

**TOWN OF PINETOP-LAKESIDE**

**RESOLUTION NO. 18-1455**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, APPROVING AN INTERGOVERNMENTAL FACILITIES AGREEMENT BETWEEN THE TOWN OF PINETOP-LAKESIDE AND NAVAJO COUNTY, ARIZONA FOR JUSTICE COURT FACILITIES.**

**WHEREAS**, Navajo County operates a Justice Court within the community of Pinetop-Lakeside; and

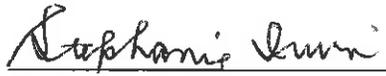
**WHEREAS**, the Town of Pinetop-Lakeside (hereinafter, "Town") has available office space for Navajo County to conduct the operation of Justice Court; and

**WHEREAS**, the Town of Pinetop-Lakeside is in agreement with the terms and conditions of the Agreement between the Town of Pinetop-Lakeside and the Navajo County Government for lease of Justice Court Facilities, attached hereto as Exhibit "A."

**NOW, THEREFORE, BE IT RESOLVED**, that the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona, hereby approve the "Intergovernmental Facilities Agreement between the Town of Pinetop-Lakeside and Navajo County, Arizona for Justice Court Facilities," attached hereto as Exhibit "A" and authorize the Mayor to execute the Agreement and the Manager to execute any additional documents that may be needed to implement and perform the Agreement.

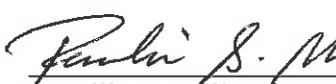
**PASSED AND ADOPTED** by the Mayor and Town Council of the Town of Pinetop-Lakeside this 3<sup>rd</sup> day of May, 2018.

**TOWN OF PINETOP-LAKESIDE**

  
\_\_\_\_\_  
Stephanie Irwin  
Mayor

ATTEST:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Remilie S. Miller, MMC  
Town Clerk



  
\_\_\_\_\_  
William J. Sims, III  
Town Attorney

***EXHIBIT "A"***

**INTERGOVERNMENTAL FACILITIES AGREEMENT  
BETWEEN  
THE TOWN OF PINETOP-LAKESIDE AND  
NAVAJO COUNTY, ARIZONA FOR JUSTICE COURT FACILITIES**

**WHEREAS**, the Town of Pinetop-Lakeside, Arizona, a municipal corporation (Hereinafter "Town"), and Navajo County, Arizona (Hereinafter "County") and jointly known as the "parties", desire to enter into an Intergovernmental Facilities Lease Agreement for Navajo County's lease of the Town's building located at 1630 E. White Mountain Boulevard, Units A3 and A4, Pinetop, Arizona 85935; and

**WHEREAS**, the lease will allow for more efficient operations between the Town of Pinetop-Lakeside and Navajo County; and

**WHEREAS**, the lease will allow for more efficient use of space and resources for the Pinetop-Lakeside Justice Court, thus saving money for the taxpayers of Navajo County and the Town of Pinetop-Lakeside.

**NOW THEREFORE**, the parties agree as follows:

**THE TOWN OF PINETOP-LAKESIDE, ARIZONA**, a municipal corporation ("Town"), hereby leases the Premises described below, for the Term and on the terms and conditions set forth in this Agreement, to **NAVAJO COUNTY, ARIZONA** ("County").

**SECTION 1 SUMMARY OF BASIC TERMS**

1.1 **The Premises**. The Leased Premises ("Premises") shall consist of Units A3 and A4 located at 1630 East White Mountain Boulevard, Units A3 and A4, Pinetop, Arizona, 85935.

1.2 **The Term**. The Term of this Lease agreement is Five years (5), beginning on June 1, 2018 ("Effective Date"). Upon mutual agreement of the parties, the Term may be extended for additional five (5) year terms with any additions to the rental rate to be negotiated between the parties at that time.

1.3 **Base Rent**. County shall only be responsible for the onetime payment of fifteen thousand dollars (\$15,000.00) for the entire lease agreement which shall cover the County's responsibility for a proportionate cost associated with utilities, including water, sewer, electric, gas, telephone, internet, and television services to the Premises. Town shall be responsible for remaining costs associated with utilities, including water, sewer, electric, gas, telephone, internet, and television services to the Premises which exceeds the County's one-time payment.

1.4 Description of County's Operations. Navajo County will utilize the space of the Premises to carry out the functions of governmental operations for Navajo County. It is anticipated that Navajo County will operate the Pinetop-Lakeside Justice Court at this facility. However, the Town understands that Navajo County may utilize the Premises for other Government operations not specifically listed in this section. County agrees to consult with Town and keep Town apprised of active and contemplated uses and improvements.

