



# Staff Report

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Agenda Item:            **Intergovernmental Agreement with City of Cottonwood for a Public Transit System** – Approval of an Intergovernmental Agreement for a public transit system within the Clarkdale Town limits with the City of Cottonwood department known as C.A.T.

Staff Contact:            Walt Good, Deputy Town Clerk

Meeting Date:            September 13, 2009

Background:            The Town of Clarkdale has contracted annually with the City of Cottonwood for transit services provided by the Cottonwood Area Transit (C.A.T.). The current agreement expires September 30, 2009. The proposed contract contains no change in wording from the current contract. This transit system is a shared service between the City of Cottonwood, the Town of Clarkdale and Yavapai County.

The total compensation to the City of Cottonwood for these services is \$52,140.00 to be paid at the rate of one twelfth (1/12) the aforementioned amount. The last contract was for \$49,488.00, this is an increase of \$2,652.00. The increase has been accounted for in the FY2009-2010 Budget.

Recommendations:    To approve the Intergovernmental Agreement for a public transit system within the Clarkdale Town limits with the City of Cottonwood department known as C.A.T.

**INTERGOVERNMENTAL AGREEMENT FOR A PUBLIC TRANSIT SYSTEM  
WITHIN THE CLARKDALE TOWN LIMITS**

**THIS AGREEMENT**, made and entered into by and between the CITY OF COTTONWOOD, a municipal corporation of the state of Arizona, hereinafter called "Cottonwood," and the TOWN OF CLARKDALE, a municipal corporation of the State of Arizona, hereinafter called "Clarkdale," pursuant to A.R.S. §11-951, *et seq.*

**WITNESSETH**

**WHEREAS**, Clarkdale is desirous of obtaining for its benefit the services of Cottonwood's public transportation system for Clarkdale and Cottonwood is desirous of providing such services; and

**WHEREAS**, Clarkdale is authorized to provide for and regulate public transportation pursuant to A.R.S. §9-240.B(25); and

**WHEREAS**, Cottonwood is authorized to provide for and regulate public transportation pursuant to A.R.S. §9-240.B(25); and

**WHEREAS**, Cottonwood desires to contract with Clarkdale as an independent contractor for the right to manage, operate, and maintain its own facilities in its own professional manner.

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

**I. PURPOSE OF AGREEMENT**

Clarkdale hereby retains Cottonwood to promote, develop, and enhance public transportation for Clarkdale and its environs, and to render specific professional and technical services to Clarkdale. This Agreement has no effect on any other services or enterprises in which the City may engage.

**II. SCOPE OF SERVICES**

The primary services rendered by Cottonwood, under this Agreement, shall be as follows:

a. To provide public transportation services to the people of the Town of Clarkdale for their convenience and benefit.

b. To promote, develop, and enhance the continual effort toward improved public transportation through a close liaison with state agencies, membership in transportation organizations, utilization of advertising and publicity, and in all other ways to stimulate public transportation.

### III. TERM

This Agreement shall be for a twelve month period commencing October 1, 2009, and ending September 30, 2010, and may be renewed upon renegotiation between Cottonwood and Clarkdale at least thirty (30) days prior to September 30, 2010.

### IV. TERMINATION

In the event Cottonwood assigns to a subcontractor its duties and responsibilities enumerated herein for operation and maintenance and management of the public transportation, this Agreement will terminate automatically sixty (60) days after execution of said subcontract. The parties shall then be free to negotiate a new Agreement for transportation services.

The parties understand that this is a service contract, and that, in the event of termination of this Agreement, neither party shall have a claim against the property of the other party for distribution of such property.

### V. COMPENSATION. MATCHING FUNDS

a. For the services provided for herein, Clarkdale shall pay to Cottonwood the sum of FIFTY TWO THOUSAND ONE HUNDRED FORTY DOLLARS (\$52,140.00).

b. Payments shall be made monthly at the rate of one twelfth (1/12) of the above amounts.

c. Payments will commence during the second half of the month of October, 2009.

d. Cottonwood agrees to use good faith efforts to raise additional funds for the support of the Cottonwood Area Transit (CAT). Any such funds received for this purpose shall be used to improve public transportation throughout the CAT service area, including the area that is the subject of this Agreement.

