

April 10, 2024

MEMORANDUM TO: Honorable Mayor and City Council

THRU: Charles P. Potucek, City Manager
Victoria Yarbrough, Asst. City Manager

FROM: Jill Adams, City Clerk

SUBJECT: REQUEST FOR AGENDA ITEM PLACEMENT
Resolution 2024-026, Intergovernmental Agreement with
Cochise County for Election Supplies and Services

RECOMMENDATION:

The City Clerk recommends approval.
The City Manager recommends approval.

BACKGROUND:

The City of Sierra Vista will hold its City Council Election during the General Election on November 5, 2024. For many years, the City's Elections have been staffed by the Cochise County Elections Department and the County Recorder's Office. Pursuant to the attached agreement, the County will provide polling places, ballots, administrative services, election board workers, support staff, prepared instructions, and training for all election boards, and arrange for consulting services to include programming of tabulation equipment, printing ballot cards, early/sample ballots, precinct registers and signature rosters.

This IGA is an example of a successful partnership that ultimately saves the City the significant expense of staging its own election.

BUDGET APPROPRIATION:

\$20,000 to \$25,000

RESOLUTION 2024-026

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; AUTHORIZING THE CITY TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH COCHISE COUNTY TO PROVIDE ELECTION SERVICES; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the City will be scheduling a General Election to be held on November 5, 2024; and

WHEREAS, it is the mutual desire of the parties to provide citizens in the region with all necessary means and opportunities to participate in elections; and

WHEREAS, the City and County, in accordance with A.R.S. § 11-952, (Intergovernmental Agreements) A.R.S. § 11-251(41) (Count Lease of Personal Property), A.R.S. § 11-41-2632 (Cooperative Purchasing), and A.R.S. § Title 16 (Elections and Electors) are empowered to contract, or agree to jointly contract, for services and/or jointly exercise any powers common to both parties, which will mutually benefit both City and County.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the settled policy to contract with other governmental agencies to perform services whenever it is determined to be in the best interest of the citizens of Sierra Vista to not duplicate the ability to perform the service be, and hereby is, reaffirmed.

SECTION 2

That the proposed Intergovernmental Agreement, attached hereto as Exhibit A, between the City of Sierra Vista and Cochise County, providing for election services in accordance with the terms and conditions specified in said agreement, be, and hereby is, approved.

SECTION 3

The City Manager, City Clerk, City Attorney or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 25TH DAY OF APRIL 2024.

Clea McCaa II
Mayor

Approval as to form:

Attest:

Nathan J. Williams
City Attorney

Jill Adams
City Clerk

Prepared by:
Jill Adams, City Clerk



**To be completed by Municipality
(City or Town)**

Contact person _____

Title _____

Address _____

Phone _____

Email _____

Complete IGA Agreement with signatures and return to:
Elections@cochise.az.gov
520-432-8970

The County will execute the final IGA and return a copy to the City or Town Clerk

**INTERGOVERNMENTAL AGREEMENT
FOR ELECTION SUPPLIES AND SERVICES**

THIS AGREEMENT is made and entered this _____ day of _____, 20____ by and between COCHISE COUNTY (COUNTY), a political subdivision of the State of Arizona, and _____ (MUNICIPALITY), located at _____, _____, AZ, _____ for certain election supplies and services;

WHEREAS, the County and the Municipality have determined that the use of certain services of the Cochise County Elections Department and the Cochise County Recorder’s Office is in the public interest, and the County agrees to provide such service;

WHEREAS, the County is willing to provide election services using a vote center model for Municipalities wishing to participate in the consolidated state Primary and General elections, but will not provide election services to districts wishing to conduct mail ballot elections on statewide consolidated elections dates for Primary and General elections;

WHEREAS, the parties have authority to enter into an intergovernmental agreement to provide for election supplies and services pursuant to A.R.S. § 11-952 (Intergovernmental Agreements), A.R.S. § 11-251(41) (County Lease of Personal Property), A.R.S. § 41-2632 (Cooperative Purchasing) and A.R.S. Title 16 (Elections and Electors);



NOW, THEREFORE, in consideration of the mutual covenants, conditions, and obligations herein set forth, the parties agree:

1. SCOPE: The scope of this Agreement is limited to election services and supplies between the MUNICIPALITY and COUNTY for the _____ Election held on _____, 20____ and/or the _____ Election held on _____, 20____.

