

PRETRIAL SUPPORTED RELEASE PROGRAM AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2022 by and between the **CITY OF MISSOULA, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, 435 Ryman, Missoula, Montana 59802, hereinafter referred to as “City,” and **MISSOULA COUNTY**, a political subdivision of the State of Montana, 200 W. Broadway, Missoula, MT 59802, hereinafter referred to as “County”).

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. Purpose: The Municipal Court, within the City, recognized a need for pretrial support services to improve pretrial outcomes for Defendants. The Municipal Court and the City desire to develop such a program to decrease failures to appear and the issuance of new charges during the pendency of a Defendant’s case. The City also desires to structure said program that prudently tracks data to better assess and analyze the efficacy of the program. The City has determined the need to institute a Pretrial Supported Release Program and the County has the staff, capacity, and institutional expertise to manage and implement a Pretrial Supported Release Program. The City has determined it is in the best interests of the City to obtain said services through the County and the parties desire to reduce their agreement about providing services to writing.

2. Relationship of the Parties: This Agreement is not intended to constitute or create a joint venture, partnership or formal business organization of any kind whatsoever among and between the parties, and their respective rights and obligations will be only those expressly set forth herein. Neither party will have any authority to bind the other except to the extent authorized herein. Each party will furnish to the other such cooperation and assistance as may be reasonably required and specified hereunder. However, at all times, each party shall remain independent with respect to the other. Employees and agents of each party will not be deemed to be employees or agents of the other party.

3. Term of Agreement: The initial term for this Agreement shall be from the date of signing to June 30, 2023~~6~~, and it shall be automatically renewed each fiscal year for a period of ~~five~~three years unless terminated by either party pursuant to Section 10 of this Agreement. ~~If not terminated pursuant to Section 10, this Agreement shall automatically terminate on June 30, 2026. Should both parties want to continue the Pretrial Supported Release Program, this contract may be renewed.~~

4. Scope of Work: County will perform the work and provide the services in accordance with the requirements of the Scope of Services attached hereto as Exhibit A. County shall have only the authority listed in the scope of work and City shall not request County perform actions solely within the authority of the Municipal Court.

5. Timeline and Reporting: County shall provide the City with status reports as required by the Scope of Services, Exhibit A.

Commented [DJ1]: In may make sense to add some recitals in place of this purpose section to better clarify how this program came about and the general intentions of the parties. I will defer to Kelly and Judge Coolidge on whether you’d like to add this.

Commented [JC2R1]: I added a little more context here. I think it should be good but happy to hear what others think

Commented [DJ3]: I will defer to Kelly/Shantelle and Judge Coolidge here on what both parties are most comfortable with. I would at least like to see an end date for any automatic renewals, perhaps 5 years. Then any amendments in the scope of work and costs can be worked out as they come up.

At our meeting we also discussed the possibility of making this agreement for shorter periods since this program likely will be evolving. Perhaps 2 years? Kelly, I defer to you here.

Commented [JC4R3]: Rather than go five years out, Megan and I decided that we think it best that the contract terminate, absent interim modification, on June 30, 2026. That would allow the contract to sunset along with the last fiscal year associated with our current terms. Our hope is that will allow any different judges that might prevail from the next election to be in a position to not be bound by the program or contract should they want to go in a different direction.

Commented [SG5R3]: This works for me. Is there any reason to note that the contract can be renewed however? I proposed language – but an happy to move forward without it if that is preferred.

Commented [DJ6R3]: With the 2026 set end date, I would suggest either having that term with no discussion of renewals or having a set term of one year with automatic renewals for each year up until 2026 (I’ve updated the language to reflect that second option). Then if the parties want to renew again with the judges in place in 2026 you can initiate a new contract at that point.

