#8

JUN 26 2014

Chandler

2010

Chandler • Arizona
Where Values Make The Difference

MEMORANDUM **Police Department Memo No. 2014-033**

DATE: JUNE 10, 2014

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER RD
SEAN E. DUGGAN, CHIEF OF POLICE SD
DAVID NEUMAN, ASSISTANT CHIEF OF POLICE DN

FROM: GREGG JACQUIN, POLICE COMMANDER GJ

SUBJECT: RESOLUTION NO. 4756 INTERGOVERNMENTAL AGREEMENT (IGA) WITH THE TOWN OF GILBERT FOR A CHANDLER/GILBERT JOINT HOLDING FACILITY

RECOMMENDATION: Staff recommends City Council adopt Resolution No. 4756 authorizing the execution of an intergovernmental agreement (IGA) between the City of Chandler and the Town of Gilbert for the creation of a joint holding facility to house their respective detainees, and authorizing the Mayor of the City of Chandler to execute such agreement for the City of Chandler, and authorizing the Chief of Police to administer, execute, and submit all documents and other necessary instruments in connection with such IGA.

BACKGROUND/DISCUSSION: Currently, neither the City of Chandler Police Department nor the Town of Gilbert Police Department has a 24-hour holding facility. Both agencies must process arrestees and then transport them to downtown Phoenix for booking at the Maricopa County Sheriff's Office (MCSO) detention facility. MCSO charges a booking fee for each prisoner booked into the facility. Within 24 hours of booking, all prisoners are returned to their respective cities for an initial appearance before a judge. If the judge does not release a prisoner after the initial appearance, we then transport the prisoner back to the same MCSO facility, the subject is processed back into the facility, and MCSO charges us another booking fee.

The Chandler Police Department's temporary holding facility was not designed or equipped with the infrastructure necessary to hold prisoners for 24 hours. The existing Gilbert facility, with some modifications, is capable of handling both agencies' needs to hold prisoners until their initial appearances. The cooperative agreement will allow us to partner with the Town of Gilbert using shared resources, expenditures, and investment to utilize their facility, which will

eliminate the multiple trips to Phoenix, reduce booking costs, decrease our overall expenses, and allow us to self-govern the facility and manage costs in a more efficient and predictable manner.

FINANCIAL IMPLICATIONS: The proposed budget for one-time and ongoing costs was originally presented as $336,523 with an indication that costs were still being identified and developed. Technology network costs have been updated and have increased the amount of the initial estimate to $460,530 ($100,574 ongoing and $359,956 one-time) in the first year. This reflects Chandler's contribution for the modification to the Gilbert facility plus Chandler's share of the ongoing facility costs. Subsequent annual costs are projected to be approximately $141,106 with a small inflationary factor for future years.

With the reduction of booking prisoners into the MCSO facility, approximately $251,162 in costs will be avoided annually. It is projected that by the fourth year of operation, the net effect will be that the City of Chandler will save approximately $100,000 annually.

Funding in the amount of approximately $460,530 for this proposal will come from the cost savings from the existing prisoner care budget in account 101-2071-5240 (General Fund-Detention Services-Prisoner Care Services) and will be shifted to the appropriate accounts for personnel, supplies and equipment.

PROPOSED MOTION: Move that Council pass and adopt Resolution No. 4756 authorizing the execution of an intergovernmental agreement (IGA) between the City of Chandler and the Town of Gilbert for the creation of a joint holding facility to house their respective detainees, and authorizing the Mayor of the City of Chandler to execute such agreement for the City of Chandler, and authorizing the Chief of Police to administer, execute, and submit all documents and other necessary instruments in connection with such IGA.

Attachment: Resolution No. 4756 w/ Exhibit A attached (form of IGA)

RESOLUTION NO. 4756

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF CHANDLER AND THE TOWN OF GILBERT FOR THE CREATION OF A JOINT HOLDING FACILITY TO HOUSE THEIR RESPECTIVE DETAINEES, AND AUTHORIZING THE MAYOR OF THE CITY OF CHANDLER TO EXECUTE SUCH AGREEMENT FOR THE CITY OF CHANDLER.

WHEREAS, Chandler and Gilbert police departments both have the obligation to provide a Holding Facility ("Facility") for their respective jurisdictions; and

WHEREAS, Gilbert owns a Facility that is large enough to accommodate both Chandler and Gilbert Police Department detainees; and

WHEREAS, Chandler and Gilbert Police Department seek to create a joint Facility to house their respective detainees; and

WHEREAS, such a partnership will reduce costs of pre-adjudication detention, improve work flow and overall efficiency related to the detention of criminal suspects detained by each community; and

WHEREAS, Gilbert and Chandler intend to enter into this IGA for the purpose of specifying and clarifying their respective responsibilities concerning the operation of a joint Facility located in the Town of Gilbert Police Department.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Arizona, that the Mayor of the City of Chandler, is authorized to execute an Intergovernmental Agreement between Chandler and the Town of Gilbert which agreement shall be in the form attached as Exhibit A and as approved by the Chandler City Attorney.