2. COUNTY DUTIES: The COUNTY agrees contingent upon receipt of a timely, specific request as provided in Paragraph 3(C), to provide the following election services:

A. Election Equipment:

1. Provide E-Poll book tablets (electronic poll register) prepared from the voter records of the County Recorder for the purpose of identifying the electors qualified to vote in the above-mentioned elections.
2. Provide touch-screen voting equipment and tabulation equipment at designated vote centers, for vote center model elections.
3. Provide central election tabulation equipment for early ballots.
4. Provide election reporting system.
5. Provide signage and supplies (paper rolls for machines, tape, scissors, etc)

B. Administrative Elections Department services to include the following:

1. Obtain facilities for use as vote centers located throughout the County.
2. Provide public notice and conduct logic and accuracy tests of programs and equipment.
3. Provide early, election day, and provisional ballots as required.
4. Provide sample ballots to Municipality and if required, for public distribution through the Municipality.
5. Deliver and pickup equipment, ballots, signage and supplies.
5. Provide abstract of results of tabulation to include total ballots cast within the Municipality; total votes for each candidate, question or proposition.
6. Validate, process and count ballots.
7. Canvass the elections as required and provide documentation to MUNICIPALITY.
8. Provide for storage and destruction of ballots and election related materials in compliance with the State of Arizona Retention Schedule guidelines.



- C. Administrative Recorder's Office services to include the following:
 - 1. Provide for all Early Voting functions to including mailing early ballots and conducting in person early voting at the County Recorder's Office in Bisbee.
 - 2. Provide for all Voter Registration functions.
 - 3. Conduct Emergency Day Voting and Special Election Boards as required.
 - 4. Perform signature verification of early ballot affidavit envelopes and maintain voter credit in the state voter registration system.

- D. Arrange for consulting services to include the following services:
 - 1. Ballot layout and design for all ballot styles to be approved by Jurisdiction.
 - 2. Programming the operation of voting and tabulating equipment.
 - 3. Programming the operation of the election reporting module.
 - 4. Printing, folding, insertion and mailing Early Ballots and required notices, excluding Informational Publicity Pamphlets if required by MUNICIPALITY.

- E. Arrange for election board workers:
 - 1. Hire qualified election board workers to include all Boards required and Vote Center workers.
 - 2. Train, supervise and pay election board workers.

- F. Provide an estimate of the aggregate cost of the services.

3. MUNICIPALITY DUTIES: The MUNICIPALITY understands and agrees that:

- A. The MUNICIPALITY retains the primary responsibility for ensuring that its election is called, noticed, held and conducted in the manner required by applicable local, state and federal laws and that the COUNTY does not assume responsibility under this Agreement for any aspects of this election other than those that are expressly stated in Paragraph 2.

- B. MUNICIPALITY shall pay to the COUNTY the amounts at the rates set forth on Exhibit A attached hereto and incorporated into this Agreement at actual cost.

- C. With respect to any specific election for which the MUNICIPALITY desires services and supplies pursuant to this Agreement, the MUNICIPALITY shall provide written notice of the election to the COUNTY at least one hundred and eighty (180) days prior to such election.



- D. The MUNICIPALITY provides nomination petitions and other necessary information to prospective candidates and acts as the Filing Officer to accept documents filed by candidates.

- E. The MUNICIPALITY shall provide the information and detail necessary to enable COUNTY to program the ballot, including the Wards, Districts, or Precincts for which elections are to be held, the offices to be listed on the ballot, the exact listing of the candidates' names to be included, the exact wording (in English and in Spanish) of any Proposition or ballot Question to be included on the ballot, in the format and by the date requested by the COUNTY.
 - 1. Translation of the ballot text shall be provided by the MUNICIPALITY.
 - 2. The MUNICIPALITY is responsible for any language, layout, design, proofing, printing, mailing, and distribution of any Informational Publicity Pamphlets specific to a MUNICIPALITY ballot measure.
 - 3. The MUNICIPALITY is responsible for final ballot proof approval.

