



Sierra Vista City Council
Meeting Agenda
September 10, 2020

Call to Order: 5:00 p.m., City Hall Council Chambers, 1011 N. Coronado Drive, Sierra Vista, AZ

Roll Call

Invocation – Pastor Jerry Preiss, Hope and Healing Christian Church

Pledge of Allegiance

Item 1 Acceptance of the Agenda

City Manager's Report: Upcoming Meetings, Bid Openings and Bid Awards

Consent Agenda:

Item 2.1 Approval of the City Council Regular Meeting Minutes of August 13, 2020

Item 2.2 Approval of the City Council Special Meeting Minutes of September 1, 2020

Item 2.3 Resolution 2020-053 Acceptance of Public Improvements/Partial Release for Lots 97-121 and 179-187 of the Summit Heights subdivision

New Business

Item 3 Resolution 2020-054, Development Agreement with CDS TWO LP, Phase 2 of Casa Del Sol apartments

Item 4 Resolution 2020-055, Adoption of the Land Use Assumptions (LUA) and Infrastructure Improvement Plan (IIP)

Item 5 Resolution 2020-056, Approval of an Intergovernmental Agreement with Cochise County for Fiscal Year 2021 Consolidated Court Services

Call to the Public

Comments and Requests of the Council

Adjournment



Sierra Vista City Council
Meeting Minutes
August 13, 2020

Mayor Mueller called the July 23, 2020 City Council Meeting to order at 5:00 p.m., Council Chambers, City Hall, 1011 N. Coronado Drive, Sierra Vista, AZ

Roll Call:

Mayor Rick Mueller – present
Mayor Pro Tem Rachel Gray – present
Council Member William Benning – present
Council Member Gwen Calhoun – present
Council Member Sarah Pacheco – present
Council Member Carolyn Umphrey - present
Council Member Kristine Wolfe – present

Others Present:

Chuck Potucek, City Manager
Victoria Yarbrough, Assistant City Manager
Adam Thrasher, Police Chief
Brian Jones, Fire Chief
Matt McLachlan, Community Development Director
Blake Fisher, Planner
Nathan Williams, City Attorney
Jill Adams, City Clerk
David Felix, Finance Chief Officer

Invocation – Pastor Greg Rowles, God is Good Church, conducted the invocation.

Pledge of Allegiance- Council Member Calhoun lead the Pledge of Allegiance.

Item 1 Acceptance of the Agenda

Council Member Wolfe moved that the Agenda for the Regular City Council Meeting of August 13, 2020 be approved as written. Council Member Umphrey seconded the motion. The motion passed by a 7/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, Umphrey, and Wolfe.

City Manager's Report: Mr. Potucek announced that the City Council Work Session for August 25, 2020 and the Council Meeting for August 27, 2020 will be cancelled due to the lack of agenda items, but there may be a special meeting scheduled if something were to come up. He reported that proposals for the Fort Huachuca Joint Resource Utilization Study (JRUS) for the Office of Economic Adjustment (OEA) Grant are due on August 17, 2020. The Sierra Vista Metropolitan Planning Organization (SVMPO) Short-Range Transit Plan proposals are due on August 20, 2020, and the Sierra Vista Metropolitan Planning Organization (SVMPO) Long-

Range Transportation Study was awarded to Kimley-Horn and Associates. He further reported that the City must do a NEPA Environmental Clearance for the EMS Fire Substation located across 7th Street from Tompkins Park, which had its proposals close on August 11, 2020, and is currently under review.

Mr. Potucek reported that the City has cleared the first hurdle for the Defense Communities Infrastructure Program (DCIP) grant application made to fund the EMS substation. Staff is currently going through the formal grant application process, which looks very promising. If the City can get the project funded with the grant, the City will be saving north of \$1 Million.

He further reported that the professional design and engineering for the irrigation water supply system for Veterans' Memorial Park and the Rothery site is under review. Staff is currently working with McGann and Associates. Lastly, he reported that the June City sales tax figures from June 2019 to present are up \$177,000, 10 percent from last fiscal year. Hotel/motel is down 36 percent, and bar/restaurant is down six percent. They are still struggling, but the overall retail sales excluding internet sales is up almost \$200,000 or 16 percent. The total retail sales including internet sales is up 26 percent. Overall year to year, total sales taxes are up almost \$1 Million or five percent, and staff had budgeted zero percent growth in that. Hotel/motel is down only six percent over the year, and not as bad as it was anticipated. Bar/restaurant is down three percent year over year, and overall sales tax numbers are up over \$1.4 Million or 11 percent and that is excluding internet sales, which is about \$850,000 or six percent.

Mayor Mueller noted that these figures are through the end of June because the July numbers are not yet available due to a couple of months lag from the State, who does all the collections.

In response to Council Member Calhoun, Mr. Potucek stated that the SVMPO is doing a short-range transit plan that is just for transit, and a long-range transportation, which is a look at the road system in the entire area.

Item 2 Consent Agenda

Item 2.1 Approval of the City Council Special Meeting Minutes of July 21, 2020

Item 2.2 Approval of the City Council Regular Meeting Minutes of July 23, 2020

Council Member Pacheco moved that the Consent Agenda consisting of the City Council Special Meeting Minutes of July 21, 2020 and the Regular Meeting Minutes of July 23, 2020, be approved as written. Council Member Benning seconded the motion. The motion passed by a 6/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, and Umphrey, and Wolfe. Council Member Pacheco abstained.

Public Hearing(s)

Item 3 Resolution 2020-049, Series 9 liquor license application for an interim permit, owner transfer, limited liability co.-type of ownership for Kevin Arnold Kramber on behalf of Sierra Pharmacy and Compounding Lab at 2085 E. Fry Boulevard, Suite B, Sierra Vista, Arizona

Council Member Umphrey moved that Resolution 2020-049, a Series 9 liquor license application for an interim permit, owner transfer, limited liability company-type of ownership for Kevin Arnold Kramber on behalf of the Sierra Pharmacy and Compounding Lab, be approved. Council Member Benning seconded the motion.

Ms. Adams stated that the application is an owner/agent transfer of Series 9, a liquor store liquor license for the Compounding Pharmacy on the corner of Coronado and Fry Boulevard. The notice of the public hearing was posted on the facility the required 20 plus days and no comments have been received from the public either pro or con to the transfer of the license. The Police Department did the required background check of the applicant and have no issue with the application moving forward. If approved by Council, it will be returned to the State for final action.

The motion passed by a 7/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, Umphrey, and Wolfe.

New Business

Item 4 Approval of the City Council Special Meeting Minutes of July 28, 2020

Council Member Benning moved that the City Council Special Meeting Minutes of July 28, 2020, be approved as written. Mayor Pro Tem Gray seconded the motion. The motion passed by a 6/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, and Umphrey. Council Member Wolfe abstained.

