

RESOLUTION 2021 - 049

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; APPROVING AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT WITH COCHISE COUNTY FOR COURT CO-LOCATION AND OPERATIONS THROUGH JUNE 30, 2022; 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 was needed to determine an appropriate methodology to apply to all court agreements within the county; and

WHEREAS, the City Council and the Board of Supervisors approved a temporary extension of the court agreement in September 2020 that was not fully executed; and

WHEREAS, the County thereby proposed a new co-location and operations agreement to co-locate the City's municipal court with the Sierra Vista Justice Court, Precinct V, and provide for the operations thereof; and

WHEREAS, the Sierra Vista City Council and the Cochise County Board of Supervisors approved the co-location and operations agreement in 2020, but complications arose with the city magistrate appointed at that time; and

WHEREAS, the Sierra Vista City Council determined the best course of action was to appoint the Justice of the Peace, Precinct V, as the city magistrate; and

WHEREAS, efficiency and effective administration of justice is of primary importance for area residents, and this agreement demonstrates a continued commitment to working in partnership to provide efficient and effective service to our residents; and

WHEREAS, this amendment is intended to supersede and replace all previous court 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.

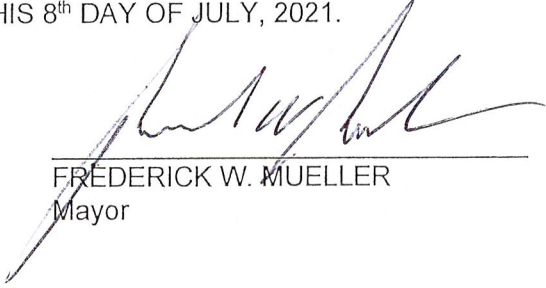
SECTION 2

The City of Sierra Vista hereby adopts the First Amended Intergovernmental Agreement regarding court co-location and operations with Cochise County until June 30, 2022, 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 8th DAY OF JULY, 2021.



FREDERICK W. MUELLER
Mayor

ATTEST:



JILL ADAMS
City Clerk

APPROVED AS TO FORM:



NATHAN WILLIAMS
City Attorney

**FIRST AMENDED COURT CO-LOCATION AND OPERATIONS 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**"] the City of Sierra Vista, a municipal corporation [hereinafter "**CITY**"] and the Cochise County Superior Court [hereinafter "**COURT**"] and Sierra Vista Justice Court #5, and is approved by the County Board of Supervisors, the Sierra Vista City Council, the Presiding Judge of the Superior Court for Cochise County, the Cochise County Attorney, and the Justice of the Peace for Precinct #5 [hereinafter "Justice of the Peace"] as authorized by the powers and authority granted by the laws of the State of Arizona.

RECITALS

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

WHEREAS, for efficient and effective administration of justice, the **COUNTY** and **CITY** agree to co-locate the Sierra Vista municipal court ("Municipal Court") and the Sierra Vista Justice Court, Precinct V ("Justice Court"), and provide for the operations thereof, as set forth in this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

I. LOCATION AND DESIGNATION

The Municipal Court and Justice Court shall be co-located at 100 Colonia de Salud, Sierra Vista, AZ, or other suitable location within the **CITY**.

II. DUTIES OF THE COUNTY

A. The **COUNTY** will operate the Justice Court as required by law. It will also be responsible for the performance of the following related functions:

1. The prosecution and defense of all cases within its jurisdiction, except cases arising from the violation of the **CITY's** Code of Ordinances, during the existence of this Agreement.
2. Transportation and incarceration of defendants appearing before the Justice Court, as provided in A.R.S. § 31-121, 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.
6. Provide staffing for cases heard by the municipal judge.
7. If available, provide an accounting to the **CITY** of revenue generated by the **CITY's** civil, criminal, and municipal cases to be used to determine the **CITY's** payment obligation to the **COUNTY** as provided in the funding formula contained in **Exhibit A**, attached. Adjustments to the provisions in the funding formula, based upon the most current accounting information as described above, may be made administratively by the City Manager or County Administrator upon mutual agreement.

B. The **COUNTY** shall budget for Justice Court staff as it deems appropriate. The Justice of the Peace in cooperation with the Superior Court Presiding Judge shall have supervisory authority and control over all court staff. The **COURT** shall be responsible for the management of all compensation, payroll and employee benefits of Justice Court judicial officers and court employees.

