

 ORIGINAL

Administrative Use Only

Contract Date: _____

R1411.0

**Agreement Between
The City of Ann Arbor on behalf of the 15th Judicial District Court
and
Washtenaw County on behalf of the Washtenaw County Sheriff's Office**

The City of Ann Arbor, a Municipal Corporation, having its offices at 301 E. Huron Street, Ann Arbor, Michigan 48104 ("City"), on behalf of the 15th Judicial District Court ("Court"), and Washtenaw County on behalf of its Sheriff's Office ("Contractor"), located at 2201 Hogback, Ann Arbor, Michigan 48105, agree as follows:

The Contractor agrees to provide services to the City under the following terms and conditions:

I. DEFINITIONS

Administering Service Area/Unit means the 15th Judicial District Court.

Contract Administrator means the 15th Judicial District Court Administrator, acting personally or through any assistants authorized by the Administrator/Manager of the Administering Service Area/Unit.

II. DURATION

This contract begins on July 1, 2019 and ends on June 30, 2020, unless otherwise terminated as provided for in Article XI.

III. SERVICES

The County by and through the Washtenaw County Sheriff's Office will provide personnel to perform weapons screening services with twice daily related corridor sweeps and stairwell sweeps in the Ann Arbor Justice Center during 15th Judicial District Court business hours, in connection with this agreement in conformance with the following:

- A. Services will be performed in alignment with court security best practices; three officers will be needed per day for this operation. The Sheriff will be responsible for the daily supervision and direction of said personnel.
- B. The Sheriff agrees to provide such services at the time and location set forth in the mutually agreed schedule on those days the court is open for business. The schedule may from time to time be amended on the written approval of the 15th Judicial District Court Administrator and the Sheriff.

Proposed schedule of services is as follows:

Coverage Times	Coverage Hours	Days of Week	Total Hours Per Week
0730-1630	9	M-F	45
0800-1600	8	M-F	40
0800-1700	9	M-F	45
Morning Corridor Sweep		M-F	Included
Evening Corridor Sweep		M-F	Included

- C. It is understood and agreed that the Sheriff shall only be obligated to provide weapons screening and corridor security sweeps as outlined in this agreement, and emergencies and other situations occurring in the building requiring a security or law enforcement response will be handled by Ann Arbor Police Department. In addition, the Sheriff will receive clear and specific direction in writing from the 15th Judicial District Court on prohibited items that will not be allowed past the screening point and proper protocols to follow regarding any exceptions (e.g. staff or visitors to the police building). The City agrees to supply the necessary on-site equipment to allow weapons screening officers to fulfill their responsibilities, including but not limited to by way of example; x-ray machines, metal detectors, hand held metal detectors, property tubs, office supplies, etc.
- D. The County and Sheriff agree to comply at its expense with all safety, health and work laws, regulations, directives and rules governing its personnel. The County will also ensure compliance with safe work practices and use of protective equipment imposed by controlling federal, state and local government. All accidents and incidents involving assigned personnel will be reported immediately to the City by the County. The County and the City agree to cooperate in any administrative or insurance investigation of the work location in connection with any such accident or incident.
- E. The City retains the right to make changes to the staffing and scheduling within the general scope of the Agreement at any time by written order. If the changes add to or deduct from the extent of the Services, the contract sum shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement.
- F. Quality of Services under this Agreement shall be of the level of quality performed by persons regularly rendering these types of services.

Determination of acceptable quality shall be made solely by the Contract Administrator.

- G. The Sheriff warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the Services in this Agreement.
- H. The Sheriff shall perform its Services in compliance with all applicable laws, ordinances, and codes of the federal, state, and local governments.

IV. PERSONNEL

The parties understand and agree that the officers and deputies provided by the Sheriff under this contract shall not be, nor be deemed to be, employees or agents of the City or the 15th Judicial District Court for any purpose whatsoever. All administrative aspects of the employment of individuals employed by the County shall be the exclusively provided by the County. Notwithstanding the above, the performance by Sheriff's personnel working with the City is a critical and integral part of the operation of the Ann Arbor Justice Center. For that reason, the parties specifically agree that where necessary to control the quality of County and/or Sheriff's office services, or to ensure the safety of individuals with its employ or public safety, the City will recommend and refer any potential disciplinary issues to the Sheriff for action in accordance with County policies. City representatives agree to testify in any arbitration related to discipline imposed upon an employee where City representatives have pertinent knowledge..