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this ____ day of June, 2014.

ATTEST:

_____ _____

CITY CLERK MAYOR

APPROVED AS TO FORM:

_____

CITY ATTORNEY

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4756 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the 26th day of June, 2014 and that a quorum was present thereat.

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF CHANDLER AND THE TOWN OF GILBERT
FOR A JOINT HOLDING FACILITY

This Intergovernmental Agreement ("IGA") is made and entered into this ___ day of June, 2014, by and between the City of Chandler, an Arizona municipal corporation ("Chandler") and the Town of Gilbert ("Gilbert"), an Arizona municipal corporation, (collectively referred to as the "Parties"). This IGA is entered into and effective as of June, 2014 ("Effective Date").

RECITALS:

WHEREAS, Chandler and Gilbert both operate police departments for their respective jurisdictions; and

WHEREAS, Chandler and Gilbert police departments both have the obligation to provide a Holding Facility ("Facility") for their respective jurisdictions; and

WHEREAS, Gilbert owns a Facility that is large enough to accommodate up to one hundred detainees arrested by both Chandler and Gilbert Police Department; and

WHEREAS, Chandler and Gilbert Police Department seek to create a joint Facility to house their respective detainees; and

WHEREAS, such a partnership will reduce costs of pre-adjudication detention, improve work flow and overall efficiency related to the detention of criminal suspects detained by each community; and

WHEREAS, Arizona Revised Statutes, Section 11-951, et. seq., provides that public agencies may enter into intergovernmental agreements for the provision of services, or for joint or cooperative action; and

WHEREAS, Gilbert and Chandler intend to enter into this IGA for the purpose of specifying and clarifying their respective responsibilities concerning the operation of a joint Facility located in the Town of Gilbert Police Department; and

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained in this IGA and other good and valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

1.0 **Gilbert's Obligations**.

1.1 Agreement to Renovate a Joint Holding Facility. Gilbert agrees to renovate their current Facility to accommodate up to one hundred detainees from each community for at least 24 hours in accordance with the terms and conditions of this IGA.

1.1.1 Gilbert shall receive Chandler detainees and jointly provide for the safekeeping, care and monitoring of Gilbert and Chandler detainees for up to 24

hours.

1.1.2 Gilbert shall hire two additional detention employees for fiscal year 2014/2015, totaling eight (8) full time detention employees. The hiring of additional personnel shall be left to the discretion of the respective municipality; although parties must mutually agree to decrease or increase assigned personnel.

1.1.3 Gilbert shall agree to pay for half of all design and construction related costs to renovate the Facility, up to $199,050.00 in fiscal year 2014/2015. In the event the costs of design and construction for the renovation exceed this amount, Gilbert agrees to pay for half of any such costs, provided Gilbert and Chandler first meet and confer, and mutually conclude that such costs are necessary, and that all reasonable measures have been taken to reduce costs.

1.1.4 Gilbert shall agree to pay for half of all on-going operational costs for the Facility to include: Janitorial services, food, shared general office equipment and supplies. Additionally, Gilbert will be responsible for any on-going costs directly related to Gilbert's operating a holding facility, including, but not limited to all infrastructure and/or construction costs and repairs related to the facility that are not directly related to the collaboration with Chandler.

1.1.5 Gilbert will appoint a representative from their police department to administer the IGA and serve as a liaison between the parties.

1.1.6 Gilbert will utilize two twelve passenger vans and one standard patrol vehicle. Parties will mutually agree to decrease, increase or change their fleet as operationally necessary.

1.1.7 Gilbert will be responsible for auto maintenance and repair of the Gilbert fleet.

1.1.8 Gilbert will collaborate with Chandler to ensure there is network connectivity for the Chandler Record Management System (RMS) at the joint Facility.

1.1.9 Gilbert agrees and warrants that the building and any ancillary aspect of the project thereto, including without limitation its walkways, pavement, and parking facilities, will be designed and constructed pursuant to the requirements of the ADA Standards for Accessible Design (ADAAG 2010). Gilbert further agrees that it will make this provision a part of any contract entered into with contactors and subcontractors associated with the project.