Item 5 Ordinance 2020-006, Fiscal Year 2020/2021 Property Tax Levy

Mayor Pro Tem Gray moved that Ordinance 2020-006, Fiscal Year 2020/2021 Property Tax Levy, be approved. Council Member Umphrey seconded the motion.

Ms. Yarbrough stated that this is the final step in the budget process for the Fiscal Year 2020/2021. This will set the property tax levy rate at 0.1106 cents per \$100 of assessed value, which means that for every \$100,000 of assessed value of a home, a person would pay \$11.06. This is a decrease in the rate from last year, which was 11.24 cents. The levy will generate an estimated \$372,034 this fiscal year, an increase from last year, \$364,370 because of new construction and increased valuation.

The motion passed by a 7/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, Umphrey, and Wolfe.

Item 6 Resolution 2020-050, Donation of a 1997 Type 1 Pierce Quantum 1500 Pumper to Cochise College

Council Member Calhoun moved that Resolution 2020-050, donation of a 1997 Type 1 Pierce Quantum 1500 Pumper to Cochise College, be approved. Mayor Pro Tem Gray seconded the motion.

Fire Chief Jones stated that Sierra Vista Fire and Medical Services has committed to supporting the Fire Fighter I and II classes in Cochise County with instruction given at Cochise College and Fire Station III. The Fire Fighter I and II classes are an approved national fire protection agency Program and students attend a 24-week training program culmination in achieving a State of Arizona Fire Fighter I and II certification. Sierra Vista Fire and Medical Services would like to donate a 1997 Type I Pierce Quantum 1500 Pumper with a 750-gallon water tank. The 1997 Pumper was formally part of the Sierra Vista Fire and Medical Services operation fleet but was turned into Public Works Department for public auction when a new KME Type 3 Pumper replaced the vehicle. The vehicle is valued at \$8,500.00, and in addition the donated

vehicle will retain its red and blue lights for emergency training purposes. Cochise College has expressed an interest in accepting the donation and the vehicle will be used for the following firefighting training during class: emergency driving and field operations.

Sierra Vista Fire and Medical Services has 23 of its current fulltime members have completed the Fire Fighter I and II Programs at Cochise College.

Council Member Pacheco stated that this is a good way for the City to build pipelines for employees to support training in the community.

The motion passed by a 7/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, Umphrey, and Wolfe.

Item 7 Resolution 2020-051, South Wardle Road Pre-Annexation Agreement

Council Member Wolfe moved that Resolution 2020-051, South Wardle Road Pre-Annexation Agreement, be approved. Council Member Benning seconded the motion.

Mr. Fisher stated that this is a pre-annexation agreement for four South Wardle Road properties. Larry Phase III, referred to as Mr. Larry has expressed an interest in connecting his four County properties to the City of Sierra Vista sewer system that runs adjacent to the four properties on South Wardle Road. In exchange and in accordance with City Policy, staff has proposed that Mr. Larry sign a pre-annexation agreement for the subject properties, but due to the location of the properties, they are not eligible for an outright annexation at this time. Mr. Larry has stated that his desire is to construct four single family residences upon the subject properties, and due to the potential strain, this may place on the existing sewer system, Mr. Larry has agreed to provide City Engineering copies of the Cochise County approved site plan for the proposed houses when they are available, which is to be submitted along with the standard right-of-way permit applications to Public Works. These must be approved by City Engineering before he will be allowed to connect to City sewer.

South Wardle Road contains many properties defined as being with Sierra Vista's proactive annexation area. This agreement will circumvent the need for petitioning the four properties if annexation attempt is done in the future. The subject properties would automatically be considered as "yes" votes for an annexation, even if the properties are sold to new private owners.

Mr. Larry will be responsible for paying the cost of any sewer connection that they wish to add to the subject properties, up to and including the necessary improvements made within the public right-of-way for the connection to be feasible. Once connected, the properties' owners will from that time forward be required to pay for ongoing sewer service as other City residents with sewer service must.

The motion passed by a 7/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, Umphrey, and Wolfe.

Item 8 Resolution 2020-052, Official Intent to be Reimbursed for Certain Capital expenditures

Council Member Pacheco moved that Resolution 2020-052, Official Intent to be Reimbursed for Certain Capital expenditures, be approved. Mayor Pro Tem Gray seconded the motion.

Mr. Felix stated that this is the standard annual reimbursement resolution that is passed by Council. The City buys equipment during the fiscal year and at the end of the fiscal year, if there is a need, they will be bundled up and put it out for financing. The IRS regulations require that the governing body pass an intent to be reimbursed if it is done in the way that it is being done. The reason that the City does it this way is to save money because one, the City does not pay interest on items that the City does not yet have and two, like last fiscal year, if the City does not need to finance the items due to items not coming in or there was enough cash on hand to purchase outright, the City does not have to finance. If items were financed at the beginning of the year, the City would be stuck paying interest on a loan that there is not anything on and carried forward for future years.

He further stated that this method works the best way for the City, financing the actual costs meets the intent. A key point is that it is not an obligation to do the financing. The items are listed in the budget, i.e., land purchase from the School District. Council may cash it out, but if something were to occur financially and the City needed to finance it, the opportunity is there to do it.

The motion passed by a 7/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, Umphrey, and Wolfe.

Call to the Public

Donna O'Daniel stated that a few weeks ago, a request was made by the NAACP for the establishment of a Civilian Police Review Board. She further stated that before that request advances, Council should examine the origin and purpose of Civilian Review Boards. She provided information on Dr. Cleon Skousen, who spent 16 years with the FBI helping local police departments and researching subversive organizations and activities. Lastly, she asked Council to not bow to the cry to organize one, which would further impact the local police and free republic. She provided each Council Member with a magazine, "The New American".

Michael DeCarlo voiced his appreciation for the new audio/visual system, congratulated Mayor Mueller on being cancer-free, and with no ill-will, commented on the Special Meeting to ratify the adoption of the final budget. He expressed concern over the hours spent by staff to rework this, which goes back to his initial assessment on how hours are being claimed, accountability, feedback for the layman. In closing, he stated that the argument is not the size of government, the argument is that there is a generation of people who have forgotten that government is a necessary evil. The whole debate is how much governing/evil is needed.

Richard Dodge introduced Todd Liebman, a Sierra Vista resident and president of All Aboard Arizona, an organization that promotes passenger train travel.

Todd Liebman stated that rail passenger service is increasing around the country. This year Amtrak was on target to cover their entire operating expenses through revenues and the current subsidy for Amtrak, pre-pandemic was very small. He requested support via a resolution for passenger rail and provided draft resolutions as examples and brochures on the passenger rail service. He explained that Amtrak is facing challenges with the pandemic, and one of the things that they are talking about doing is reducing service on long distance trains from daily to three times per week. All Aboard Arizona has gone on record with a resolution from their organization

opposing that. Sierra Vista's local train station is in Benson, but Amtrak could serve Sierra Vista through a throughway bus operation, which could be established in the future. The organization is currently working on a few initiatives. One is to get the Sunset Limited/Texas Eagle to daily service through Benson. If there was daily service in Benson, that would be a significant advantage to Sierra Vista passengers and regional passengers. Also, if Sierra Vista were a throughway community, when individuals got on the Amtrak Website and looked for Sierra Vista, it would come up as an Amtrak Station, a potential for people travelling to the area.