1.5 Normal Business Hours. 8:00 a.m. to 5:00 p.m., Monday through Friday.

1.6 County's Notice Address. Navajo County, P.O. Box 668, Holbrook, AZ 86025. Attention: County Manager.

1.7 Town's Notice Address. Town of Pinetop-Lakeside, 958 South Woodland Road, Pinetop, Arizona 85929, Attention: Town Manager.

1.8 Renewal Period. County and Town may agree to a renewal of this agreement for additional periods as agreed upon between the parties following the Expiration Date as indicated in paragraph 1.2.

## SECTION 2 DELIVERY AND CONDITION

2.1 Condition. County agrees to accept the Premises, and the Town agrees to maintain the property in good condition.

## SECTION 3 USE OF PREMISES

3.1 Permitted Uses. County may use and occupy the Premises for the purposes set forth in Section 1.4.

3.2 Access to Premises. Access to the Premises by the County or the Town, its employees, agents, and invitees, shall be granted as needed through access cards that will be provided by either the Town or the County depending on the area of the building that access is required. The County and the Town agree to immediately notify each other of any employee that should no longer be granted access so access can be denied for the safety of the public and all employees in the building.

3.3 Insurance Restrictions. County shall not perform any act which would cause the cancellation of any insurance policies related to the Premises.

3.4 Improvements. County shall consult and receive written permission prior to the construction of any improvements to the Premises after occupation.

3.5 Compliance with Law. Without in any manner limiting any other provision of this Lease, County hereby represents and warrants and agrees for the period of its obligations under this Lease that it shall use and maintain the Premises in compliance with all applicable laws.

## SECTION 4 OPERATING COSTS

4.1 Town. Town will pay any and all operation costs associated with this agreement.

## SECTION 5 INSURANCE AND INDEMNITY

5.1 Insurance Policies. Town understands and acknowledges that County is a participant in the Arizona Counties Insurance Pool pursuant to A.R.S. § 11-952.01 and agrees that such participation shall be deemed to satisfy the requirements of insurance. Property and liability insurance shall be provided by the Arizona Counties Insurance Pool. The insurance provided by Arizona Counties Insurance Pool shall be primary insurance and non-contributory and each party will be responsible for their own negligence or losses.

5.2 Indemnity. County agrees to and shall indemnify, defend and hold Town harmless from and against all liability, loss, damage, costs or expenses (including attorney fees and court costs) arising from or as a result of the death, bodily injury, personal injury, or property damage of any kind or description which may directly or indirectly arise out of County's operation of the leased Premises and which may be directly or indirectly caused by any acts or omissions of County or its agents or employees. Town agrees to and shall indemnify, defend and hold County harmless from and against all liability, loss, damage, costs or expenses (including attorney fees and court costs) arising from or as a result of the death, bodily injury, personal injury, or property damage of any kind or description which may directly or indirectly arise out of Town's activities upon the leased Premises and which may be directly or indirectly caused by any acts or omissions of Town or its agents or employees.

## SECTION 6 TERMINATION RIGHTS OF THE PARTIES

This Lease may only be cancelled after the initial Term by either party upon One Hundred and Eighty (180) days written notice to the other party.

## SECTION 7 MAINTENANCE

7.1 By County. County shall only be responsible for the onetime payment of fifteen thousand dollars (\$15,000.00) for the entire lease agreement. This onetime payment shall also cover the County's responsibility for general maintenance to the Premises. County shall not be responsible for the repairs or replacement to significant structural defects, HVAC system failures, or roof replacements. County shall not be responsible to maintain, replace, clean or repair parking lots, sidewalks, landscaping, or make appropriate repairs to roof or walls, painting and repairs of exterior walls.

## SECTION 8 UTILITIES

Town agrees to pay all utilities, including water, sewer, electric, gas, telephone, internet, and television services to the Premises.

## SECTION 9 TOWN RIGHT OF ENTRY

Town shall at all times have access to the Premises for purposes of inspection and performing Town's obligations and exercising its rights under this Lease.

## SECTION 10 SIGNAGE

Town and County shall work together to provide signage to the Premises that complies with the Town's sign code.

## SECTION 11 COUNTY ALTERATIONS

11.1 County Alterations. After originally taking possession of the Premises, County may make changes, additions and improvements in the Premises, at its own expense. Such changes, additions or improvements shall be in accordance with applicable law, be made only with the prior written consent of Town, which shall not unreasonably be withheld, be constructed in good workmanlike manner and of a quality that equals or exceeds the then current standard for the Premises. The improvements shall be constructed by County and/or licensed contractors, who shall furnish to Town copies of applicable performance and payment bonds. The improvements shall be constructed at a reasonable time, based on the nature of the work performed at the Premises.