6. **Payment:** ~~City agrees to pay County \$178,058 per year for~~To determine the City's compensation to the County for the services set forth in Section 4 and Exhibit A, the County will submit an annual budget to the City for approval each year on a date agreed to in writing by the parties but no later than 60 days prior to the Agreement's renewal date. The parties agree that for the initial term of this Agreement identified in Section 3 the City has approved the Budget attached as Exhibit B and incorporated herein. ~~(Budget detail attached as Exhibit B.)~~

~~To receive payment, the County must submit invoices. Invoices must be submitted with supporting documentation~~ to the Principal Contact for the City identified in Section 14 of this Agreement. ~~The County will submit an annual budget to the City for approval.~~

7. **Records:** County shall maintain reasonable and sufficient records incident to the performance of this Agreement to enable the City to document the performance of this Agreement. County shall provide access to those records by the City and any independent auditor employed by the City and to representatives of the state or federal government subject to requirements of confidentiality as determined by applicable law. Records shall be retained for at least three years after completion of the Agreement.

8. **Professional Service:** County agrees that all services and work performed hereunder will be accomplished in a professional manner.

9. **Compliance with Laws:** Both parties agree to comply with all federal, state and local laws, ordinances, rules and regulations, including the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA.

10. **Nondiscrimination and Affirmative Action:** County agrees that all hiring by County of persons performing this Agreement will be on the basis of merit and qualification and there shall be no discrimination in employment on the basis of race, ancestry, color, physical or mental disability, religion, national origin, sex, age, marital or familial status, creed, ex-offender status, physical condition, political belief, public assistance status, sexual orientation, gender identity or expression, except where these criteria are reasonable bona fide occupational qualifications. County further agrees to comply with the City's Affirmative Action policy attached hereto as Exhibit C.

11. **Default and Termination:**

a. **Termination for cause.** If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party, at its option, may terminate this Agreement and be released from all obligations if the default is not cured within thirty (30) days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in Section 14 of this Agreement.

b. **Termination without cause.** Either party may terminate this agreement without cause by providing the other party a six (6) month written notice of its intent to terminate the agreement.

c. **Payment.** If the Agreement is terminated prior to completion, City shall be responsible

Commented [JC7]: I can confirm that we can pay everything that is in the spreadsheet that was emailed around, I'm just not sure how to designate the per year cost, given there are start up costs the first year and we don't know what next year will look like.

Commented [SG(8R7)]:

Commented [SG(9R7)]: I am not sure if we need to rework the language here in any way... there will be slight variation in the cost of this program from year to year. For example - in FY23 we have some one-time costs that will not be in FY24. However, there will likely be small annual cost of living increases - generally 2.5% per year. Does the language that I added cover this?

Commented [DJ10R7]: See my edits and let me know if this is a better set up for each side. If so, please fill in the number of days' notice the parties can agree to for the County to submit its budget and the City to approve prior to contract renewal.

for paying County for completed work within thirty (30) days of termination.

12. Modification and Assignability: This document and its attachments contain the entire agreement between the parties and no statements, promises or inducements made by either party or agents of either party, which are not contained in this written Agreement, may be considered valid or binding. This Agreement may not be enlarged, modified or altered except by written agreement signed by both parties hereto. No obligation or right hereunder may be assigned, transferred, subcontracted or otherwise given to or imposed on any other party in the absence of a written Agreement signed by both parties. Any subcontractor or assignee will be bound by all of the terms and conditions of this Agreement.

13. Public Access to Information: Both parties agree that they are local government entities and their records are subject to disclosure under Montana Law. Certain information may be protected from disclosure. Protected information includes confidential criminal justice information, information concerning an individual privacy interest, advocate privilege, legitimate trade secrets and other constitutionally protected proprietary information and certain information relating to individual or public safety. The parties agree to confer prior to disclosure of information relating to this Agreement and its performance which may include protected information.

14. Indemnification:

a. City shall defend, indemnify and hold harmless County, its employees and agents, from all claims, liabilities, demands, causes of action or judgments, including costs and attorney fees, asserted by or awarded to third parties as a result of any negligent action or omission or willful misconduct of City, its employees or agents.

b. County shall defend, indemnify and hold harmless City, its employees and agents, from all claims, liabilities, demands, causes of action or judgments, including costs and attorney fees, asserted by or awarded to third parties as a result of any negligent action or omission or willful misconduct of the County, its employees or agents.