C. All **CITY** ordinance violations shall be filed in the Justice Court #5's City data base. All other cases filed by the City Police Department will be filed in the Justice Court #5's State data base. Sierra Vista Justice Court #5 shall be responsible for the collection of all **COUNTY** fees, fines, surcharges, restitution, and other financial assessments which are ordered in all cases. Sierra Vista Justice Court #5 shall make disbursements as may be required by law or rules and regulations of the State of Arizona and the Arizona Supreme Court. Base fines and fees collected

on **CITY** ordinance cases will be disbursed to the **CITY** and base fines and fees collected on all other cases including those filed by the City Police Department will be disbursed to the **COUNTY**.

D. The Justice of the Peace shall calendar **CITY** ordinance cases in the best interest of the **COURT** and as required by law and shall adhere to all time standards set forth by the Supreme Court.

III. DUTIES OF THE CITY

A. The **CITY** shall cause all cases which would otherwise be processed in the **CITY** municipal court, except cases arising from the violation of the **CITY's** Code of Ordinances, to be referred to and filed with the Justice Court, which shall assume original jurisdiction over these matters pursuant to Arizona Revised Statutes, Title 22.

B. 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 cases arising from the violation of the **CITY's** Code of Ordinances. Prosecution of such violations will be performed 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 Council hereby appoints, as magistrate for the City of Sierra Vista, the Justice of the Peace subject to the requirements contained in Section V(A) herein.

E. The compensation of the City Magistrate shall be the sole responsibility of the City.

F. In consideration for the **COUNTY's** responsibilities and obligations under this Agreement, the **CITY** agrees to pay the **COUNTY** \$161,000 for FY2020-2021. Said payment shall be payable quarterly, in advance, or payment may be made in one lump sum. For FY2021-2022 and for each successive term of this agreement, the **CITY's** payment obligation shall be recalculated on an annual basis utilizing the funding formula in Exhibit A by at least March 1 prior to the beginning of the next succeeding fiscal year.

V. DUTIES OF THE COURT

A. The **COURT** shall appoint a Justice of the Peace Pro Tempore to assist the Justice Court in processing and adjudicating cases. The Justice of Peace Pro Tempore shall be an attorney in good standing and duly licensed to practice law in the State of Arizona.

VI. APPOINTMENT OF A NEW JUSTICE OF THE PEACE

A. In the event the County Board of Supervisors is required to appoint a new Justice of the Peace, the **COUNTY** shall consult with the **CITY** on the process for selection of a new Justice of the Peace. The final selection, however, shall be determined by the County Board of Supervisors.

VII. 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.

VII. TERM AND TERMINATION

A. The term of this Agreement shall begin on January 1, 2021 and shall continue through June 30, 2022. This Agreement shall automatically renew for additional successive one (1) year terms unless a party provides notice at least 120 days prior to the end of a fiscal year of its intent not to renew or to renegotiate the terms of this Agreement.

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**.

VIII. 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.

IX. 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.

X. 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.

XI. 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.

XII. 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:


Ann English, Chair Date 8-10-21
Board of Supervisors

APPROVED:

CITY OF SIERRA VISTA:


Frederick W. Mueller, Mayor Date
City of Sierra Vista

ATTEST:

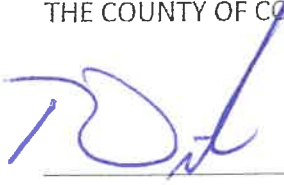

Kim Lemons, Clerk Date 8/10/21
Board of Supervisors

ATTEST:


Jill Adams, City Clerk Date 07/08/21
City of Sierra Vista

APPROVED:

SUPERIOR COURT IN AND FOR
THE COUNTY OF COCHISE



AUG 12 2021

Hon. Timothy B. Dickerson
Presiding Judge

Date

APPROVED:

SIERRA VISTA JUSTICE COURT #5
SIERRA VISTA CITY MAGISTRATE



Hon. Kenneth Curfman

Date

Justice of the Peace/City Magistrate

COCHISE COUNTY ATTORNEY



Brian McIntyre

Date

8/16/21

Cochise County Attorney

INTERGOVERNMENTAL AGREEMENT DETERMINATION

RE: Court Co-location and Operations 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 8th day of July, 2021.