Comments and Requests of the Council

Council Member Calhoun requested a work session to look further into the issue of a resolution related to rail service. She stated that she has always been enamored of trains, and even though the rail would not be coming to Sierra Vista, it would be nice to know that there is something regular for economic development in the County that could go a long way, if trains continue to be popular.

Council Member Wolfe had nothing to report.

Council Member Pacheco stated that she, like many other parents, has been weighing all the changes that the schools have this year. She shared that she has four kids in school, and they are going to do distance learning. There are other parents that are also doing distance learning, and it is going to be a challenging first semester. She wished everyone good luck and noted that the schools have worked hard to present a myriad of options to accommodate everyone. She asked everyone to be mindful of all parents who are going through this challenge and encouraged everyone to tune in to Dancing Like the Stars Virtual Event on Saturday, August 15, 2020. Lastly, she stated that the Real Wishes Foundation does a lot of good in the community and they are sponsoring the event virtually since it could not be done in person.

Mayor Mueller encouraged people to consider donating to a local charity and noted that there are several charities that have not been able to hold their fundraising events. These charities affect a few parts of the City and help those that are less fortunate.

Council Member Umphrey wished everyone luck on venturing into distance learning on Monday, August 17, 2020, and noted that it was not an easy decision for the School Board to make. She thanked everyone that spoke to Council during the meeting and wished her parents a happy 40th wedding anniversary.

Council Member Benning stated that he agrees with Mr. DeCarlo in that the new audio/visual system is nice, he thanked everyone that went out and voted and exercised their right, whether it was mail-in or at the polls. He voiced his appreciation to all candidates running, and wished all candidates going forward to the General Election good luck. Lastly, he congratulated all the 20 under 40 Citizens of the Year and nominees.

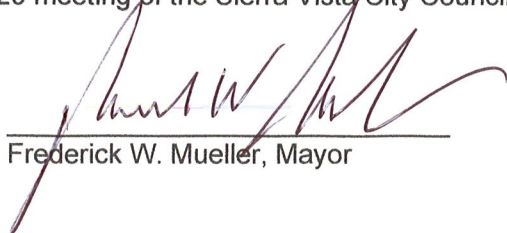
Mayor Pro Tem Gray stated that she is also pleased with the audio/visual equipment and noted that she no longer looks 30 years older on camera. She announced that the Spotlight Breakfast was cancelled, but a video will be released as the Council recorded a few things for the public.

Mayor Mueller stated that he is also pleased with the new audio/visual equipment, but the new cameras added years for him. He wished his baby sister Sonia a Belated Happy Birthday, who he appreciates as well as her husband. He further stated that there are still exciting times with COVID, and there are some challenging things. The announcements from the Governor's Office

have been on how to bring some of the businesses back and the City is monitoring those carefully so that as soon as the City qualifies for those, the word can get out. The City is working closely with the Chamber of Commerce and other organizations to make sure to continue to promote business in a safe manner during COVID.

Adjournment

Mayor Mueller adjourned the August 13, 2020 meeting of the Sierra Vista City Council at 5:40 p.m.



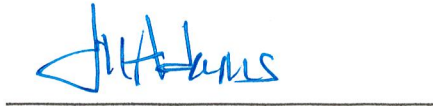
Frederick W. Mueller, Mayor

Minutes prepared by:



Maria G. Marsh, Deputy Clerk

Attest:



Jill Adams, City Clerk

Sierra Vista City Council
Special Meeting Minutes
September 1, 2020

Call to Order

Mayor Mueller called the September 1, 2020 Special Meeting of the Sierra Vista City Council to order at 3:02 p.m. in the City Managers Conference Room, City Hall, 1011 N. Coronado Drive, Sierra Vista, Arizona.

Roll Call

Members Present: Mayor Mueller, Mayor Pro Tem Gray, Council Members Calhoun, Benning, Pacheco, Umphrey, and Wolfe

Others Present: City Manager Charles Potucek, Asst. City Manager Victoria Yarbrough, City Attorney Nathan Williams, City Clerk Jill Adams

Item 1 Acceptance of Agenda

Mayor Pro Tem Gray moved that the Agenda for the September 1, 2020 Special City Council Meeting be approved as written. Council Member Umphrey seconded the Motion. The motion passed by unanimous vote of all members present.

New Business

Item 2 Request to adjourn into Executive Session in accordance with Arizona Revised Statute §38-431.03(A)(3) and 38-431.03(A)(4) discussion or consultation with the attorneys of the public body in order to obtain advice concerning a contract with Cochise County – Consolidate Court Services.

Council Member Benning moved the Council adjourn into Executive Session in accordance with Arizona Revised Statute §38-431.03(A)(3) and 38-431.03(A)(4) discussion or consultation with the attorneys of the public body in order to obtain advice concerning a contract with Cochise County for Consolidated Court Services. Mayor Pro Tem Gray seconded the motion. The motion passed by unanimous vote of all members present.

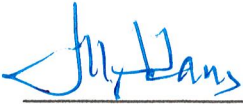
The City Council adjourned into Executive Session at 3:04 p.m.

The Executive Session was adjourned at 3:42 p.m.

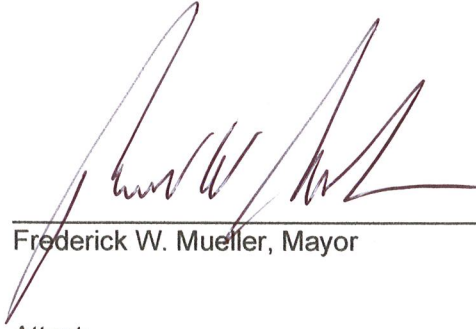
Mayor Mueller briefly advised the Council that he has issued a press release relating to the City's measures against the Covid 19 virus. If numbers continue to decrease the mask order may be suspended on or after September 18, 2020. He will keep everyone informed.

Item 3 Adjournment

Mayor Mueller adjourned the Special Meeting of the Sierra Vista City Council at 3:43 p.m.