11.2 County Installations. County may install on the Premises reasonable and necessary fixtures and personal property in a proper manner, provided that no installation shall interfere with or damage the mechanical or electrical systems or the structure of the Premises. Town may require that any work that may affect structural elements or mechanical, electrical, heating, air conditioning, plumbing or other systems be performed by County or by a contractor designated by Town.

## SECTION 12 ASSIGNMENT AND SUBLETTING

12.1 Consent Required. County shall not assign its interest under this Lease or sublet all or any part of the Premises without Town's prior written consent, which consent will not unreasonably be withheld. Any assignment of the lease must meet the Town's requirements for a secure Building. The Town may require reasonable identification, financial or other pertinent information reasonably required to determine the qualifications of the proposed assignee and/or sub-lessee.

12.2 Encumbrance Prohibited. County shall not at any time pledge, hypothecate, mortgage or otherwise encumber its interest under the Lease as security for the payment of a debt or the performance of a contract. County shall not permit its interest under this Lease to be transferred by operation of law. Any purported assignment or Lease made without Town's consent shall be void.

12.3 Continued Responsibility. County shall remain fully liable for performance of the entire Term of this Lease, notwithstanding its assignment or sublease.

#### SECTION 13 QUIET ENJOYMENT

If County observes and performs the terms, covenants and conditions contained in this Lease, County shall peaceably and quietly hold and enjoy the Premises for the Term, and all renewals thereof, without hindrance or interruption by Town, or any other person lawfully claiming by, through or under Town unless otherwise permitted by the terms of this Lease. County acknowledges that the exercise by the Town of any of the rights conferred on Town under this Lease and the entry upon the Premises for or in connection with such purposes shall not be deemed to be a constructive or actual eviction of the County and shall not be considered to be a breach of Town's covenant of quiet enjoyment.

#### SECTION 14 SURRENDER AND HOLDOVER

14.1 Surrender. Upon the expiration or termination of this Lease or of County's right to possession, County shall surrender the Premises in a clean undamaged condition and shall remove all of County's equipment, fixtures and property and repair all damage caused by the removal. County shall not remove permanent improvements that were provided by Town at the commencement of this Lease and shall not remove permanent improvements later installed by County unless requested in writing to do so by Town. If improvements are removed at the request of the Town the Premises shall be returned to the condition existing as of the Effective, subject to reasonable wear and tear.

14.2 Holdover. If County holds over without Town's consent, County shall, at Town's election, be a Tenant from month-to-month. Rent shall be the fair market value of the rental at the time of the holdover. All the terms of this Lease will remain in effect during the month to month tenancy. A month-to-month tenancy may be terminated by either party as of the first day of a calendar month upon at least thirty (30) days prior notice.

#### SECTION 15 BREACH, DEFAULT, AND REMEDIES

15.1 Default. The following shall constitute "Events of Default":

(a) County's failure to pay rent or any other amount due under this Lease within twenty (20) days after notice of nonpayment; or

(b) County's failure to perform any other obligation under this Lease within fifteen days after notice of nonperformance; provided, however, that if the breach is of such a nature that it cannot be cured within fifteen days, no Event of Default shall be deemed to have occurred by reason of the breach if cure is commenced promptly and diligently pursued to completion within a period not longer than ninety days; and provided further, that in the event of a breach involving an imminent threat to health or safety, Town may in its notice of breach reduce the period for cure to such shorter period as may be reasonable under the circumstances.

15.2 Remedies. Upon the occurrence of an Event of Default, Town, at any time thereafter without further notice or demand may exercise any one or more of the following remedies concurrently or in succession:

(a) Terminate County's right to possession of the Premises by legal process or otherwise, with or without terminating this Lease, and retake exclusive possession of the Premises.

(b) From time to time relet all or portions of the Premises, using reasonable efforts to mitigate Town's damages. In connection with any reletting, Town may relet for a period extending beyond the term of this Lease and may make alterations or improvements to the Premises without releasing County of any liability. Upon a reletting of all or substantially all of the Premises, Town shall be entitled to recover all of its then prospective damages for the balance of the Lease Term measured by the difference between amounts payable under this Lease and the anticipated net proceeds of reletting.

(c) From time to time recover damages arising from County's breach of the Lease, regardless of whether the Lease has been terminated.

(d) Recover all costs, expenses and attorneys' fees incurred by Town in connection with enforcing this Lease, recovering possession, reletting the Premises or collecting amounts owed, including, without limitation, costs of alterations, brokerage commissions, and other costs incurred in connection with any reletting.

(e) Pursue other remedies available at law or in equity.

