

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF  
BISBEE AND COCHISE COUNTY FLEET SERVICES FOR  
MAINTENANCE AND REPAIRS ON CITY OF BISBEE VEHICLES  
AND OFF HIGHWAY EQUIPMENT**

**THIS AGREEMENT** is made and entered into by and between COCHISE COUNTY, a political subdivision of the state of Arizona (hereinafter called “the COUNTY”), and the CITY OF BISBEE (hereinafter called “the CITY”), a municipal corporation, for the purpose of exercising their respective joint powers and contracting for services for the maintenance and repair of CITY vehicles weighing up to one (1) ton. The CITY and COUNTY may each be referred to herein as “Party” or “Parties”, collectively.

**RECITALS**

**WHEREAS**, the COUNTY has available, on a limited basis, certain employees, equipment and materials through Cochise County Fleet Services, which may be of significant benefit on various vehicle maintenance and repair projects of the CITY; and

**WHEREAS**, the cooperative use of COUNTY staff, equipment and materials for work on CITY projects, when such resources are not scheduled for COUNTY projects, may be in the best interest of all citizens of Cochise County; and

**WHEREAS**, both the COUNTY and the CITY are in favor of maximizing the public benefit that can be derived from the cooperative use of public resources; and

**WHEREAS**, this agreement, contracting for certain services between governments, is authorized by A.R.S. § 11-951 *et seq.* (Intergovernmental Agreements), A.R.S. § 11-251(58) (County Sale of Property to Another Government Entity at Less Than Fair Market Value), A.R.S. § 41-2631 *et seq.* (Cooperative Purchasing), as applicable,

**NOW THEREFORE**, inconsideration of the mutual covenants set forth herein, CITY and COUNTY make the following agreements:

**AGREEMENT**

**I. MAINTENANCE AND REPAIR OF CITY VEHICLES WEIGHING UP TO ONE (1) TON**

1. The CITY may deliver its vehicles weighing up to one (1) ton to Cochise County Fleet Services for maintenance and repairs. Each CITY vehicle will be maintained on an interval established by the CITY and scheduled through the COUNTY by appointment only, and subject to paragraph four (4) below. The following list of services will be provided:

- A. Vehicle lube, oil and oil filter service.
  - B. Tire repair and replacement.
  - C. Alignments.
  - D. Brake maintenance and repairs.
  - E. Engine and body electrical.
  - F. Suspension maintenance and repair.
  - G. Preventative maintenance services.
  - H. Tune up service.
  - I. A/C maintenance and repair.
  - J. Fuel system service and repair.
  - K. Cooling system maintenance and repair.
  - L. Transmission maintenance and light repair.
  - M. The vehicle will be checked over generally and the CITY will be advised of any problems that are identified.
  - N. Any problems found that are safety related to the operation of the vehicle will be repaired without consultation.
  - O. All problems reported by the CITY will be repaired, as parts and resources permit, subject to the terms of this agreement.
  - P. All preventive maintenance will be done according to current Cochise County Fleet Management guidelines.
2. The CITY vehicles may be brought in by appointment only. Each vehicle should include a list of needed repairs or maintenance or problems noted with the vehicle.
  3. The COUNTY will not repair or maintain any fire-fighting equipment on the vehicles.
  4. The COUNTY will only work on the CITY vehicles as resources permit. COUNTY vehicles shall be the first priority for COUNTY staff. If resources permit, and higher priorities do not interfere, the COUNTY Fleet Management Director will generally attempt to service the vehicles as follows:
    - A. If the CITY vehicle is in for normal maintenance and there are no other reported problems with the vehicle, the vehicle will generally be completed that same day.
    - B. If repairs or replacement parts are required on the CITY vehicles, this work will depend on part availability and magnitude of the repairs. These will be coordinated with the CITY's authorized contact person and the County Fleet Services Director.
  5. If the total repair cost is estimated to exceed \$300 (parts and Labor), COUNTY Fleet Services Director will get written approval of the CITY's designated contact person to proceed before any repairs are made.