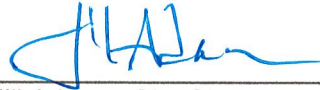


Minutes Prepared By:
Jill Adams, City Clerk



Frederick W. Mueller, Mayor

Attest:



Jill Adams, City Clerk

RESOLUTION 2020-053

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; ACCEPTING COMPLETED PUBLIC IMPROVEMENTS AND PARTIALLY RELEASING LOTS 97-121 AND 179-187, FOR THE SUMMIT HEIGHTS SUBDIVISION; 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 Subdivider, Canyon Vista Land LLC., has caused certain public improvements to be constructed for public use in conjunction with the development of lots 97-121 and 179-187 of the Summit Heights subdivision, as shown in Exhibit A, and desires that the City accept maintenance responsibility thereof; and

WHEREAS, the Subdivider has posted certain security to assure completion of the required improvements; said security being a Subdivider's Agreement, as recorded in the Cochise County Recorder's Office, under fee #2011-24947, and an Improvement Security Guaranty Agreement under fee #2011-24947; and

WHEREAS, it is policy of the City to allow for a partial release of lots within a subdivision where the partial release is proportional to the level of completion of improvements;

WHEREAS, the City Council shall only accept maintenance responsibility for public improvements only: when they are intended for public use; upon recommendation of the City Engineer; upon the filing of required lien waiver and two-year guarantee by the Subdivider; and after formal acceptance by the City Council; and

WHEREAS, the City Inspector has inspected the completed constructed public improvements adjacent to the requested released lots and found them to be in substantial conformance with the approved plans and specifications and does hereby recommend they be accepted by the City for maintenance; and

WHEREAS, the Subdivider has filed a waiver of liens, a two-year guarantee, and reproducible as-built drawings.

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

SECTION 1

That the policy, accepting completed public improvements and partially releasing lots, be, and hereby is, reaffirmed.

SECTION 2

That lots 97-121 and 179-187, are hereby released from the Subdivider's Agreement recorded under fee #2011-24947 and the Third Party Trust Agreement recorded under fee #2011-24947, as shown in Exhibit A, and that the constructed public improvements serving lots 97-121 and 179-187 of the Summit Heights subdivision, as shown in Exhibit A, be, and hereby are, accepted for ownership and maintenance by the City of Sierra Vista.

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 10TH DAY OF SEPTEMBER, 2020.



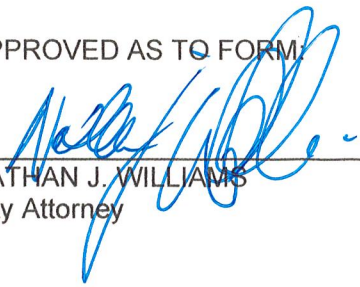
FREDERICK W. MUELLER
Mayor

ATTEST:



JILL ADAMS
City Clerk

APPROVED AS TO FORM:

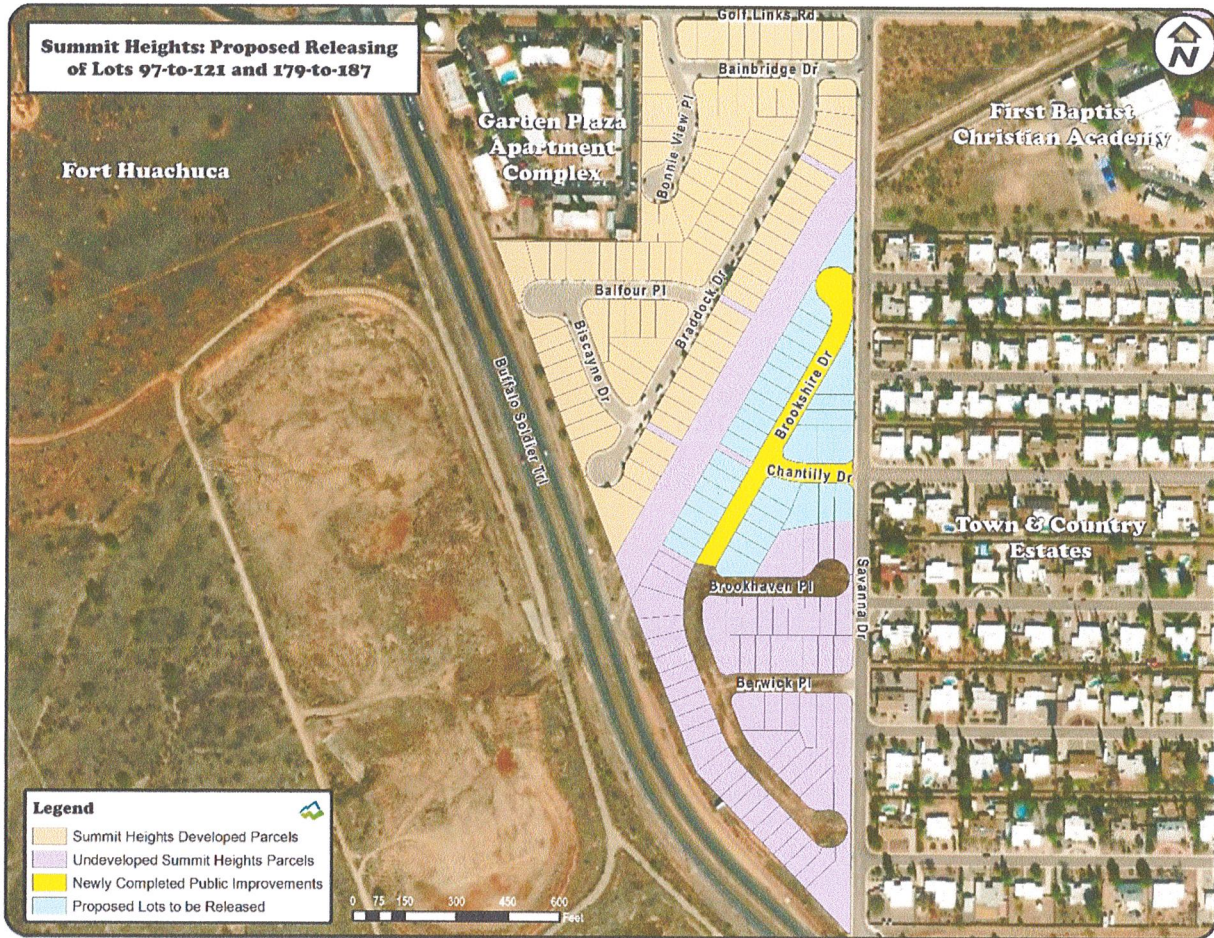


NATHAN J. WILLIAMS
City Attorney

PREPARED BY:
JEFF PREGLER
Senior Planner

RESOLUTION 2020-053
PAGE TWO OF TWO

EXHIBIT A



RESOLUTION 2020-054

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; REAFFIRMING SETTLED POLICY GRANTING APPROVAL OF A DEVELOPMENT AGREEMENT WITH CDS TWO LP AND MTGW, LLC; 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, pursuant to various policies and laws of the City of Sierra Vista an agreement was negotiated which assured the mutual benefit of the Owners and the City of Sierra Vista; and

WHEREAS, it will be in the best interest of the public and Developer to permit Developer to develop the Casa Del Sol Apartments, Phases 2 and 3, in accordance with standards as specified in the attached agreement; and

WHEREAS, by reason thereof, the parties hereto desire to approve said Development Agreement to permit the Developer to develop the Casa Del Sol Apartments, Phases 2 and 3, in accordance with the standards as specified in the attached agreement.