15. Principal Contacts: All notices, demands, consents and reports must be given in writing and delivered personally or mailed to the following designated contacts:

City's designated contacts are:

Megan Smith, Municipal Court Administrator
(406) 552-6172
smithm@ci.missoula.mt.us

County's designated contacts are:

Kim White, Missoula County Sheriff's Office
kmwhite@missoulacounty.us
(406) 550-3745

16. Applicability: This Agreement and any extensions hereof shall be governed and construed in accordance with the laws of the State of Montana. In the event of litigation concerning this Agreement, venue shall be in the 4th Judicial District in and for the County of Missoula, Montana.

17. **Severability.** Should any part of this Agreement be deemed invalid or unenforceable under applicable law, that provision shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of said provision or the remaining provisions of this Agreement.

18. **Waiver.** No waiver of compliance with any provision or condition of this Agreement shall constitute a waiver of any other provision or condition previously waived as to new circumstance or events.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

County:

BOARD OF COUNTY COMMISSIONERS
Missoula County, Montana

Chair
Juanita Vero

Commissioner
David Strohmaier

Commissioner
Josh Slotnik

ATTEST:

Clerk & Recorder

City:

MAYOR, CITY OF MISSOULA
Missoula, Montana

Acting Mayor
Gwen Jones

City Clerk
Marty Rehbein

EXHIBIT A

**Scope of Services
Pretrial Supported Release Program**

Referenced to and made a part of the Pretrial Supported Release Program Agreement between the City of Missoula and Missoula County, commencing on October 1, 2022.

Commented [JC11]: Tentative date

Under the terms of the Agreement, County will provide the following services or tasks or work products:

Goals and Objectives

Goals for the Pretrial Supported Release Program:

- Provide pretrial services to all defendants assigned by the City of Missoula Municipal Court.

To include:

- Engaging with defendants via telephone contact, text notifications, in-person meetings and/or mailed correspondence to provide frequent reminders of upcoming court dates and/or meeting times and dates with justice partners.
- Reduce the number of failures to appear by defendants with proceedings in Municipal Court.
- Provide the least restrictive monitoring necessary to ensure compliance with conditions of release and have a defendant remain law abiding while residing in the community pending further court proceedings.
- Safely reduce the jail population while maintaining and enhancing public safety.

Target Population

Defendants being prosecuted in Missoula Municipal Court in need of additional services to decrease failures to appear and new offenses during the pendency of their case, to be determined by judges on a case-by-case basis.

Program Organization

Pretrial Supported Release Program

The Pretrial Supported Release Program will include two (2) Pretrial Support Specialists who will receive management oversight and direct supervision from the Community Supported Reentry Program Manager.

Pretrial Supported Release Program Lines of Responsibility

- Pretrial Support Specialist(s) will provide support to pretrial defendants who are ordered to the program by the Municipal Court and assist defendants in complying with court ordered requirements as they move through the criminal justice process.
- Pretrial Support Specialists will monitor defendants through a combination of providing phone contact, text message reminders, and reviewing weekly/monthly reports submitted by defendants and, in some cases, meet with defendants during office appointments.

Upon referral to the Pretrial Supported Release Program, a Pretrial Support Specialist will review the defendant's Municipal Court orders and identify the level of monitoring ordered by the court, any additional conditions of release, and future court dates.

Program staff will work with the Municipal Court staff to ensure defendants receive services designed to increase the likelihood of defendants attending future court appearances and complying with conditions of release and decrease the issuance of new citations during the pendency of the case. Information provided by the defendant during court proceedings will be used to ensure contact can be made via telephone or by utilizing collateral contacts (friends, family, employers) of program participants. Staff may utilize information provided in the detention facility database to access emergency contact information should it become necessary to contact a defendant's emergency contact.