## SECTION 16 NOTICES

Any notice from one party to the other shall be in writing and shall be deemed duly served: (a) if delivered personally to a responsible employee of County, mailed by registered or certified mail, return receipt requested, or sent by reputable overnight courier (e.g., FedEx, UPS, DHL) addressed to County at the address set forth in Section 1 or (b) mailed by registered or certified mail, return receipt requested, or sent by reputable overnight courier (e.g., FedEx, UPS, DHL) to Town at the address set forth in Section 1 or such other address as

Town may designate. Any notice shall be deemed to have been given when mailed, if mailed, and when delivered, if personally delivered.

## SECTION 17 GENERAL

17.1 Severability. If any term, covenant or condition of this Lease, or the application thereof, is to any extent held or rendered invalid, it shall be and is hereby deemed to be independent of the remainder of the Lease and to be severable and divisible therefrom, and its invalidity, unenforceability or illegality shall not affect, impair or invalidate the remainder of the Lease or any part thereof.

17.2 No Waiver. The waiver by Town of any breach of any term, covenant or condition contained in this Lease shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or of any other term, covenant or condition contained in this Lease. The subsequent acceptance of any payment owed by the County by Town shall not be deemed to be a waiver of any preceding breach by County of any term, covenant or condition of this Lease, regardless of Town's knowledge of such preceding breach at the time of acceptance of such payment. No term, covenant or condition of this Lease shall be deemed to have been waived by Town unless such waiver is in writing by Town.

17.3 Delay. If either party is delayed or hindered in or prevented from the performance of any term, covenant or act required hereunder by reasons of strikes, labor troubles, inability to procure materials or services, power failure, restrictive governmental laws or regulations, riots, insurrection, sabotage, rebellion, war, act of God, or other reason whether of a like nature or not that is beyond the control of the party affected, financial inability excepted, then the performance of that term, covenant or act is excused for the period of the delay and the party delayed shall be entitled to perform such term, covenant or act within the appropriate time period after the expiration of the period of such delay. Nothing in this Section, however, shall excuse County from the prompt payment of any amount payable under this Lease.

17.4 Successors. All rights and liabilities under this Lease extend to and bind the successors and assigns of Town and permitted successors and assigns of County. No rights, however, shall inure to the benefit of any transferee of the County unless the transfer has been consented to by the Town in writing as provided in Section 12.1. If there is more than one sub-tenant, they are all bound jointly and severally by the terms, covenants and conditions of this Lease.

17.5 Integration. This Lease and exhibits hereto attached, set forth all the covenants, promises, agreements, conditions and understandings between Town and County concerning the Premises and there are no other covenants, promises, agreements, conditions or understandings, either oral or written,

between them. No alteration, amendment or addition to this Lease shall be binding upon Town or County unless in writing and signed by County and Town.

17.6 Dispute Resolution. All disputes and controversies between the parties hereto shall be resolved by mediation, arbitration or such other alterative dispute resolution to which the parties may agree. In the event of a failure to agree on a dispute resolution forum within thirty (30) days of written notice of the dispute, either party may seek relief in Navajo County Superior Court.

17.7 Governing Law. This Lease shall be construed in accordance with and governed by the laws of the State of Arizona, with venue in Navajo County. This Lease is subject to A.R.S. § 38-511.

17.8 Deadlines Enforceable. Time is of the essence of this Lease and of every part hereof.

17.9 Counterparts. This Lease may be executed in counterparts, which together shall constitute a single instrument.

17.10 Mutual Representations and Warranties. The person(s) signing this Lease and any documents and instruments in connection herewith on behalf of the respective parties hereto have full power and authority to do so. The execution, delivery and performance of this Lease by the respective parties have been duly authorized, and this Lease shall be a valid and binding agreement on the parties hereto.

IN WITNESS WHEREOF, the parties to this Intergovernmental Lease Agreement have caused their names to be affixed hereto by their duly authorized officers on the dates indicated.

***Remainder of page left intentionally blank, signature page to follow.***

**NAVAJO COUNTY**

By \_\_\_\_\_,  
\_\_\_\_\_, Chairman, Navajo  
County Board of Supervisors

Date \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Melissa Buckley, Clerk of the Board

APPROVED AS TO FORM AND  
AUTHORITY PURSUANT TO  
A.R.S. § 11-952:

\_\_\_\_\_  
\_\_\_\_\_, County Attorney

**TOWN OF PINETOP-LAKESIDE**

By Stephanie Irwin  
Stephanie Irwin, Mayor

Date 5/3/2018

ATTEST:

Remilie S. Miller  
Remilie S. Miller, MMC, Town Clerk



APPROVED AS TO FORM AND  
AUTHORITY PURSUANT TO  
A.R.S. § 11-952:

William J. Sims  
William J. Sims III, Town Attorney