

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF BISBEE AND COCHISE COUNTY
FOR PLANNING, ZONING, SUBDIVISION DEVELOPMENT, DESIGN REVIEW BOARD AND
BUILDING INSPECTION SERVICES**

This Intergovernmental Agreement is made and entered into between the City of Bisbee, a municipal corporation of the State of Arizona, hereinafter referred to as “the City”, and Cochise County, a political subdivision of the State of Arizona, hereinafter referred to as “the County”, pursuant to the authority of A.R.S. § 11-952, et seq.

WHEREAS, the City has established planning, zoning, subdivision, and building code regulations pursuant to A.R.S. §§ 9-461 et. seq. and 9-801 et. seq.; and

WHEREAS, interpretation and enforcement of those regulations is performed by a Zoning Administrator and Building Inspector; and

WHEREAS, due to cutbacks in staff, all of these functions are currently performed by a single employee; and

WHEREAS, in order to broaden the staffing to perform these functions, the City desires to shift these functions to the County and fund a position in the County on the terms and conditions set forth herein; and

WHEREAS, the County is willing to retain an employee in this employee and perform all of these functions on behalf of the City on the terms and conditions set forth herein.

IT IS HEREBY AGREED THAT:

1. **County’s Obligations.** The County agrees to provide the following services to be performed by qualified County personnel:
 - a. Planning and Zoning services, including:
 - i) Intake, process, analyze and make recommendations to the Planning Commission and Council on any rezoning, Special Use, or Variance applications.

- ii) Analyze and make recommendations to the Planning Commission and Council on any proposed amendments to the Zoning Code or City Code pertaining to planning and zoning.
- iii) Analyze and make recommendations to the Planning Commission and Council on any proposed amendments to the City's General Plan.
- iv) Analyze and assist the Design Review Board with any matters coming before the Board.
- v) Prepare agendas and agenda items for the Planning Commission and Design Review Board and ensure that they are properly noticed.
- vi) Intake, research and process any application for a subdivision.
- vii) Enforcement of the Zoning Code, Property Maintenance Code and City Code.
- viii) Act as the City's Zoning and Code Enforcement Administrator.
- ix) Intake, research and process annexation applications and make recommendations to the Planning Commission and Council.
- x) Consult with the City Manager on any planning, zoning, and code enforcement matters as deemed necessary.

b. Building inspection services, including:

- i) Intake and process building permits.
- ii) Perform plan reviews.
- iii) Perform building inspections.
- iv) Interpret and enforce the City's Building Code, Property Maintenance Code, and City Code.
- v) Act as the City's Building Inspector and Building Official.
- vi) Consult with the City Manager on any building plan review, inspection, and code enforcement issues as deemed necessary.

2. **City's Obligations.** For these services the City agrees to pay the County a flat fee in an annual amount equal to the current City Building Inspector's salary and EREs, plus \$2,500 per month. There will be no additional charge for travel, vehicle or overhead. The County will bill the City on a monthly basis. The City will make all such payments within thirty (30) days of the receipt of an itemized bill for authorized services.

3. **Effective Date and Term.** This Agreement shall become effective following its approval by both parties. It shall remain in effect for a term through December 31, 2018; at such time the Council and Board of Supervisors will each review this Agreement to determine whether it is meeting the parties' needs and suggesting adjustments to its

terms, if any. Thereafter, this Agreement shall automatically be renewed for successive one-year terms, unless the Agreement is terminated earlier as provided in this Agreement.

4. **Conflict of Interest.** This Agreement may be terminated, with or without cause, by either party upon written notification of intent to terminate provided not less than six months prior to the effective date of such termination. This Agreement shall also be subject to termination pursuant to the provisions of A.R.S. § 38-511, which provides for termination of a contract in the event of certain conflicts of interest.

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

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

6. **Indemnification.** To the fullest extent allowed by law, the City shall defend, hold harmless, and indemnify the County, its officers, agents and employees, from all claims, demands, suits, damages, and loss (“claims”) which result from the negligence or intentional torts of the City, its agents, officers and employees, in the performance of this Agreement, but only to the extent that such claims arise from such negligence or intentional torts. To the fullest extent allowed by law, the County shall defend, hold harmless and indemnify the City, its officers, agents and employees, from all demands, suits, damages and loss (“claims”) which result from the negligence or intentional torts of the City, its agents, officers and employees, in the performance of this Agreement, but only to the extent that such claims arise from such negligence or intentional torts. The extent of the foregoing liabilities shall be limited to and determined by the respective fault of the parties, their officers, agents and employees, in comparison with others (including, but not limited to, the other party) who may have contributed to or in part caused any such claim to arise.

7. **Governing Law.** 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.

8. **Compliance with Legal Authorities.**

- a. 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.
- b. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

9. **Non-Discrimination.** The parties shall comply with all applicable state and federal statutes and regulations governing Equal Employment Opportunity, Non-Discrimination, and Immigration.

10. **Conflict of Interest.** This Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511 regarding Conflict of Interest.

11. **No Boycott of Israel.** 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.

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

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

14. **Public Records Law.** Notwithstanding any other provision of the agreement, the parties understand that Cochise County is a public entity and, as such, is subject to Arizona's public records law, A.R.S. § 39-121 et. seq.

15. **Jurisdiction and Applicable Law.** This Agreement shall be governed by the laws of the State of Arizona. Jurisdiction and venue for any action under this Agreement shall be in Cochise County, Arizona.

16. **Amendments.** 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.

17. **Paragraph Headings.** 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.

18. **Interpretations.** 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.

19. **Entire Agreement.** 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.

20. **Construction.** 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.

21. **Waiver of Conflict.** Both parties have authorized the County Attorney's Office, acting through the undersigned attorneys, to review and approve this Agreement as to form and waive any conflict of interest in so doing.

APPROVED BY THE BOARD OF SUPERVISORS OF COCHISE COUNTY, ARIZONA,

this _____ day of _____, 2018.

ATTEST:

**COCHISE COUNTY BOARD
OF SUPERVISORS**

**Arlethe G. Rios
Clerk of the Board**

**Peggy Judd
Chair of the Board**

APPROVED BY MAYOR AND COUNCIL OF THE CITY OF BISBEE, ARIZONA,

this _____ day of _____, 2018.

ATTEST:

CITY OF BISBEE

**Ashlee Coronado
City Clerk**

**David Smith
Mayor**

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 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 the above-identified parties who have both authorized the County undersigned to review the Agreement and waived any conflict of interest in so doing.

APPROVED AS TO FORM:

This ____ day of _____, 2018.

By: _____
Britt Hanson
Civil Deputy County Attorney
Bisbee City Attorney