WHEREAS, approval of the development agreement promotes low-income elderly housing and investment in the West End of Sierra Vista;

WHEREAS, the development agreement is reflective of the goals of the Infill Incentive District and General Plan Goal 12-1, *Promote Quality Affordable Rental Housing* and Goal 12-8, *Increase Housing Choices that Serve All Age Groups and Needs*.

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

SECTION 1

The policy of the City of Sierra Vista relating to development agreements, be, and hereby is, reaffirmed.

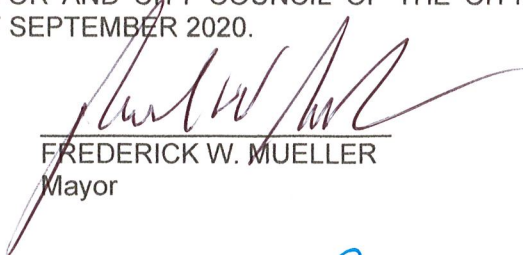
SECTION 2

The Mayor and City Clerk are hereby authorized and directed to execute the Development Agreement attached hereto and made a part hereof by this reference.

SECTION 3

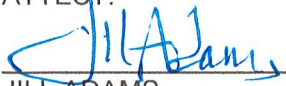
That the City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 10TH DAY OF SEPTEMBER 2020.



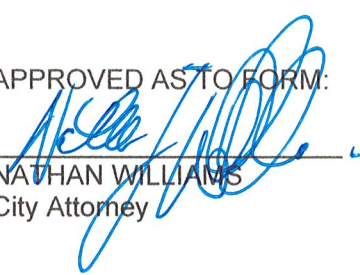
FREDERICK W. MUELLER
Mayor

ATTEST:



JILL ADAMS
City Clerk

APPROVED AS TO FORM:



NATHAN WILLIAMS
City Attorney

PREPARED BY: Jeff Pregler, AICP
Senior Planner

EXHIBIT A

DEVELOPMENT AGREEMENT WITH CDS TWO LP, An Arizona Limited Partnership and MTGW LLC

This Development Agreement (hereinafter referred to as Agreement) is made and entered into this ___ day of _____, by and between the CITY OF SIERRA VISTA, a municipal corporation organized under the laws of the State of Arizona (hereinafter referred to as City) and CDS TWO LP, AN ARIZONA LIMITED PARTNERSHIP and MTGW LLC (hereinafter referred to as the Owners) owners of Phase 2 and Phase 3 of the Casa Del Sol apartments located on Parcel Number 105-08-007E, as shown on Exhibit B.

PART I. WITNESSETH AND SPECIAL CONDITIONS

WHEREAS, Owners own certain real property contemplated for development within the corporate limits of the City described in Exhibit B attached hereto; and

WHEREAS, City is desirous of further guiding and coordinating its development consistent with the Goals and Policies set forth in City's adopted General Development Plan, VISTA 2030, and subsequent land use plans or amendments; and

WHEREAS, City and Owners desire to clearly and specifically set forth respective obligations of the City and Owners pertaining to the future development of the Owner's site and other matters; and

WHEREAS, City, after due and careful consideration, has concluded that the development of the Owners' site, under the terms and conditions hereinafter set forth, all as provided by law, would further enable the City to benefit from the development, ensure orderly development, and would best serve the interests of the City.

NOW, THEREFORE, for and in consideration of the promises, mutual covenants, conditions, terms, and agreements hereinafter set forth, the parties do hereby agree as follows:

Due to the need for senior low to moderate income multi-family development housing within Sierra Vista, City agrees to permit future development of the Owners' site (Phase 2 and Phase 3 only, as shown in Exhibit B), in accordance with the City codes, and according to the following special conditions:

1. The minimum required off-street parking provided under Section 151.09.005(A) of the Sierra Vista Development Code is modified to permit a minimum of 1.05 parking spaces per apartment unit in Phase 2 and 1.31 parking spaces per apartment unit in Phase 3 boundary areas.
2. The maximum building height provided by Section 151.22.010(E) of the Sierra Vista Development Code is modified to allow a maximum building height of 49 feet in the Phase 2 and 3 boundary areas.
3. The minimum building separation required by Section 151.22.010(E) of the Sierra Vista Development Code is modified to allow a minimum building separation of 20 feet provided all building and fire safety codes are met.

4. The public improvement standards provided under Article 151.08 of the Sierra Vista Development Code are modified to allow a private street with a minimum pavement width of 26 feet to be constructed subject to required permits being obtained and a maintenance agreement being executed in a manner deemed acceptable to the City Attorney.
5. The minimum lot area per dwelling unit required by Section 151.22.010(E) of the Sierra Vista Development Code is modified to allow a minimum lot area of 1,279 square feet per unit for Phase 2 and 1,676 square feet per unit for Phase 3 boundary areas.
6. The City agrees to allow Developer's required sewer connection fee to be paid over a period of 10 years, commencing with the issuance of the first building permit for each Phase, in accordance with the provisions of Exhibit C.

PART II. MISCELLANEOUS PROVISIONS

1. This Agreement sets forth the entire understanding between the parties concerning the subject matter of this Agreement and incorporates all prior negotiations and understandings.
2. There are no covenants, promises, agreements, conditions, or understandings, either oral or written, between the parties relating to the subject matter of this Agreement other than those set forth herein. No modification or amendment of this Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.
3. The Owners shall indemnify, protect, defend, and hold harmless the City, its Council members, officers, employees, and agents from any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, all costs and cleanup actions of any kind, and all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorneys' fees and costs of defense, directly or indirectly, in whole or in part, arising out of this Agreement except for negligent acts of the City.
4. Notwithstanding the provisions of Part I above, in the event the City is required to enact, take action, apply, or bind any future land use ordinances, rules, regulations, permit requirements and other requirements, and official policies of the City enacted as necessary to comply with mandatory requirements imposed on the City by county, state, or federal laws and regulations, court decisions, and other similar superior external authorities beyond the control of the City, provided that in the event any such mandatory requirement prevents or precludes compliance with this Agreement, if permitted by law, such affected provision of this Agreement shall be modified as may be necessary to achieve minimum permissible compliance with such mandatory requirements.
5. The laws of the State of Arizona shall govern this Agreement and, in the event of litigation, venue shall be in Cochise County, Arizona.
6. In the event a party initiates action to enforce its rights hereunder, the substantially prevailing party shall recover from the non-prevailing party its expenses, court and/or arbitration costs, including taxed and untaxed costs, and reasonable attorneys' fees.

7. Time shall be of the essence for all performance required hereunder.
8. Notwithstanding the foregoing, if a dispute arises out of or relates to the Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree to first try to settle the dispute through mediation before resorting to arbitration, litigation, or some other dispute resolution procedure. In the event that the parties cannot agree upon the selection of a mediator within seven (7) days, either party may request the presiding judge of the Superior Court of Cochise County to assign a mediator from a list of mediators maintained by the Arizona Municipal Risk Retention Pool.