1.1.10 Gilbert agrees to post and keep posted in a conspicuous place upon the premises, in English and Spanish and available for inspection by all workmen a notice as outlined in A.R.S. § 23 – 906 of all applicable Worker's compensation benefits.

2.0 **Chandler's Obligations**.

2.1 Agreement to Partner with Gilbert for a Joint Holding Facility. Chandler agrees to combine resources and personnel for the creation of a joint holding Facility.

2.1.1 Chandler shall agree to pay for half of all design and construction related costs to renovate the Facility, up to $199,050.00 in fiscal year 2014/2015. In the event the costs of design and construction for the renovation exceed this amount, Chandler agrees to pay for half of any such costs, provided Gilbert and Chandler first meet and confer, and mutually conclude that such costs are necessary, and that all reasonable measures have been taken to reduce costs.

2.1.2 Chandler shall hire one additional detention employee for fiscal year 2014/2015. Chandler will assign a total of eleven (11) employees to work within the Facility. The hiring of additional personnel shall be left to the discretion of the respective municipality; although parties must mutually agree to decrease or increase assigned personnel.

2.1.3 Chandler shall agree to pay for half of the on-going operational costs including but not limited to janitorial services, food, shared general office equipment and supplies, and detention specific operational supplies.

2.1.4 Chandler will appoint a representative from their police department to administer the IGA and serve as a liaison between the parties.

2.1.5 Chandler will utilize two fifteen passenger vans and one twenty three passenger transport vehicle. Parties will mutually agree to decrease, increase or change their fleet as operationally necessary.

2.1.6 Chandler will be responsible for auto maintenance and repair of Chandler fleet.

2.1.7 Chandler will install its own LIVESCAN equipment for use with Chandler detainees. Necessary computers and office equipment will also be installed and maintained by Chandler IT, and Chandler shall pay any cost associated with the installation and integration of equipment specific to Chandler's systems. The payment of such costs shall be separate and apart from Chandler's obligation under Paragraph 2.1.1., above.

2.1.8 Unless special circumstances dictate, detainees arrested by Chandler shall not be released at the Facility, but from appropriate facilities in Chandler. Upon the release of such detainees, Chandler will provide, at its own cost, transportation for those persons to appropriate facilities in Chandler.

3.0 **General Provisions.**

3.1 Term. Once both Parties have executed this IGA, the term of the IGA shall commence on June 26, 2014 and, unless renewed, amended, or terminated early, shall expire on June 30, 2017. If the parties renew this IGA, in accordance with Subparagraph 3.1.1., the use of the word "Term" in this IGA shall include any renewal term periods as well as the original three (3) year Term established in this Paragraph 3.1.

3.1.1 Automatic Renewal. This IGA shall automatically renew for an additional three (3) year term unless one of the parties notifies the other, at least one hundred

and eighty (180) calendar days prior to end of the Term, of its intent to let the IGA expire.

3.1.2 Early Termination. Either party may terminate this IGA by providing notice to the other at least one hundred eighty (180) calendar days prior to the date the terminating party intends for the IGA to be terminated. If Gilbert terminates prior to the end of the initial Term, it will refund Chandler's payment made in accordance with Paragraph 1.0 and subsequent subparagraphs on a pro-rata basis based on the number of calendar months remaining in the anniversary year of the Term in which the termination is made. If Chandler terminates prior to the end of the Term, no refund of the payment amount made in accordance with Paragraph 2.0 will be made. Closure of the Holding Facility for any reason would be considered constructive termination of the agreement by Gilbert.

3.2 Meetings. Representatives from Gilbert and Chandler will meet no less than semi-annually to discuss the mechanics of this IGA. The parties shall operate in good faith and will be responsive to any reasonable request of the other to meet to discuss matters covered by this IGA in addition to the minimum semi-annual meetings required.

3.3 Holding Facility General Orders. Prior to the initiation of this IGA, Gilbert and Chandler shall create and publish Holding Facility General Orders (hereinafter "Orders") to be followed by all Chandler and Gilbert employees assigned to the Facility. The Orders will serve as an operational manual intended to provide for all relevant policies and procedures related to the joint operation. Both the Orders and required training shall comply with the Commission on Accreditation for Law Enforcement Agencies (CALEA) recommended policies and practices. Upon the approval of the General Orders (and any subsequent amendments thereafter) by the Police Chiefs of each party the Orders shall be incorporated into this Agreement as if fully set forth herein.

3.4 Training Obligations. Employees from Gilbert and Chandler will comply with all mutually agreed upon training responsibilities including each agency's mandatory Advanced Officer Training (AOT). Mandatory training shall include, but is not limited to use of force, weapons, driving, safety related procedures, etc. Both Parties will comply with Commercial Driver's License (CDL) requirements, as needed to operate their respective vehicles.