6. The COUNTY will charge the CITY for all parts and supplies used at cost, plus a parts overhead charge of ten percent (10%), plus any applicable taxes. All labor will be charged at a rate of \$48.00 per hour. Any overtime shall be requested in writing by the CITY, and will cost time and a half, or an additional \$24.00 per hour. The COUNTY Fleet Services Director will make the final decision if overtime is available and forthcoming. The COUNTY agrees to perform its work in the manner that such work is customarily provided, according to the professional standards that are applicable to the completion of this type of work.
7. The Parties further agree to abide by the terms in Exhibit A, which are incorporated herein and attached hereto.

**II. Additional Terms of Agreement:**

8. Services will be billed monthly, directly to the CITY by statement, which will include copies of COUNTY repair orders. The CITY agrees to pay these invoices within thirty (30) days of receipt.
9. The Parties shall each be responsible for their respective compliance with all requirements of any federal, state, county, or local ordinances, statutes, charters, codes, rules, regulations, or any other governmental requirements.
10. Both Parties shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (Public Law 101-336, 42 U.S.C. 12101 *et seq.*) and the ADA Amendments Act of 2008 (Public Law 110-325, 42 U. S. C. 12101 *et seq.*) and all applicable federal regulations under the Act, including 28 CFR Parts 35 & 36.
11. This Agreement shall become effective upon execution by the Parties. It shall remain in effect for a period of one (1) year and shall automatically renew annually, unless either Party provides the other with written notice of its intent not to renew this Agreement, as provided below.
12. Either Party, upon thirty (30) days written notice to the other Party, may terminate this Agreement.

Notwithstanding the foregoing, termination of this Agreement by either Party shall not relieve the CITY of its obligation to pay the COUNTY for work performed as provided herein.

13. If any provision of this Agreement or portion thereof is held invalid, illegal or unenforceable, such provision or portion thereof shall be severed from this Agreement and shall have no effect on the remaining provisions of this Agreement, which shall remain in full force and effect.

14. No provision in this Agreement shall be construed, expressly or by implication, as a waiver by either Party of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract. The failure of any Party to insist upon the strict performance of any term or condition of the Agreement or to exercise or delay the exercise of any right or remedy provided in the Agreement or by law, or the acceptance of materials or services, or the payment for materials or services, shall not release the other Party from any responsibilities or obligations imposed by the Agreement or by law, and shall not be deemed a waiver of a right of a Party to insist upon the strict performance of the Agreement.

15. This contract is subject to the provisions of A.R.S. § 38-511 which provides in pertinent part:

The state, its political subdivision or any department of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time, while the contract or any extension of the contract is in effect, an employee or agent of any other party to contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract.

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

All employees are hereby notified that in the event they do not specifically reject the provisions of the compulsory compensation law they are deemed by the laws of Arizona to have accepted the provisions of such law, and to have elected to accept compensation under the terms of such law, and that under the terms thereof employees have the right to reject the same by written notice thereof prior to any injury sustained, and that blanks and forms for such notice are available to all employees at the office of this company.

17. Insurance Requirements

For the term of this Agreement, the Parties shall procure and maintain insurance against claims for injury to persons or damage to property arising from, or in connection with this Agreement by the Parties, their agents, representatives, or employees.

18. To the extent permitted by law, each party to this Agreement shall (as an "Indemnitor") indemnify, defend and hold harmless the other party and its officers, officials, agents, employees and volunteers (collectively the "Indemnitees") from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees, collectively "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims are caused by the act, omission, negligence, misconduct or other fault of the Indemnitor, its officers, officials, agents, employees or volunteers. If a Claim or Claims by third parties becomes subject to this Section 18, the parties to this Agreement that are the subject of the Claim or Claims shall expeditiously meet to agree upon a common and mutual defense pursuant to Section 18.1 of this Agreement, including proportionate liability and proportionate payment of litigation fees, expenses and damages.

18.1 The Parties involved in a Claim or Claims have a common interest in a coordinated defense in any lawsuit. In the absence of a conflict, the Parties agree to have one lawyer jointly represent the defendants in the lawsuit. The Parties agree to abide by the Memorandum of Understanding Regarding Joint Defense ("MOU") between the Arizona Counties Insurance Pool ("ACIP") and the Arizona Municipal Risk Retention Pool ("AMRRP"). Each party acknowledges that it has received a copy of the MOU from either ACIP or AMRRP.