- F. Agree to be a point of contact regarding conditional provisional ballots – in that a voter of a conditional provisional ballot can take an acceptable type of personal identification to qualify the subject conditional provisional ballot; document what type of identification is provided indicating any identification numbers and issue dates; provide a daily receipt of ballots cured to the Recorder's Office.

- G. If an election is cancelled prior to programming or printing ballots, the MUNICIPALITY shall reimburse the COUNTY for administrative actual costs per Fee Schedule.

- H. The MUNICIPALITY shall pay the COUNTY in a timely manner or in any event within thirty (30) days of receipt of invoice.

- H. The MUNICIPALITY understands that they will be billed jointly, on one invoice, by the Elections Department and Recorder's Office for election services as outlined in the attached fee schedule.

4. TERM. This Agreement shall begin upon approval of the parties and terminate upon all matters connected with the election being resolved, legal challenges excepted, or upon written notice by either party to the other within thirty (30) days of the effective date of this Agreement. Should the



election herein be challenged or questioned for any reason whatsoever, then, in such event, MUNICIPALITY shall be solely responsible for defending, legally or otherwise, said election(s).

5. INDEMNIFICATION. To the extent permitted by law, each party to this Agreement shall indemnify, defend and hold harmless the other party, its officers, departments, employees and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature which results from the act or omission of the indemnifying party, its agents, officers, employees or anyone acting under its direction, control or on its behalf, whether intentional or negligent.

6. CANCELLATION DUE TO CONFLICT OF INTEREST. Pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein by reference, all parties are hereby put on notice that this Agreement is subject to cancellation by the political subdivision or its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of such political subdivision is, at any time while the contract is or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

7. NON-DISCRIMINATION. To the extent required by law, each party to this Agreement shall comply with all state and federal equal opportunity and non-discrimination requirements and conditions of employment, including the American with Disabilities Act, in accordance with A.R.S. Title 41, Chapter 9, Article 4, and Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin, or political affiliation, shall have equal access to employment opportunities.

8. WORKERS' COMPENSATION. An employee of either party shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement, for purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any worker's compensation benefits which may accrue. Each party shall post a notice pursuant to the provisions of A.R.S. § 23-906 in substantially the following form:

All employees are hereby notified that they may be required to work under the MUNICIPALITY or control or within the Municipal boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of workers' compensation.



9. IMMIGRATION LAWS. The parties hereby warrant that they will at all times during the term of this Agreement comply with all federal immigration laws applicable to the parties' employment of its employees, and with the requirements of A.R.S. § 23-214(A) (together the "State and Federal Immigration Laws"). The parties shall further ensure that each sub-consultant who performs any work for the party under this Agreement likewise complies with the State and Federal Immigration Laws.

10. INSPECTION AND AUDIT. The Parties agree to keep all books, accounts, reports, files, and other records relating to this Agreement for five (5) years after completion of the contract; and, in addition, agrees that such books, accounts, reports, files, and other records shall be subject to audit pursuant to A.R.S. § 35-214.

11. NOTICE. All written communications shall be addressed and mailed or personally served upon the parties, as follows:

COCHISE COUNTY
Marisol Renteria, Interim Director
Cochise County Elections
1415 Melody Lane, Bldg. E
Bisbee, AZ 85603

MUNICIPALITY _____
Name: _____
Title: _____
Address: _____
City: _____, AZ, _____

Notwithstanding the above, any routine communications between the parties that do not affect the rights of obligations of the parties, such as communications regarding the election(s), results, canvass, or otherwise may be sent and received via email.

12. GOVERNING LAW. This Agreement shall be governed and interpreted by the laws of the State of Arizona.

13. SAVINGS CLAUSE. Should any part of this Agreement be held to be invalid or void, the remainder of the Agreement shall remain in full force and effect with those offending portions omitted.

14. AGREEMENT MODIFICATION. This Agreement may only be modified in writing and must be signed by both parties and their duly authorized agents.