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 10th day of August, 2021.



Christine J. Roberts, Chief Civil Deputy
Cochise County Attorney

Exhibit A

**JP / Magistrate Cost Model
FY 21-22**

Municipal Caseload Percentage	Municipal Percentage
JP1 - Bisbee PD	14%
JP2 - Douglas PD	51%
JP3 - Benson PD	9%
JP4 - Willcox PD	29%
JP 5 - Sierra Vista PD	46%

Total Justice Court Expenses	Court Operating	Court Security	Utilities	Prosecution	Defense	Total	Court Revenue
JP1 - Bisbee	356,988	69,480	238	44,163	12,284	483,153	181,699
JP2 - Douglas	497,997	138,960	22,629	66,463	17,330	743,379	337,392
JP3 - Benson	472,593	69,480	8,347	16,647	5,923	572,990	551,543
JP4 - Willcox	380,333	69,480	6,754	40,348	12,284	509,199	384,306
JP 5 - Sierra Vista	828,455	138,960	7,783	163,483	46,281	1,184,962	585,234

Municipal Costs Expenses (above) x Caseload %	Court Operating	Court Security	Utilities	Prosecution	Defense	Total	Municipal Rev Share	Municipal Costs Due
JP1 - Bisbee PD	50,788	9,885	34	6,283	1,748	68,737	25,850	42,887
JP2 - Douglas PD	253,838	70,831	11,534	33,877	8,833	378,914	171,975	206,939
JP3 - Benson PD	44,750	6,579	790	1,576	561	54,257	52,226	2,031
JP4 - Willcox PD	110,005	20,096	1,953	11,670	3,553	147,278	111,154	36,123
JP 5 - Sierra Vista PD	382,376	64,138	3,592	75,456	21,361	546,924	270,117	276,807

Timeframe

FY 19-20 Minus Two Years	FY 20-21 Minus One Year	FY 21-22 Year of Agreement
Actual expenses used from this time period	Q1, Q2 - County Finance closes out the prior year Q3 - Budget enters prior year actuals into cost model and sends IGA costs to Cities in time for upcoming year Budget preparation (March)	County and Cities enter into agreement with a fixed cost based on cost model Cycle repeated every year

Caseload Information

Municipality	Civil Traffic	Criminal Traffic	Local Ordinance	Misd.	Municipal Caseload	Court Total	Municipal Percentage
JP1 - Bisbee PD	91	41	-	282	414	2,910	14%
JP2 - Douglas PD	1,687	114	-	533	2,334	4,579	51%
JP3 - Benson PD	200	44	-	184	428	4,520	9%
JP4 - Willcox PD	914	115	-	462	1,491	5,155	29%
JP 5 - Sierra Vista PD	2,050	665	-	1,925	4,640	10,053	46%

Notes:

Source: AOC Report of Court Filings by Agency

Timeframe: FY20

- Context: Caseload counts include cases a municipality would be responsible for if it operated as an independent court
- Cases Counted to Municipal Total: Civil Traffic; Criminal Traffic; Local Ordinance; Misdemeanor.
 - Cases not Counted: Felony; Unclassified (not displayed on this report)

JP Court Expense & Revenue Information

FY20 Actual	Operating Expenses	Fee/Fine Revenue	Surplus (deficit)
JP1 - Bisbee	356,988	181,699	(175,289)
JP2 - Douglas	497,997	337,392	(160,605)
JP3 - Benson	472,593	551,543	78,950
JP4 - Willcox	380,333	384,306	3,973
JP 5 - Sierra Vista	828,455	585,234	(243,221)

Notes:

Source: County Financial Report

Timeframe: FY 20

Context: Actual Fee/Fine revenue. Does not include revenue from City IGAs.