The Pretrial Support Specialist(s) will meet on a weekly basis with the Community Supported Reentry Program Manager to review the progress of those receiving pretrial services. Pretrial Specialist(s) will be responsible for monitoring pretrial defendants based on the level identified by the court as best meeting the needs of a defendant. Pretrial defendants will receive services through a combination of phone contact and/or by submitting weekly/bi-weekly/monthly reports to the Pretrial Support Specialist(s) as determined by the Municipal Court Judge.

All pretrial defendants will be provided pre-court messages (via telephone, text messages, or mailed correspondence) according to the below matrix and provided reminders of future court dates utilizing the prescribed language below:

- **7 days before court:**
 - Contact via telephone: "You have a court date scheduled for Tuesday, May 17th at 0930. You can avoid a warrant being issued by attending your court hearing as ordered." Provide helpful reminders, mark the date in your phone, set an alarm, etc.
 - Contact via text: Helpful reminder: go to court Tues May 17 at 0930. We'll text you to help you remember. Attend your hearing to avoid a warrant.
- **3 days before court:**

- Contact via telephone: “You have court on Tuesday, May 17th at 0930 in Department 1. Missing your court date could result in your arrest.” Provide reminders, leave in enough time to make court, etc.
- Contact via text: Remember, you have court on Tue May 17 at 0930 in Department 1. Missing your court date could result in your arrest.
- **1 day before court**:
 - Contact via telephone: “Remember, you have court tomorrow at 0930 in Department 1. Missing court can lead to your arrest.” Provide reminders, transportation options, ask if they have a plan to make court appearance.
 - Contact via text: Remember, you have court tomorrow at 0930 in Department 1. Missing court may lead to your arrest.

Every effort will be made to speak directly to pretrial defendants via telephone, and text messages will be utilized as a secondary option when providing reminders of upcoming court appearances. Should staff determine it is appropriate to provide court reminders via mailed correspondence, they will discuss this decision with the program manager.

Defendants appearing before the Municipal Court with a history of failures to appear and/or the court finds a defendant would benefit from a higher level of monitoring may be required to report to the Pretrial Supported Specialist in person, by telephone and/or by submitting weekly/bi-weekly/monthly reports (submitted via electronic mail) Cases which appear to need a higher level of services to address needs such as housing, challenges with transportation, substance abuse treatment, etc., may be referred directly to the Community Supported Reentry Coordinator by the Court for evaluation.

The Pretrial Supported Release Program manager will communicate with Municipal Court as capacity becomes an issue. The Municipal Court will cooperate with the Pretrial Supported Release Program manager to ensure that referrals do not outpace program capacity. Ultimately, the Pretrial Supported Release Program manager will have the best understanding of program capacity and reserves the right to refuse should communications between the program and Municipal Court fail to effectively manage program capacity.

Commented [JC12]: Here is the language I added about capacity. I think this reflects the intent of the program. I also ran this idea by Kim. We can either leave it in here or add a standalone provision to the contract.

Records of Contact:

Pretrial Support Specialists shall document case activity, to include contacts with defendants, utilizing a Record of Contact (ROC). ROC notes shall reflect every contact or significant event involving a program participant. The ROC notes shall include the date, time, and nature of the contact. ROC notes shall reflect all types of case activity, such as all contacts with defendant, date, time, mail correspondence, etc. ROC notes shall be reviewed by the Reentry Coordinator for accuracy and completeness once a month. The Reentry Coordinator shall note the date and time of the review on the ROC.

ROC notes shall be kept in program participant case files. Program participant case files shall

remain confidential and are only subject to release with approval/and or authorization from the Reentry Coordinator. All team members, program providers, and adjunct members of the team are required to maintain the confidentiality of participant information and shall not share participant information with non-team members.

File Management:

The Pretrial Support Specialist is responsible for maintaining participant files for the program. Court documents and all program documents/paperwork are to be secured in a locked filing cabinet in the Pretrial Support Specialists' office.