The obligations under this Section 18 shall survive the termination of this Agreement

19. This Agreement shall be governed by the laws of the State of Arizona. The Parties hereby agree that the venue for the resolution of any dispute under this Agreement shall be and shall remain in Cochise County.
20. This Agreement amends and supersedes any vehicle services agreement previously made between the CITY and COUNTY, and specifically the agreement approved by the COUNTY on July 7th, 2009.
21. The Parties shall comply with all applicable state and federal statutes and regulations governing Equal Employment Opportunity, Non-Discrimination, and Immigration.
22. In accordance with A.R.S. § 35-393.01, the Parties certify that they are not currently engaged in, and for the duration of this Agreement agree not to engage in, a boycott of Israel, and will not adopt a procurement, investment, or other policy that has the effect of inducing or requiring a person or company to boycott Israel.

23. The Parties hereby warrant that they will, at all times, during the term of this Agreement comply with all federal immigration laws applicable to the Parties' employment of its employees, and with the requirements of A.R.S. § 23-214(A) (together the "State and Federal Immigration Laws"). The Parties shall further ensure that each sub-consultant who performs any work for the Party under this Agreement likewise complies with the State and Federal Immigration Laws.
24. The Parties agree to keep all books, accounts, reports, files, and other records relating to this Agreement for five (5) years after completion of the contract; and, in addition, agrees that such books, accounts, reports, files, and other records shall be subject to audit pursuant to A.R.S. § 35-214.
25. Notwithstanding any other provision of the Agreement, the Parties understand that Cochise County and the City are each a public entity and, as such, is subject to Arizona's public records law, A.R.S. § 39-121 et. seq.
26. This Agreement and all documents and instruments executed in furtherance hereof may be amended or supplemented only by an instrument in writing, signed by the Parties against whom enforcement thereof may be sought.
27. Titles and headings of the paragraphs contained herein are solely for the purpose of convenience and are not intended in any way to affect, control or limit the meaning or application of any such paragraph.
28. Words and expressions used herein shall be applicable according to the context and without regard to the number or gender of such words or expressions.
29. The Parties acknowledge and agree that no representations, warranties, or covenants have been made to, or relied upon by them, or by any person acting for or on their behalf, which are not fully and completely set forth herein. This Agreement supersedes any terms, conditions, covenants or other documents or agreements between the Parties.
30. This Agreement has been negotiated by the Parties and no Party has acted under compulsion or duress, economic or otherwise. The Parties waive any rule of interpretation which would construe any provision of this Agreement against any Party who drafted this Agreement.
31. This Agreement may be modified only by a written Amendment signed by persons duly authorized to act in this capacity on behalf of the Parties.
32. This Agreement may be executed by the Parties in duplicate counterparts, each one of which shall constitute a binding contract document when signed.

33. The Parties acknowledge and understand that this is an Agreement between public agencies and it has been reviewed pursuant to A.R.S. § 11-952 by the undersigned attorney. The undersigned attorney has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the above-identified Parties who have both authorized the County Attorney's Office to review the Agreement and waived any conflict of interest in so doing.

**IN WITNESS WHEREOF**, the Parties to this Agreement have caused their names to be affixed hereto by their proper officers on the dates indicated.

**COCHISE COUNTY BOARD OF SUPERVISORS**

\_\_\_\_\_  
Ann English  
Chair of the Board

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Arlethe Rios  
Clerk of the Board

\_\_\_\_\_  
Date

**CITY OF BISBEE**

\_\_\_\_\_  
David Smith  
Mayor

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Ashlee Coronado  
City Clerk

\_\_\_\_\_  
Date

**ATTORNEY CERTIFICATION**

The attached Agreement, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Deputy County Attorney who has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to Cochise County.

APPROVED AS TO FORM this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

COCHISE COUNTY ATTORNEY

By: \_\_\_\_\_  
Britt Hanson  
Chief Civil Deputy County Attorney