PART III. SUCCESSORS AND ASSIGNS

All the provisions hereof shall inure to the benefit of and be binding upon the parties hereto as applied to Phase 2 and Phase 3 of Casa Del Sol apartments, located on Parcel Number 105-08-007E, as shown on Exhibit B, and its respective successors and assigns unless otherwise specified in this Agreement.

PART IV. NOTICES

Any notice required pursuant to the provisions of this Agreement shall be in writing and be sent by certified mail to the following addresses until notice of change of address is given and shall be deemed received on the fifth business day following deposit in the United States Mail.

City Clerk
City of Sierra Vista
1011 N. Coronado Drive
Sierra Vista, AZ 85635

CDS Two LP, an Arizona Limited
Partnership
8540 E. McDowell Rd. #102
Mesa, AZ 85207

MTGW, LLC
8540 E. McDowell Rd. #102
Mesa, AZ 85207

PART V. NON-COLLUSION AND NO JOINT VENTURE

1. Owners warrant that to its knowledge no other person or entity has been an employee or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingency and that no member of the Council or employee of the City has any interest, financially or otherwise, in Owners or its subcontractors. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability.
2. This Agreement is not intended to be, and shall not be construed as, a joint venture, partnership, or other business entity created by and between the parties, and neither party is an agent for the other for any purpose nor has the power to bind the other for any purpose.

3. No member, official, employee or agent of the City shall be personally liable to Owner, or any successor or assignee, (a) in the event of any default or breach by the City, (b) for any amount which may become due to the Owners or its successor or assign, or (c) pursuant to any obligation of the City under the terms of this Agreement.

PART VI. SEVERABILITY

1. Nothing in this Agreement shall be deemed to be a promise or representation by Owners to construct, open, or operate the project; provided however, that in the event that Owners fails to complete the construction of the project, that this Agreement shall automatically terminate and the parties shall have no further obligation or liability to one another.
2. Should any section, clause or provision of this Agreement be declared by the courts to be invalid, it shall not invalidate the other provisions of this Agreement

EXHIBIT B



EXHIBIT C

Payment Schedule

		<u>Terms</u>
Total Fee Amount	\$	38,860.00
Down Payment	\$	<u>3,886.00</u>
Finance Amount	\$	34,974.00
Annual Interest Rate		5.40%
Payments per Year		1
Number of Years		10
Annual Payment		\$4,617.69

Payment	<u>Payment</u>	<u>Principal</u>		<u>Interest</u>		<u>Remaining Principal</u>
1	\$4,617.69	\$2,729.09	\$	1,888.60	\$	32,244.91
2	\$4,617.69	\$2,876.47		1,741.22	\$	29,368.43
3	\$4,617.69	\$3,031.79		1,585.90	\$	26,336.64
4	\$4,617.69	\$3,195.51		1,422.18	\$	23,141.13
5	\$4,617.69	\$3,368.07		1,249.62	\$	19,773.06
6	\$4,617.69	\$3,549.94		1,067.75	\$	16,223.11
7	\$4,617.69	\$3,741.64		876.05	\$	12,481.47
8	\$4,617.69	\$3,943.69		674.00	\$	8,537.78
9	\$4,617.69	\$4,156.65		461.04	\$	4,381.13
10	\$4,617.70	\$4,381.12		236.58	\$	0.00

EXHIBIT D



RESOLUTION 2020-055

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; APPROVING THE LAND USE ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENT PLAN IN ACCORDANCE WITH A.R.S. 9-463, DEVELOPMENT FEES; 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 of Sierra Vista assesses development fees to offset costs to the City associated with providing necessary public services to a development, as specified in Chapter 154 of the City Code of Ordinances; and

WHEREAS, Arizona Revised Statute §9-463 specifies the procedure by which the City must follow in order to update its fees to reflect current growth patterns and anticipated new construction; and

WHEREAS, in accordance with state law, a public hearing was held on June 11, 2020 regarding the Land Use Assumptions and Infrastructure Improvement Plan, as well as the corresponding Development Fee schedule; and

WHEREAS, the Council is required to first approve the Land Use Assumptions and Infrastructure Improvement Plan prior to setting the development fees following another public hearing scheduled for October 22, 2020.

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 of the City Council, supporting the assessment of Development Fees to offset the costs to the City associated with providing necessary public services to new development be, and hereby is, reaffirmed.

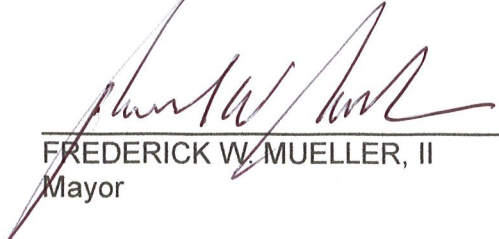
SECTION 2

That the City Council hereby approves the Land Use Assumptions and Infrastructure Improvement plan submitted by the City's consultant, TischlerBise, adopted by reference and on file with the City Clerk.

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 10th DAY OF SEPTEMBER 2020.



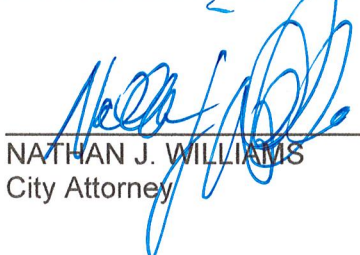
FREDERICK W. MUELLER, II
Mayor

ATTEST:



JILL ADAMS
CITY CLERK

APPROVED AS TO FORM:



NATHAN J. WILLIAMS
City Attorney

September 3, 2020

Memorandum To: Mayor and City Council Members
Through: Charles P. Potucek, City Manager
From: Victoria Yarbrough, Assistant City Manager
Subject: REQUEST FOR AGENDA ITEM PLACEMENT
RESOLUTION 2020-056
Court Consolidation Agreement with Cochise
County

RECOMMENDATION:

The City Manager recommends approval.
The Assistant City Manager recommends approval.

BACKGROUND:

The City has had a successful partnership with Cochise County since 1990 to provide the operation of a consolidated court. Through IGAs, both elected bodies have given the County jurisdiction to hear all cases of the City Municipal Court within Justice Court Precinct #5, which serves Sierra Vista. The agreements specified that the County would serve as the City's municipal court in exchange for the County being the designated recipient of all fines and charges associated with citations issued within the community plus an additional \$99,500.

In 2010, the City and County approved an amendment to the agreement to permit incorporation of a municipal photo citation program as part of the City's traffic enforcement process into the financial arrangement for the court. This action amended the agreement through June 30, 2016 and adjusted the language to allow for an offset to the City's financial contribution for photo citation contracting expenses, which then ended due to a voter referendum of 2014.

In 2015, county administration revised the methodology for determining a community's fair share contribution toward the operation of a shared court. This methodology was applied until 2019. The county determined that this methodology was applied inconsistently throughout consolidated court agreements in other communities, and work began on an updated funding formula.