V. COMPENSATION OF CONTRACTOR

The Sheriff agrees to provide Services to 15th Judicial District Court in connection with this agreement in conformance with the following:

- A. The City shall pay the County at a flat rate of Twenty-Eight dollars and Fifty-Seven cents (\$28.57), per hour/per weapons screening officer during the term of the agreement. All supervisory services, as described in Article III above, are to be provided at no additional cost. Total compensation under this Agreement is not to exceed One Hundred Eighty Thousand and no/100 dollars (\$180,000.00), unless approved in writing by the Contract Administrator.
- B. An invoice for screening services will be completed monthly and the City agrees to submit payment within thirty (30) days of receipt and approval by the Contract Administrator or designee.
- C. The Sheriff will be compensated for Services performed in addition to the Services described in Article III, only when the scope of and compensation for those additional Services have received prior written approval of the Contract Administrator.

- D. The County shall maintain records of actual time worked and reported to the City for payments. Such records shall be made available to the City upon request and submitted in summary form with each invoice.

VI. INSURANCE/INDEMNIFICATION

- A. The County shall procure and maintain during the life of this contract such insurance policies, including those set forth in Exhibit A, as will protect itself, the City and the Court from all claims for bodily injuries, death or property damage which may arise under this contract; whether the act(s) or omission(s) giving rise to the claim were made by the Contractor, any subcontractor or anyone employed by them directly or indirectly. In the case of all contracts involving on-site work, the Contractor shall provide to the City, before the commencement of any work under this contract, documentation satisfactory to the City, through City approved means (currently myCOI), demonstrating it has obtained the policies and endorsements required by Exhibit A. Contractor shall add registration@mycoitracking.com to its safe sender's list so that it will receive necessary communication from myCOI. When requested, Contractor shall provide the same documentation for its subcontractor(s) (if any).
- B. Any insurance provider of the County shall be admitted and authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-admitted insurance companies are not acceptable unless approved in writing by the City.
- C. To the fullest extent permitted by law, the County shall indemnify, defend and hold the City and Court officers, employees and agents harmless from all suits, claims, judgments and expenses, including attorney's fees, resulting or alleged to result, from any acts or omissions by the County or its employees and agents occurring in the performance of or breach in this Agreement, except to the extent that any suit, claim, judgment or expense are finally judicially determined to have resulted from the City's or Court's negligence or willful misconduct or failure to comply with any material obligations set forth in this Agreement.

VII. COMPLIANCE REQUIREMENTS

- A. Nondiscrimination. The County agrees to comply, and to require its subcontractor(s) to comply, with the nondiscrimination provisions of MCL 37.2209. The County further agrees to comply with the provisions of Section 9:158 of Chapter 112 of the Ann Arbor City Code and to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity.

- B. Living Wage. If the County is a "covered employer" as defined in Chapter 23 of the Ann Arbor City Code, the County agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. The County agrees to pay those employees providing Services to the City under this Agreement a "living wage," as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23.

VIII. WARRANTIES BY THE CONTRACTOR

- A. The Sheriff warrants that the quality of its Services under this Agreement shall conform to the level of quality performed by persons regularly rendering this type of service.
- B. The Sheriff warrants that it has all the skills, experience, and professional licenses necessary to perform the Services specified in this Agreement.
- C. The Sheriff warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the Services specified in this Agreement.
- D. The County and/or Sheriff warrants that it is not, and shall not become overdue or in default to the City for any contract, debt, or any other obligation to the City including real and personal property taxes. Further, Contractor agrees that the City shall have the right to set off any such debt against compensation awarded for Services under this Agreement.
- E. The Sheriff warrants that its proposal for Services was made in good faith, it arrived at the costs of its proposal independently, without consultation, communication or agreement, for the purpose of restricting completion as to any matter relating to such fees with any competitor for these Services; and no attempt has been made or shall be made by the Sheriff to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
- F. The County and/or Sheriff agrees to provide the City and/or Court written statements of its policies. Such policies will comply with all federal, state, and local governmental laws and regulations.

