



# Staff Report

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**Agenda Item:** INTERGOVERNMENTAL SERVER SOFTWARE AGREEMENT WITH THE CLARKDALE FIRE DISTRICT – Discussion and consideration of an IGA with the Clarkdale Fire District regarding Windows Server STD 2003 Govt-6 software and the thirteen licenses that go with the server.

**Staff Contact:** Kathy Bainbridge, Town Clerk

**Meeting Date:** January 13, 2009

**Background:** The Clarkdale Fire District is in the process of installing a computer network at Station #21. In the process of evaluating their options, it came to light that the Town has Windows Server STD 2003 Govt-6 software and the 13 licenses that go with the Server. This particular Windows Server is not used by the Town in our new network configuration, and we have determined that the licenses can be transferred to another entity with our permission.

We are presenting this IGA to the Council which allows the transfer of the Server and licenses to the District, in exchange for the District's early repayment of the remaining funds that are owed to the Town under the agreement entered with the District. The District is more than willing to forego any interest that they might have received on the money that is owed to the Town, and the Town realizes a gain by having the money faster than is anticipated under Agreement.

This IGA has been review and approved as to form by the Town Attorney, Clarkdale Fire District attorney, Town Manager, and the Clarkdale Fire District.

**Recommendation:** Approval of IGA with Clarkdale Fire District transferring software licenses.

When recorded return to:  
Town of Clarkdale  
Town Clerk  
PO Box 308  
Clarkdale, AZ 86324

**INTERGOVERNMENTAL SERVER SOFTWARE AGREEMENT**

**THIS AGREEMENT**, made and entered into this 13<sup>th</sup> day of January, 2009, by and between the CLARKDALE FIRE DISTRICT, a special district of the State of Arizona, hereinafter called "District," and the TOWN OF CLARKDALE, a municipal corporation of the State of Arizona, hereinafter called "Clarkdale."

**WHEREAS**, The District is in the process of installing a computer network at Station #21, and while evaluating their options, found that the Town has Windows Server STD 2003 Govt-6 software and the 13 licenses that go with the Server which are not in use; and

**WHEREAS**, The Windows Server STD 2003 Govt-6 software and the 13 licenses are not used by Clarkdale's new network configuration, and it has been determined that the licenses can be transferred to another entity with Clarkdale's permission; and

**WHEREAS**, Both the District and Clarkdale have determined that an agreement for transfer of the Windows Server STD 2003 Govt-6 software and the 13 licenses would maximize the benefits of these resources for the citizens of Clarkdale; and

**WHEREAS**, pursuant to A.R.S. 11-952, Clarkdale Fire District and the Town of Clarkdale are authorized to enter into such agreement.

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

1. Clarkdale will transfer Windows Server STD 2003 Govt-6 software and the 13 licenses to District effective January 14, 2009.
2. District agrees to double their outstanding payments, commencing January 2009, as referenced in Section 4 – Consideration to the Town, of the Amended Lease Agreement, Clarkdale Fire Station #21, recorded in Yavapai County, Book 4542, Page 269, dated 9/26/2007.  
January – 2009 payment equals \$35,570.18  
February – 2009 payment equals \$35,570.18  
March – 2009 payment equals \$1,778.45
3. In the event that revenues to the District are not sufficient for the District to meet its payment obligations to Clarkdale as set forth above, the parties agree to meet and renegotiate the schedule for payments to the Town. Either party hereto can require such meeting by written notice hand delivered to the other, at least three (3) working days in advance of said proposed meeting.

4. This Agreement shall be for a period commencing on January 14, 2009, and expiring upon payment in full of the Amended Lease Agreement, Clarkdale Fire Station #21, recorded in Yavapai County, Book 4542, Page 269, dated 9/26/2007.
5. Each party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other party from and against any and all claims, losses, liability, costs or other expenses (including, but not limited to, reasonable attorneys' fees) arising out of bodily injury of any person, property damage and any other claims which are caused by the act, omission, negligence, misconduct or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.
6. This Agreement may be terminated by either party upon thirty (30) days written notice delivered to the other party.
7. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and it may be amended or modified only by an instrument in writing signed by both parties.
8. This Agreement shall be filed with the Secretary of State or the County Recorder as provided in ARS 11-952.
9. This Agreement may be cancelled pursuant to the provisions of ARS 35-511.
10. All books, accounts, reports, files and other records relating to this agreement shall be subject to inspection and audit by the Town for five years after completion of the agreement as provided in ARS 35-214.
11. Non-Availability of Funds: Every payment obligation of the Town under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the Town at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the Town shall not be obligated or liable for any future payments as a result of termination under this paragraph.
12. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Town Clerk  
Town of Clarkdale  
890 Main Street  
P.O. Box 308  
Clarkdale, AZ 86324

Town Attorney  
Boyle, Pecharich, Cline, Whittington & Stallings, P.L.L.C.  
Attention: Robert S. Pecharich  
125 North Granite Street  
Prescott, AZ 86301

13. In accordance with ARS 11-952(D) the attached written determination of each party's legal counsel that the parties are authorized to enter into this Agreement and that the Agreement is in proper form.

**ATTORNEY APPROVAL FORM**

Pursuant to ARS 11-951 through 11-954 the undersigned has reviewed the attach Intergovernmental Agreement between the Town of Clarkdale and The Clarkdale Fire District and find the Agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona and the Town Code.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
Robert S. Pecharich  
Boyle, Pecharich, Cline, Wittington & Stallings, P.L.L.C.  
Clarkdale Town Attorney

Pursuant to ARS 11-951 through 11-954 the undersigned has reviewed the attach Intergovernmental Agreement between the Town of Clarkdale and The Clarkdale Fire District and find the Agreement to be in proper form and within the powers and authority granted to the Clarkdale Fire District under the laws of the State of Arizona and the

Dated this \_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
Randy Schurr  
Attorney for Clarkdale Fire District

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officials on the aforementioned date:

CLARKDALE FIRE DISTRICT

TOWN OF CLARKDALE

\_\_\_\_\_  
Jim Elmer, Chairman

\_\_\_\_\_  
Doug Von Gausig, Mayor

ATTEST:

\_\_\_\_\_  
Seth Murphy, Clerk

\_\_\_\_\_  
Kathy Bainbridge, Town Clerk