In the meantime, Judge Conlogue reviewed the previous agreement and proposed changes to streamline it, namely by stating that the municipal court is merged into and consolidated with the Sierra Vista Justice Court, Precinct Five, which shall then provide the services of a municipal court. References to the Sierra Vista Magistrate Court, and City Magistrate, were thereby removed as redundant. All other terms remained the same.

The last amendment to the agreement in 2019 extended the consolidated court agreement for one year, until June 30, 2020, to give the county and other communities time to work together to develop a fair methodology to apply consistently to all communities with consolidated court agreements. The research, data collection, and discussions were still in process at the end of June 2020, and the most recent proposed agreement in July 2020 extended the agreement for another year until June 30, 2021, with some additional stipulations added by Council concerning reporting requirements and subsequent payments. The Board of Supervisors disagreed with the stipulations, and proposed the attached agreement without the stipulations, for six months ending December 31, 2020. This agreement replaces the agreement approved by City Council in July 2020, and is scheduled for the Board's consideration at its September 29 meeting.

Currently, discussions regarding the revised funding formula are going well, and it is staff's intent to have a revised formula and agreement ready for both parties to consider before the end of the current agreement.

FINANCIAL IMPACT:

The City included \$161,000 in the FY2020-2021 fiscal year budget for court consolidation costs, split into \$100,000 for courts costs, plus \$61,000 for a part-time magistrate pro tem. Since the agreement is for six months, it has been updated to reflect half of that cost, or \$50,000 for court costs, and \$30,500 for the pro tem.

RESOLUTION 2020 - _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; APPROVING AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH COCHISE COUNTY FOR COURT CONSOLIDATION THROUGH DECEMBER 31, 2020; 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 of Sierra Vista and Cochise County entered into an Intergovernmental Agreement for court/jail services originally in 1990, extended most recently in 2019; and

WHEREAS, that IGA expired on June 30, 2019, and the County desired time to develop a new methodology for determining a community's contribution toward the consolidated court that could be applicable to all such arrangements in Cochise County; and

WHEREAS, the City Council approved a one-year extension in June 2019; but additional time is needed to determine an appropriate methodology to apply to all court agreements within the county; and

WHEREAS, the consolidation of the City's municipal court with the Cochise County Sierra Vista Justice Court, Precinct 5, has proven to be beneficial to both parties as well as area residents, and demonstrates a continued commitment to working in partnership to provide efficient and effective service to our residents; and

WHEREAS, this agreement is intended to supersede and replace all previous court consolidation agreements;

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

SECTION 1

That the City Council policy of authorizing intergovernmental agreements for the common benefits of its citizens be, and hereby is, affirmed.

SECTION 2

The City of Sierra Vista hereby adopts the Intergovernmental Agreement regarding a consolidated court with Cochise County until

December 31, 2020, under the terms and conditions specified in said IGA attached and made reference hereto.

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 10th DAY OF SEPTEMBER, 2020.

FREDERICK W. MUELLER
Mayor

ATTEST:

JILL ADAMS
City Clerk

APPROVED AS TO FORM:

NATHAN WILLIAMS
City Attorney

**COURT CONSOLIDATION AGREEMENT
BY AND BETWEEN
THE CITY OF SIERRA VISTA, ARIZONA
AND COCHISE COUNTY, ARIZONA**

THIS IS AN AGREEMENT, made and entered into by and between the County of Cochise, a body politic, [hereinafter “**COUNTY**”] and the City of Sierra Vista, a municipal corporation [hereinafter “**CITY**”] and is approved by the County Board of Supervisors, the City Mayor and Council, the Presiding Judge of the Superior Court in and for Cochise County, the Cochise County Attorney, and the Justice of the Peace for the Precinct of which the **CITY** is part, as authorized by the powers and authority granted by the laws of the State of Arizona.

RECITALS

WHEREAS, the **COUNTY** and the **CITY** are authorized to enter into this Intergovernmental Agreement pursuant to A.R.S. §11-951 *et seq.*

WHEREAS, the **CITY** enters this Agreement in lieu of establishing or maintaining a municipal court pursuant to A.R.S. §22-402(C).

WHEREAS, the **COUNTY** agrees to provide the services of a municipal court through the Sierra Vista Justice Court, Precinct Five as set forth in this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

I. PURPOSE

The purpose of this Agreement is to define the duties of the Parties related to operation of the Consolidated Court.

II. LOCATION AND DESIGNATION

The municipal court is merged into and consolidated with the Sierra Vista Justice Court, Precinct Five. The Justice Court shall be located at 100 Colonia de Salud, Sierra Vista, AZ or other suitable location within the **CITY**. The Justice Court Identification Number shall be used for all purposes including any municipal court services performed under this Agreement.

The Sierra Vista Justice Court, Precinct Five, shall provide the services of a municipal court including exercising jurisdiction of all cases arising under the ordinances of the **CITY** pursuant to A.R.S. §11-402(C). The Justice Court shall assume all responsibilities and authority provided by A.R.S. Title 22, Chapter 4 which the **CITY** otherwise would have but for this Agreement.

III. DUTIES OF THE COUNTY

A. The COUNTY will operate the Justice Court and will also be responsible for the performance of the following related functions:

1. The prosecution and defense of all cases which arise during the existence of this Agreement which could have been filed in the **City** municipal court but for this Agreement.
2. Transportation and incarceration of defendants appearing before the Justice Court, except that the CITY's police department shall be responsible for initial transportation to a County jail facility upon arrest by the police department.
3. Service of process as required by law for parties appearing before the Justice Court as a result of citations or long form complaints.
4. Service of process as required by law for parties appearing before the Justice Court for all Orders of Protection, Injunctions Against Harassment and other civil matters.
5. Issuance of Search Warrants, Civil and Criminal Arrest Warrants as required or authorized by law or by Court rules for parties appearing before the Justice Court.

B. The COUNTY shall staff this Consolidated Court as it deems appropriate and shall have exclusive authority and control over the hiring, firing and supervision of all court staff. The County shall be responsible for the administration and management of all compensation, payroll and employee benefits of Justice Court judicial officers and court employees.

C. The Justice Court shall be responsible for the collection of fees, fines, surcharges, City Code administrative fees, and shall make disbursements as may be

required by law or rules and regulations of the State of Arizona and the Arizona Supreme Court.

IV. DUTIES OF CITY

A. The CITY shall cause all cases which would otherwise be processed in the City municipal court to be referred to and filed with the Justice Court, which shall assume original jurisdiction over these matters.

B. The CITY understands and agrees that, in consideration of the COUNTY'S provision of municipal court services, the CITY shall be responsible for performance of the following related functions.

1. Initial transportation for incarceration of defendants appearing before the Justice Court as a result of citations or complaints issued by the City Police Department or an arrest made by the City Police Department.
2. Issuing, filing, and prosecuting all City Code violations. Prosecution of City Code violations will be done by the City Attorney's Office.