IX. OBLIGATIONS OF THE CITY

- A. The City agrees to give the Contractor access to City-owned properties as required

to perform the necessary Services under this Agreement.

- B. The City will provide the County and/or Sheriff with a copy of any security, safety or emergency policies or procedures adopted by the City related to the Ann Arbor Justice Center.
- C. The City shall notify the Contractor of any defects in the Services of which the Contract Administrator has actual notice.

X. ASSIGNMENT

- A. The Contractor shall not subcontract or assign any portion of any right or obligation under this Agreement without prior written consent from the City. Notwithstanding any consent by the City to any assignment, Contractor shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it under the Agreement unless specifically released from the requirement, in writing, by the City.
- B. The Contractor shall retain the right to pledge payment(s) due and payable under this Agreement to third parties.

XI. TERMINATION OF AGREEMENT

- A. If either party is in breach of this Agreement for a period of fifteen (15) days following receipt of notice from the non-breaching party with respect to a breach, the non-breaching party may pursue any remedies available to it against the breaching party under applicable law, including but not limited to, the right to terminate this Agreement without further notice. The waiver of any breach by any party to this Agreement shall not waive any subsequent breach by any party.
- B. The City may terminate this Agreement, on at least thirty (30) days advance notice, for any reason, including convenience, without incurring any penalty, expense or liability to Contractor, except the obligation to pay for Services actually performed under the Agreement before the termination date.
- C. Contractor acknowledges that, if this Agreement extends for several fiscal years, continuation of this Agreement is subject to appropriation of funds for these Services. If funds to enable the City to effect continued payment under this Agreement are not appropriated or otherwise made available, the City shall have the right to terminate this Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The Contract Administrator shall give Contractor written notice of such non-appropriation within thirty (30) days after it receives notice of such non-appropriation.
- D. The provisions of Articles VI and VIII shall survive the expiration or earlier

termination of this Agreement for any reason. The expiration or termination of this Agreement, for any reason, shall not release either party from any obligation or liability to the other party, including any payment obligation that has already accrued and Contractor's obligation to deliver all Deliverables due as of the date of termination of the Agreement.

XII. REMEDIES

- A. All parties hereto agree that they will hold special conferences upon the request of either of the parties for the purposes of resolving any mutual programs that may arise in the enforcement of this Agreement. A portion of this Agreement that may be unclear during the term of operation may be cleared by interpretation at said special conferences.
- B. This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory and/or other legal right, privilege, power, obligation, duty or immunity of the Parties.
- C. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any agreement between the parties or otherwise.
- D. Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently effect its right to require strict performance of this Agreement.

XIII. NOTICE

All notices and submissions required under this Agreement shall be delivered to the respective party in the manner described herein to the address stated in this Agreement or such other address as either party may designate by prior written notice to the other. Notices given under this Agreement shall be in writing and shall be personally delivered, sent by next day express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent next day express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

If Notice is sent to the CONTRACTOR, it shall be addressed and sent to:

Jerry L. Clayton, Sheriff
Washtenaw County Sheriff's Office
2201 Hogback Road
Ann Arbor, MI 48105

If Notice is sent to the CITY, it shall be addressed and sent to:

15th Judicial District Court
Shryl Samborn, Court Administrator
Ann Arbor Justice Center
301 E. Huron St.
Ann Arbor, Michigan 48104

XIV. CHOICE OF LAW AND FORUM

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction, excepting the principles of conflicts of law. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

XV. CONFLICTS OF INTEREST OR REPRESENTATION

Contractor certifies it has no financial interest in the Services to be provided under this Agreement other than the compensation specified herein. Contractor further certifies that it presently has no personal or financial interest, and shall not acquire any such interest, direct or indirect, which would conflict in any manner with its performance of the Services under this Agreement.

Contractor agrees to advise the City if Contractor has been or is retained to handle any matter in which its representation is adverse to the City. The City's prospective consent to the Contractor's representation of a client in matters adverse to the City, as identified above, will not apply in any instance where, as the result of Contractor's representation, the Contractor has obtained sensitive, proprietary or otherwise confidential information of a non-public nature that, if known to another client of the Contractor, could be used in any such other matter by the other client to the material disadvantage of the City. Each matter will be reviewed on a case by case basis.

