

RESOLUTION 2020-048

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 JUNE 30, 2021; 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 Justice Court 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

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.

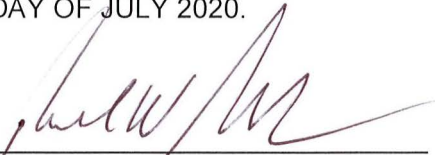
SECTION 2

The City of Sierra Vista hereby adopts the Intergovernmental Agreement regarding a consolidated court with Cochise County until June 30, 2021, 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 23rd DAY OF JULY 2020.



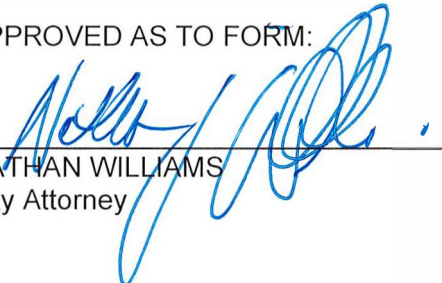
FREDERICK W. MUELLER
Mayor

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.

D. Provide a quarterly report with caseload and revenue information. Annually, COUNTY shall provide a budget report for the Justice 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. Subject to the COUNTY'S obligations contained herein, and specifically those outlined in Section III, subsection D, the CITY agrees to pay the COUNTY \$100,000 for municipal court services for FY2020-21, and \$61,000 to pay for a part-time pro tem, 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 June 30, 2021.

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

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

Brian McIntyre Date
Cochise County Attorney

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 23rd day of July, 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