15. BREACH. Failure by the COUNTY and/or MUNICIPALITY to provide the services/ material or to provide the documentation at the time and in the manner described in this Agreement shall constitute a breach of this Agreement.



16. WAIVER OF CONFLICT. The parties to this Agreement are aware that the County Attorney’s Offices represents the Cochise County Elections Department and the Cochise County Recorder’s Office and may or may not also represent other party (for example, Special Districts, including but not limited to Flood, Fire or School Districts) to this Agreement in this and other matters. By signing this Agreement each party specifically acknowledges that it is aware of a potential conflict of interest and specifically waives any such claim based upon legal counsels’ representation of other parties to this Agreement.

17. PUBLIC RECORDS LAW. Notwithstanding any provision in the Agreement to the contrary, disclosure of any documents or records are subject to Arizona Public Record Law, A.R.S. § 39-121, *et seq.*

18. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the parties hereto. There are no representations or other provisions other than those contained herein, and any amendment or modification of this Agreement shall be made in writing and signed by the parties to this Agreement.

IN WITNESS WHEREOF, the Parties have authorized the designated officials indicated below to execute this Agreement indicating their respective approval.

APPROVED:

APPROVED:

COCHISE COUNTY

MUNICIPALITY: _____

BY: _____

BY: _____

County Administrator
Cochise County Board of Supervisors

Mayor

ATTEST:

ATTEST:

BY: _____

BY: _____

Clerk of the Board
Cochise County Board of Supervisors

City or Town Clerk



INTERGOVERNMENTAL AGREEMENT DETERMINATION

RE: Intergovernmental Agreement for election services and supplies between the MUNICIPALITY and the County of Cochise for the _____ Election held on _____, 20____ and/or the General Election held on _____, 20____.

Pursuant to A.R.S. Section 11-952, this Agreement has been reviewed by the undersigned attorney for Cochise County, who has determined that it is in proper form and is within the powers and authority granted, respectively, to the contracting bodies.

DATED this _____ day of _____, 20____.

Cochise County Attorney

By: _____
Chief Civil Deputy
County Attorney

Pursuant to A.R.S. Section 11-952, this Agreement has been reviewed by the undersigned attorney for MUNICIPALITY, who has determined that it is in proper form and is within the powers and authority granted, respectively, to the contracting bodies.

DATED this _____ day of _____, 20____.

By: _____
City or Town Attorney

EXHIBIT A

COCHISE COUNTY ELECTION FEE SERVICES SCHEDULE April 25, 2019	<i>Elections consolidated with State or Federal Elections</i>
Election Fee per registered voter	<p align="center">\$0.75</p>
Election Fee if not met above	<p align="center">\$800</p>
Cancel and Appoint	<p align="center">\$250</p>
Cancel if programming started	<p align="center">Actual Cost</p>
Recount per total ballots cast	<p align="center">Included</p>
Info Pamphlet & Postage	<p align="center">MUNICIPALITY works with Supplier directly</p>
Polling Place Rental if not consolidated with State election	<p align="center">Included</p>
Poll workers - Early Board	<p align="center">Included</p>
Poll workers - Inspector	<p align="center">Included</p>
Poll workers - Marshall	<p align="center">Included</p>
Poll workers - Judges/Clerks	<p align="center">Included</p>
Poll workers - Troubleshooter	<p align="center">Included</p>
Poll workers - Class	<p align="center">Included</p>
Poll workers mileage	<p align="center">Included</p>
Election Equipment – EPollbook tablet (min 2)	<p align="center">Included</p>
Election Equipment - ExpressVote machine (min 2)	<p align="center">Included</p>
Election Equipment - DS200 tabulator (1)	<p align="center">Included</p>
Equipment Delivery Fee	<p align="center">Included</p>
Provisional Ballot Fee	<p align="center">Included</p>
Election Records Destruction	<p align="center">Included</p>
Copy fee	<p align="center">\$0.30</p>
Maps for Vote Location	<p align="center">Included</p>
Recorder's Office Mailing Fees	<p align="center">Waived</p>