3.5 Overtime Compensation. Each Party will be responsible for overtime compensation for their respective employees. Additionally, each agency shall ensure minimum staffing levels are met at all times.

3.6 Notice and Opportunity to Cure. Unless a breach of, or default under, this IGA will result in an imminent threat to public health, safety and welfare; the non-defaulting party shall provide, at least ten (10) days prior to expecting a cure, a written notice of the alleged breach or default to the defaulting party. The defaulting party will have 30 days to cure such breach or default prior to such breach or default becoming actionable.

3.7 Data Access. Chandler and Gilbert shall provide each agency access to its law

enforcement information utilizing the TCP/IP communications protocol over a network segment maintained by Chandler and Gilbert or any other secure network configuration that is mutually acceptable to Chandler and Gilbert.

3.7.1 Training. Chandler and Gilbert shall be responsible for the training of their own personnel with regard to their respective agency's account administration and end user access.

3.7.2 Limitation of Use. Chandler and Gilbert acknowledge that the law enforcement information utilized by either party shall be used for law enforcement purposes only, and that only law enforcement agency employees and IT personnel that have passed background screening as defined and required by the Department of Public Safety will be allowed access to the law enforcement sensitive systems. Employees have not passed the background screening within the meaning of this section if the employee has either been convicted of a felony or has a pending charge for any felony or a misdemeanor involving dishonesty or violence.

3.8 Dispute Resolution. Prior to conducting any litigation relating to this IGA, Chandler and Gilbert shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this IGA or the breach, termination, interpretation or validity hereof (a "Dispute").

3.9 Chandler Indemnification. Gilbert shall indemnify and hold harmless Chandler, its officers, agents and employees from and against claims or expenses, including penalties and assessments and attorney's fees to which they or any of them may be subjected by reason of injury or death of any person, including the employees, agents and invitees of Gilbert, or loss or damage to any property contributed to or caused by the active or passive negligence of Gilbert, its agents, servants, employees, contractors or subcontractors in the activities described in this IGA or in connection therewith. In case any suit or other proceeding shall be brought because thereof, Gilbert, at the request of Chandler, will assume the defense at Gilbert's, own expense and will pay all judgments rendered therein. The provisions of this Subparagraph 3.9 shall survive termination of this IGA.

3.10 Gilbert Indemnification. Chandler shall indemnify and hold harmless Gilbert, its officers, agents and employees from and against claims or expenses, including penalties and assessments and attorney's fees to which they or any of them may be subjected by reason of injury or death of any person, including the employees, agents and invitees of Chandler, or loss or damage to any property contributed to or caused by the active or passive negligence of Chandler, its agents, servants, employees, contractors or subcontractors in the activities described in this IGA or in connection therewith. In case any suit or other proceeding shall be brought on account thereof, Chandler, at the request of Gilbert, will assume the defense at Chandler's own expense and will pay all judgments rendered therein. The provisions of this Subparagraph 3.10 shall survive termination of this IGA.

3.11 Insurance Requirements. At the same time as execution of this IGA, each party shall furnish the other a certificate of insurance documenting all of its coverages, including its Self Insurance Reserve and excess coverages for general liability, automobiles

and worker's compensation. Each Party shall be solely responsible for determining that its insurance is current and adequate prior to providing assistance under this Agreement.

3.11.1 The insurance requirements set forth are minimum requirements for this IGA and in no way limit the indemnity covenants contained in this IGA.

3.11.2 The parties' agreement on the Insurance Requirements in no way warrants that either party has sufficient insurance to protect them from liabilities that might arise out of the performance of the obligations under this IGA by each party, its agents, representatives, employees, subcontractors or sublicensees. Each party is free to purchase any additional insurance as it may be determined necessary.

3.11.3 Failure to demand evidence of full compliance with the insurance requirements in this IGA or failure to identify any insurance deficiency will not relieve the party with deficient insurance from, nor will it be considered a waiver of its obligation to maintain, the required insurance at all times during the term of this IGA.

3.11.4 Each party must maintain Workers Compensation and Employers Liability Insurance to cover obligations imposed by federal and state statutes having jurisdiction of each party's employees engaged in the performance of work or services under this IGA.

3.12 Notices. Unless otherwise provided in this IGA, all notices, demands, requests, consents, approvals and other communications (collectively,"Notices") required hereunder shall be given by certified U.S. mail, postage prepaid or personally delivered, against receipted copy, at the address set forth below or at such other address as either party shall, from time to time, designate in writing to the other by notice given in the same manner specified in this paragraph. Notices shall be deemed received upon receipt, which shall be evidenced by a receipted copy (in the case of notices that are personally delivered), or as evidenced by the postal service receipt.