EXHIBIT B

Budget

FY 2023 City Pretrial Support and Court Reminder Program Budget	
-	-
Annual Costs	-
<u>CSRP Manager Wage \$33 (estimate) at .2 FTE</u>	<u>\$13,781</u>
<u>CSRP Manager Fringe 40% (estimate)</u>	<u>\$5,512</u>
<u>Pretrial Support Specialists Starting Wage \$22.00 (estimate) x 2 FTE</u>	<u>\$91,872</u>
<u>Pretrial Support Specialist Fringe 40% (estimate)</u>	<u>\$36,749</u>
<u>Office space - lease \$11.82/sq. foot (estimate 12' x 22')</u>	<u>\$3,120</u>
<u>Office cleaning (estimate) \$50 per month x 12</u>	<u>\$600</u>
<u>Computer (county IT annual charge per workstation x 2)</u>	<u>\$2,200</u>
<u>Phone (\$46/mo. X 2)</u>	<u>\$1,104</u>
<u>Computer subscriptions - Full court, HMIS access, PDF Pro, etc.</u>	<u>\$2,000</u>
<u>General office supplies (\$10 per month)</u>	<u>\$120</u>
<u>Training* - Statewide Pretrial Academy (travel, per diem, additional costs)</u>	<u>\$4,000</u>
<u>Direct service support, incentives (\$200 per month)</u>	<u>\$2,400</u>
TOTAL	\$163,458
-	-
One-Time Costs	-
<u>Computer initial purchase x 2</u>	<u>\$1,000</u>
<u>Phone initial purchase x 2</u>	<u>\$200</u>
<u>Desktop scanner x 2 (TBD if needed)</u>	<u>\$400</u>
<u>Office furniture x 2 (estimate)</u>	<u>\$5,000</u>
<u>Automon Case Management Software</u>	<u>\$8,000</u>
TOTAL	\$14,600
-	-
<u>*Training may be more of an every other year expense</u>	-
<u>County generally provides a 2.5% cost of living increase per year</u>	-
-	-
TOTAL	\$178,058

EXHIBIT C

NON-DISCRIMINATION. All hiring shall be on the basis of merit and qualification and there shall be no discrimination in employment on the basis of race, ancestry, color, physical or mental disability, religion, national origin, sex, age, marital or familial status, creed, ex-offender status, physical condition, political belief, public assistance status, sexual orientation or gender identity/expression, except where these criteria are reasonable bona fide occupational qualifications.

AFFIRMATIVE ACTION POLICY. Contractors, subcontractors, sub grantees, and other firms doing business with the City of Missoula must be in compliance with the City of Missoula's Affirmative Action Plan, and Title 49 Montana Codes Annotated, entitled "Human Rights" or forfeit the right to continue such business dealings.

The City's Affirmative Action Policy Statement is:

The Mayor of the City of Missoula or the Mayor's designee may adopt an affirmative action plan to provide all persons equal opportunity for employment without regard to race, ancestry, color, handicap, religion, creed, national origin, sex, age, or marital status. In keeping with this commitment, we are assigning to all department heads and their staff the responsibility to actively facilitate equal employment opportunity for all present employees, applicants, and trainees. This responsibility shall include assurance that employment decisions are based on furthering the principle of equal employment opportunity by imposing only valid requirements for employment and assuring that all human resource actions are administered on the basis of job necessity.

Specific responsibility for developing, implementing, monitoring and reporting are assigned to the City Human Resource staff under the supervision and direction of the Chief Administrative Officer and the Mayor.

It is the policy of the City of Missoula to eliminate any practice or procedure that discriminates illegally or has an adverse impact on an "affected" class. Equal opportunity shall be provided for all City employees during their terms of employment. All applicants for City employment shall be employed on the basis of their qualifications and abilities.

The City of Missoula, where practical, shall utilize minority owned enterprises and shall ensure that subcontractors and vendors comply with this policy. Failure of subcontractors and vendors to comply with this policy statement shall jeopardize initial, continued, or renewed funds.

Our commitment is intended to promote equal opportunity in all employment practices and provide a positive program of affirmative action for the City of Missoula, its employees, program participants, trainees and applicants.