XVI. SEVERABILITY OF PROVISIONS

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

XVII. EXTENT OF AGREEMENT

This Agreement, together with Exhibit A, constitutes the entire understanding between the City and the Contractor with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements or understandings whether written or oral. Neither party has relied on any prior representations, of any kind or nature, in entering into this Agreement. No terms or conditions of either party's invoice, purchase order or other administrative document shall modify the terms and conditions of this Agreement, regardless of the other party's failure to object to such form. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their permitted successors and permitted assigns and nothing in this Agreement, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may only be altered, amended or modified by written amendment signed by the Contractor and the City. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

XIII. ELECTRONIC TRANSACTION

The parties agree that signatures on this Agreement may be delivered electronically in lieu of an original signature and agree to treat electronic signatures as original signatures that bind them to this Agreement. This Agreement may be executed and delivered by facsimile and upon such delivery, the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

XIX. EFFECTIVE DATE

This Agreement will become effective when all parties have signed it. The Effective Date of this Agreement will be the date this Agreement is signed by the last party to sign it.

FOR THE COUNTY OF WASHTENAW

FOR THE CITY OF ANN ARBOR

By: *Greg Dill* 9/9/19
Greg Dill (Date)
Washtenaw County Administrator

By: _____
Christopher Taylor (Date)
Mayor
[Signatures continued on next page.]

By: *Lawrence Kestenbaum* 9/16/19
Lawrence Kestenbaum (Date)
Washtenaw County Clerk/Register

By: _____
Jacqueline Beaudry (Date)
City Clerk

APPROVED AS TO FORM

APPROVED AS TO FORM & SUBSTANCE

By: *Curtis N. Hedger* 9-9-19
Curtis N. Hedger (Date)
Washtenaw County Corporation Counsel

By: _____
Stephen K. Postema (Date)
City Attorney

APPROVED AS TO SUBSTANCE

APPROVED AS TO SUBSTANCE:

By: *Jerry L. Clayton* 9/9/19
Jerry L. Clayton (Date)
Sheriff

By: _____
Howard S. Lazarus (Date)
City Administrator

By: _____
Joseph F. Burke (Date)
Chief Judge, 15th District Court

By: _____
Shryl Samborn (Date)
Court Administrator, 15th District Court

EXHIBIT A
INSURANCE REQUIREMENTS

From the earlier of the Effective Date or the Commencement Date of this Agreement, and continuing without interruption during the term of this Agreement, Contractor shall provide certificates of insurance to the City on behalf of itself, and when requested any subcontractor(s). The certificates of insurance and required endorsements shall meet the following minimum requirements.

A. The Contractor shall have insurance that meets the following minimum requirements:

1. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following minimum amounts:

Bodily Injury by Accident - \$500,000 each accident
Bodily Injury by Disease - \$500,000 each employee
Bodily Injury by Disease - \$500,000 each policy limit

2. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 04 13 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements which diminish the City's protections as an additional insured under the policy. Further, the following minimum limits of liability are required:

\$1,000,000 Each occurrence as respect Bodily Injury Liability or
Property Damage Liability, or both combined
\$2,000,000 Per Project General Aggregate
\$1,000,000 Personal and Advertising Injury

3. Motor Vehicle Liability Insurance equivalent to, as a minimum, Insurance Services Office form CA 00 01 10 13 or current equivalent. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy. Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.

B. Insurance required under A.2 and A.3 above shall be considered primary as respects any other valid or collectible insurance that the City may

possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Contractor agrees to waive any right of recovery by its insurer against the City for any insurance listed herein.

- C. Insurance companies and policy forms are subject to approval of the City Attorney, which approval shall not be unreasonably withheld. Documentation must provide and demonstrate an unconditional and unqualified 30-day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number(s); name of insurance company; name(s), email address(es), and address(es) of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions, which may be approved by the City in its sole discretion; (c) that the policy conforms to the requirements specified. Contractor shall furnish the City with satisfactory certificates of insurance and endorsements prior to commencement of any work. Upon request, the Contractor shall provide within 30 days, a copy of the policy(ies) and all required endorsements to the City. If any of the above coverages expire by their terms during the term of this contract, the Contractor shall deliver proof of renewal and/or new policies and endorsements to the Administering Service Area/Unit at least ten days prior to the expiration date.