If to Chandler:

Chandler Police Department
Attn.: Sean Duggan, Chief of Police
250 East Chicago Street
Chandler, Arizona 85225

With a copy to
Chandler City Attorney
PO Box 4008 Mailstop 602
Chandler, Arizona 85244-4008

If to Gilbert:

Gilbert Police Department
Attn.: Tim Dorn, Chief of Police
75 East Civic Center Drive
Gilbert, Arizona 85296

4.0 **Miscellaneous.**

4.1 Entire Agreement. This IGA constitutes the entire understanding of the parties and no representations or agreements, oral or written, made prior to its execution shall vary or modify the terms herein.

4.2 Amendments. Other than those amendments made by the incorporation of the most recent Holding Facility General Orders, any amendment to or variation from the terms of this IGA shall be in writing and shall become effective only after approval of both parties.

4.3 Counterparts. This IGA may be executed in two or more counterparts, each of which shall be deemed an original but which, when taken together, shall constitute one and the same instrument.

4.4 Cancellation for Conflict of Interest. Each party acknowledges that the other has the right as provided in A.R.S. Section 38-511 to cancel this IGA if, while this IGA or any extension is in effect, any person significantly involved in negotiating, drafting or securing this IGA on behalf of a party is (i) an employee or agent of the other party in any capacity, or (ii) a consultant to the other party with respect to the subject matter of this IGA.

4.5 Governing Law. This IGA shall be governed by the laws of the State of Arizona and any disputes between the Parties as to enforcement or performance shall be adjudicated in the Arizona State court system.

4.6 Severability. If any provision of this IGA is declared invalid, illegal or unenforceable, that provision shall be severed from the IGA, and the remaining provisions shall otherwise remain in full force and effect.

4.7 Attorney's Fees. In the event that either party hereto brings any action or files any proceeding in connection with the enforcement of its respective rights under this IGA as a consequence of any breach by the other party of its obligations under this IGA, the prevailing party in such action or proceeding shall be entitled to have its reasonable attorneys' fees and out-of-pocket expenditures paid by the losing party. All such fees shall be deemed to have accrued upon the commencement of such action.

4.8 Headings. The headings used in this IGA are inserted for reference purposes only and do not affect the interpretation of the terms and conditions hereof.

4.9 Good Standing Authority. Each of the parties represents and warrants to the other that it is duly formed and validly existing under the law of Arizona and that the individual(s) executing this IGA on behalf of their respective party is authorized and empowered to bind the party on whose behalf each such individual is signing.

4.10 Default and Remedies. In the event that a party is in default hereunder, the other party shall have all remedies available to them at law or in equity (including expedited equitable relief) whether under this IGA or otherwise. The duties and obligations imposed by this IGA and the rights and remedies available hereunder shall be in addition to and not a waiver or limitation of any duties, obligations, rights

and remedies otherwise imposed or available at law or equity.

4.11 Waiver. No waiver by any party of a breach of any of the terms or conditions of this IGA shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other terms or condition contained herein.

4.12 Non-Agents. This IGA does not create a principal/agent relationship between the parties and neither party is hereby authorized to incur costs, expenses or other obligations on behalf of the other party.

4.13 Time of Essence. Time is hereby declared to be of the essence for the performance of all terms, covenants, conditions and obligations under this IGA.

4.14 Successors and Assigns. This IGA shall be binding upon, inure to the benefit of and be enforceable by and against the Parties to this IGA and their respective heirs, executors, administrators, personal representatives, successors and assigns.

4.15 Interpretations and Definitions. The Parties agree that each Party and its counsel have reviewed and revised this IGA and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this IGA.

IN WITNESS WHEREOF, the parties have executed this IGA by signing their names on the day and date first written above.

CHANDLER CITY OF CHANDLER, an Arizona municipal corporation	GILBERT TOWN OF GILBERT, an Arizona municipal corporation
By:_____ Jay Tibshraeny, Mayor	By: _____ John Lewis, Mayor
ATTEST:	ATTEST:
_____ CITY CLERK	_____ TOWN CLERK

ATTORNEY'S CERTIFICATION

The undersigned attorneys for the respective parties hereto each certify that they have reviewed this Intergovernmental Agreement and find that it is in proper form and within the power and authority granted to their respective clients under the laws of the State of Arizona.

CITY ATTORNEY	TOWN ATTORNEY