C. The CITY understands and agrees that, in consideration of the COUNTY'S provision of municipal court services, the COUNTY shall be entitled to any and all fines, fees or other similar revenues for civil or criminal misdemeanor cases arising within the boundaries of the Justice Court, after the effective date of this Agreement, which are within the jurisdiction of Justice Court Precinct, including those cases arising within the corporate limits of the **CITY**.

D. The CITY agrees to pay the COUNTY \$50,000 for municipal court services for the term of this Agreement, and \$30,500 to pay for a part-time pro tem for the term of this Agreement, with no obligation on the part of the COUNTY to contribute any amounts towards paying for a pro tem. Said payment shall be payable quarterly, in advance, or payment may be made in one lump sum at the beginning of the fiscal year. A new calculation of appropriate reimbursement from the CITY to the COUNTY shall be completed by the end of this agreement. Said calculation shall be subject to approval of both the City Council and the County Board of Supervisors.

E. In addition to the foregoing, the presiding judge of the Cochise County Superior Court shall appoint a Pro Tem who shall be an attorney in good standing, duly licensed to practice law in the State of Arizona.

F. The County shall consult with the City on the process for selection of a new Justice of the Peace in the event the Board is required to appoint a new Justice of the Peace; provided, however, that the final selection shall be determined by the Board.

V. INDEMNIFICATION AND INSURANCE

A. COUNTY agrees to hold harmless CITY, its officers, employees and agents from all losses, suits, damages or costs of any kind, including reasonable attorney's fees, defense costs and expenses arising from COUNTY'S performance pursuant to this agreement. It is understood and agreed that the COUNTY may elect to self-insure against any or all of the risks enumerated in this section. The COUNTY shall provide the CITY with current insurance certificates or the evidence of coverage as appropriate.

B. The CITY agrees to hold harmless the COUNTY, its officers, employees and agents from all losses, suits, damages or costs of any kind, including reasonable attorney's fees, defense costs and expense arising from the CITY'S performance pursuant to this agreement. It is understood and agreed that the CITY may elect to self-insure against any or all of the risks enumerated in this section. The CITY shall provide the COUNTY with current insurance certificates or evidence of coverage as appropriate.

VI. TERM AND TERMINATION

A. The term of this Agreement shall begin on July 1, 2020 and shall continue through December 31, 2020.

B. Either party may terminate this Agreement upon written notice to the other party no less than 120 days prior to the end of a fiscal year.

C. This Agreement is subject to cancellation pursuant to A.R.S. § 38-511, the provisions of which are incorporated herewith by reference.

D. The parties do not anticipate any acquisition of joint property under this Agreement. In the event of termination of this Agreement, any property supplied by the CITY pursuant to this agreement shall be and remain the property of the CITY. Any property acquired through the use of Justice Court Enhancement Funds (JCEF) will be handled in accordance with JCEF policies and procedures. The parties agree to the transfer of ownership of digital recording equipment and any computers or other related hardware and software supplied to the Magistrate Court by the Arizona Supreme Court to the COUNTY for utilization by the Consolidated Court for utilization by Consolidated Court personnel under terms of this Agreement, and to the return of said property to the CITY upon termination of this Agreement, unless the parties agree otherwise at that time.

Any property owned or purchased by the COUNTY, which is used to provide services pursuant to this Agreement, shall be and remains property of the COUNTY.

VII. WAIVER

Waiver, or the failure of either party at any time to require performance by the other, of any provision herein, shall in no way affect the party's subsequent rights and obligations under that provision. Waiver by either party of any breach or any provision herein shall not be taken or held to be a waiver of any succeeding breach of such provision or waiver of such provision itself.

VIII. ENTIRE AGREEMENT

This written Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and shall supersede all previous proposals, negotiations, representations, commitments, writings, and agreements. It may not be released, discharged, changed or modified, except by an instrument in writing, signed by a duly authorized representative of each of the parties except as expressly provided otherwise in this Agreement.

IX. RIGHTS OF THE PARTIES ONLY

The terms of this Agreement are intended only to define the respective rights and obligations of the parties. Nothing expressed herein shall break any rights or duties in favor of any potential third-party beneficiary or other person, agency or organization.

X. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

A. To the extent required by law, the parties shall comply with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, and State Executive Order No. 75-5 which mandated that all persons, regardless of race, religion, handicap, color, age, sex, political affiliation or national origin shall have equal access to employment opportunities.

B. Both parties shall comply with (1) the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap; (2) all applicable federal regulations regarding equal employment opportunity and relevant orders issued by the U.S. Secretary of Labor; and (3) all applicable provisions of the Americans Disabilities Act (Public Law 101336, 42 U.S.C. §§ 12101-12213) and all applicable Federal Regulations under the Act including 28 CFR Parts 35 & 36.

XI. APPROVAL OF THE PARTIES

Before the Agreement shall become effective and binding upon the parties, it must be approved by the COUNTY Board of Supervisors and the CITY Council. In the event that either party fails or refuses to approve this Agreement, it shall be null and void and of no effect whatsoever. Any party may sign this Agreement electronically, with the same force and effect as if signed with pen and ink.

IN WITNESS WHEREOF, the **COUNTY** has caused this instrument to be executed by Chairman of its Governing Board and attested to by the Clerk of said Board; and the **CITY** has caused this Agreement to be executed by its Mayor and Council and attested to by the Clerk of said Council on the dates set forth below.

APPROVED:

COUNTY OF COCHISE:

Thomas E. Borer, Chair Date
Board of Supervisors

ATTEST:

Kim Lemons, Clerk Date
Board of Supervisors

APPROVED:

SUPERIOR COURT IN AND FOR
THE COUNTY OF COCHISE

Hon. James Conlogue Date
Presiding Judge

COCHISE COUNTY ATTORNEY

Brian McIntyre Date
Cochise County Attorney

APPROVED:

CITY OF SIERRA VISTA:

Frederick W. Mueller, Mayor Date
City of Sierra Vista

ATTEST:

Jill Adams, City Clerk Date
City of Sierra Vista

APPROVED:

JUSTICE COURT, PRECINCT #5
CITY MAGISTRATE

Hon. Patrick Call Date
JP/City Magistrate

INTERGOVERNMENTAL AGREEMENT DETERMINATION

RE: Court Consolidation Agreement between the City of Sierra Vista and Cochise County

This Agreement has been reviewed pursuant to A.R.S. § 11-952 by the undersigned City Attorney who has determined that it is in appropriate form and is within the powers and authority granted to the City of Sierra Vista, Cochise County, Arizona.

APPROVED this ____ day of _____, 2020.

Nathan Williams
City Attorney

In accordance with A.R.S. § 11-952 this Agreement has been reviewed by the undersigned who has determined that this agreement is in appropriate form and within the powers and authority granted to the County of Cochise.

APPROVED this ____ day of _____, 2020.

Britt W. Hanson, Of Counsel
Cochise County Attorney