Court Security Costs

	Weekly Court Security Hours	Annual Hours	Annual Cost	Munic Case %	Munic Share
JP 1 - BSB	40	2080	69,480	14.2%	9,885
JP 2 - DGL	80	4160	138,960	51.0%	70,831
JP 3 - BNSN	40	2080	69,480	9.5%	6,579
JP 4 - WLX	40	2080	69,480	28.9%	20,096
JP 5 - SV	80	4160	138,960	46.2%	64,138

Court Security Operating Costs

General Fund FY20 Actuals	660,061
General Fund FTEs	9.50
Total Security Hours (FTEs x 2080)	19760.00
Hourly Court Security Cost	33.40

Notes:

Source: County Budget Report, staffing projections from Court Administration/Court Security

Timeframe: FY 20

Context: Actual Court Security Costs. Actual number of Court Security Officers

Utility Costs

Court	Utility Totals	Sq Ft % JP Court	JP Court Costs	Munic %	Munic Cost
JP 1 - BSB	1,150	21%	238	14%	34
JP 2 - DGL	54,459	42%	22,629	51%	11,534
JP 3 - BSN	54,784	15%	8,347	9%	790
JP 4 - WLX	31,785	21%	6,754	29%	1,953
JP 5 - SV	43,241	18%	7,783	46%	3,592

Notes:

Source: County Report - Detailed General Ledger

Timeframe: FY 20

Context: Actual costs per building x % of Bldg used by JP x Municipal Caseload %

Staff Time - Prosecution

Employee Time Estimate	% of Time on Misd	% of Time on Misd by JP				
		JP 1 Bisbee	JP 2 Douglas	JP 3 Benson	JP 4 Willcox	JP 5 Sierra Vista
Attorney II	76%				36%	40%
Attorney II	100%					100%
Attorney II	80%	30%	50%			
Attorney III	20%	4%	7%	1%		8%
Legal Secretary	92%				20%	72%
Legal Secretary	100%	30%	34%	36%		

Total Prosecution Costs	Employee Cost	JP 1	JP 2	JP 3	JP 4	JP 5
		Bisbee	Douglas	Benson	Willcox	Sierra Vista
Attorney II	88,739	-	-	-	31,582	35,496
Attorney II	88,739	-	-	-	-	88,739
Attorney II	88,739	26,767	44,224	-	-	-
Attorney III	100,922	4,339	7,168	943	-	7,734
Legal Secretary	43,831	-	-	-	8,766	31,515
Legal Secretary	43,831	13,057	15,071	15,703	-	-
		44,163	66,463	16,647	40,348	163,483

Total Prosecution Costs	JP 1	JP 2	JP 3	JP 4	JP 5
	Bisbee	Douglas	Benson	Willcox	Sierra Vista
Munic Caseload %	14%	51%	9%	29%	46%
Munic Share	6,283	33,877	1,576	11,670	75,456

Notes:

Source: Time Estimate completed by County Attorney's Office

Timeframe: FY 20

Context: projected staff time % dedicated to Misdemeanor prosecution by JP Court x staff costs x Municipal Caseload % by court

Staff Costs:

Attorney 84,102 + 20% (EREs) = 100,922

Legal Secretary 36,526 + 20% (EREs) = 43,831

Staff Time - Defense

Employee Time Estimate	% of Time on Misd	% of Time on Misd by JP				
		JP 1 Bisbee	JP 2 Douglas	JP 3 Benson	JP 4 Willcox	JP 5 Sierra Vista
Attorney III	75%	10%	15%	5%	10%	35%
Legal Secretary	42%	5%	5%	2%	5%	25%

Total Defense Costs	Employee Cost	JP				
		1 Bisbee	2 Douglas	3 Benson	4 Willcox	5 Sierra Vista
Attorney III	100,922	10,092	15,138	5,046	10,092	35,323
Legal Secretary	43,831	2,192	2,192	877	2,192	10,958
		12,284	17,330	5,923	12,284	46,281

Total Prosecution Costs	JP				
	1 Bisbee	2 Douglas	3 Benson	4 Willcox	5 Sierra Vista
Munic Caseload %	14%	51%	9%	29%	46%
Munic Share	1,748	8,833	561	3,553	21,361

Notes:

Source: Time Estimate completed by Indigent Defense Offices
(Public Defender, Legal Defender, Legal Advocate)

Timeframe: FY 20

Context: projected staff time % dedicated to Misdemeanor defense by JP Court x staff costs x Municipal Caseload % by court

Staff Costs:

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Legal Secretary 36,526 + 20% (EREs) = 43,831

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

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