to as the East Valley Municipal Regional Veterans Treatment Court (Regional Veterans Court). The Regional Veterans Court shall include Tempe Municipal Court, Mesa Municipal Court, Gilbert Municipal Court, Scottsdale Municipal Court, and Chandler Municipal Court. Any additional municipal court in Maricopa County can join the Regional Veterans Court upon the written approval of the Presiding Judge of the Superior Court in Maricopa County. Any participating court can withdraw from the Regional Veterans Court by submitting a written notification of withdrawal to the Presiding Judge of the Superior Court.

IT IS FURTHER ORDERED as follows:

1. The Court adopts the referral criteria of each participating municipal court and the Chief Prosecuting Attorneys, after consultation with the respective Public Defenders. Based on the established criteria, each participating court shall determine which cases are appropriate for referral to the Regional Veterans Court.
2. Any judicial officer of a participating municipal court may refer a case to the Regional Veterans Court. The originating court shall maintain jurisdiction over the case. Participation in Regional Veterans Court is voluntary, and as such, the referring judicial officer shall determine if the defendant wishes to have the case transferred to the Regional Veterans Court. The court shall notify the prosecutor of the transfer.
3. The Regional Veterans Court shall hold dockets in a location agreed upon by the Presiding Judges of participating municipal courts. Participating courts will be responsible for the administration of each case referred from their court to the Regional Veterans Court. Any judicial officer qualified to hear cases in any of the

participating municipal courts shall have the authority to adjudicate a case referred to the Regional Veterans Court.

4. The Presiding Judges of the participating courts shall coordinate and establish a consistent court calendar for the Regional Veterans Court to be in session. The Presiding Judges shall also establish a consistent schedule for Regional Veterans Court cases to be staffed prior to each court session.
5. Court administration for participating courts shall establish the case transfer process; determine how cases will be handled in the case management system, and how fines, fees, surcharges and any other costs will be allocated. The referring court shall be the custodian of records for its cases at the Regional Veterans Court.
6. Prosecutors for participating municipalities will prosecute their respective municipality's cases, unless such authority is delegated, in writing, to another agency among the participating municipalities.
7. The Regional Veterans Court Judge will coordinate with the V.A. for the provision of treatment services to eligible veterans in the Regional Veterans Court. The Regional Veterans Court Judge may also utilize local, community-based treatment programs, social services and veterans service organizations that further the purpose of the Regional Veterans Court.
8. In the event a defendant is removed from the Regional Veterans Court for failing to make satisfactory progress in court-ordered treatment, or for any other lawful reason, the Regional Veterans Court Judge shall transfer the case back to the referring court for adjudication.
9. The Presiding Judges, in coordination with the respective City Prosecutors, and after consultation with the respective Public Defenders, shall develop and implement any other standard operating procedures consistent with this order.

DATED this 15th day of April, 2016

/s/ Janet E. Barton

Janet E. Barton
Presiding Judge

Original: Clerk of the Superior Court

Copies: Municipal Court Presiding Judges in Maricopa County
Raymond Billotte, Judicial Branch Administrator
Karen Westover, Deputy Court Administrator