### VI. REPORTING

Cottonwood agrees to report to Clarkdale on the following basis:

a. Monthly report: Cottonwood shall prepare and deliver to the Town Manager of Clarkdale fifteen (15) days after the end of each successive month, a narrative summary of accomplishments achieved during the respective month under the Agreement. Such report shall include Cottonwood's transit report of the prior month.

**VII. CONTRACTOR'S STATUS**

It is understood and agreed by the parties that Cottonwood is and shall remain an independent contractor under this Agreement.

**VIII. INDEMNIFICATION**

a. Except as may arise out of any negligent or wrongful act by Clarkdale or any employee, officer, official, representative or agent of Clarkdale, Cottonwood does hereby covenant and agree to indemnify and hold harmless Clarkdale, its board and employees, individually and collectively, from all fines, suits, claims, demands, actions costs, obligations, attorney's fees, or liability of any kind, and does hereby agree to and does assume all risks in Cottonwood's performance of this Agreement and shall be solely responsible and answerable for any and all injuries to persons or property arising out of Cottonwood's performance of this Agreement.

b. Except as may arise out of any negligent or wrongful act by Cottonwood or any employee, officer, official, representative or agent of Cottonwood, Clarkdale does hereby covenant and agree to indemnify and hold harmless Cottonwood, its council and employees, individually and collectively, from all fines, suits, claims, demands, actions, costs, obligations, attorney's fees, or liability of any kind, and does hereby agree to and does assume all risks in Clarkdale's performance of this Agreement and shall be solely responsible and answerable for any and all injuries to persons or property arising out of Clarkdale's performance of this Agreement.

**IX. CONFLICT OF INTEREST**

Pursuant to A.R.S. §38-511, the parties may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of that party is, at any time while the Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

**X. NON-DISCRIMINATION**

The parties and any subcontractors shall comply with Executive Order 99-4 (dated January 29, 1998) concerning non-discrimination in government contracting.

**XI. SEVERABILITY**

The parties agree that if any part or parts of this Agreement are held to be void or unenforceable by a court of competent jurisdiction, the remaining parts of the Agreement shall remain in full force and effect.

XII. ENTIRE AGREEMENT AND MODIFICATION

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof, and may be amended, modified, or waived only by an instrument in writing signed by both parties.

XIII. ARBITRATION

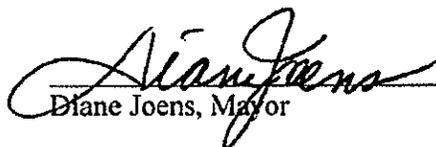
In the event a dispute arises between the parties which cannot be resolved after good faith attempts at settlement, then the parties agree to submit the matter to arbitration pursuant to the Arizona Uniform Arbitration Act, §12-1501 *et seq.*

XIV. EFFECTIVE DATE

This Agreement shall be effective on October 1, 2009, or on the date it is fully executed by the parties, whichever is later. This Agreement shall be filed in the office of the Yavapai County Recorder.

IN WITNESS WHEREOF, this Agreement is executed on the date and year below written.

**CITY OF COTTONWOOD:**

  
\_\_\_\_\_  
Diane Joens, Mayor

9-10-09  
\_\_\_\_\_  
Date

ATTEST:

  
\_\_\_\_\_  
Marianne Jiménez, City Clerk

Pursuant to A.R.S. §11-952.D., the foregoing Agreement has been reviewed by the attorney for the City of Cottonwood, who has determined that the Agreement is in proper form and is within the powers and authority granted under the laws of the State to the City of Cottonwood.

  
\_\_\_\_\_  
Attorney For The City of Cottonwood

**TOWN OF CLARKDALE:**

\_\_\_\_\_  
Doug VonGausig, Mayor

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Town Clerk

Pursuant to A.R.S. §11-952.D., the foregoing Agreement has been reviewed by the attorney for the Town of Clarkdale, who has determined that the Agreement is in proper form and is within the powers and authority granted under the laws of the State to the Town of Clarkdale.

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Attorney for the Town of Clarkdale