

**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** have determined that it is mutually beneficial to consolidate the City Municipal Court with the Justice Court for the applicable Precinct, which hereinafter will be referred to as the “Consolidated Court”; and

WHEREAS, such court consolidation provides a coordinated judicial system to provide cost effective services at a centralized location to the residents of the **CITY** and the surrounding community within the Precinct; and

WHEREAS, the **COUNTY** and the **CITY** are authorized and empowered to enter into an Intergovernmental Agreement for this purpose pursuant to A.R.S. §§ 11-951 *et seq.*, 11-952, 22-101 *et seq.*, and 22-402,

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

I. PURPOSE

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

II. NAME, LOCATION, AND DESIGNATION

The consolidation of the courts will hereinafter be known and referred to as the “CONSOLIDATED COURT” and is located at the Sierra Vista Justice Court, Precinct #5, 100 Colonia de Salud, Sierra Vista, AZ 85635, or other suitable location within the community.

The Sierra Vista Justice Court, Precinct #5, shall be designated and operated as the municipal court of the City of Sierra Vista pursuant to A.R.S. § 22-402, specifically including subsection C (1) of A.R.S. 22-402, and shall have the responsibilities and authorities provided by A.R.S. § Title 22, Chapter 4.

III. DUTIES OF THE COUNTY

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

1. All prosecution and defense of criminal cases which arise under the Arizona Revised Statutes, where the offense is committed on or after the effective date of this Agreement, and during the existence of this Agreement.
2. Transportation and incarceration of defendants appearing before the Consolidated 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. Charges to the City for incarceration of defendants pursuant to A.R.S. § 31-121(D) shall be accounted and billed separate from this Agreement.
3. Service of process as required by law for parties appearing before the Consolidated Court as a result of citations or long form complaints.
4. Service of process as required by law for parties appearing before the Consolidated 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 Consolidated Court.

B. The COUNTY shall have jurisdiction over any pending City Municipal Court cases and Magistrate files and all new case filings. 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 judicial staff; provided, however, that the Presiding Judge of the Cochise County Superior Court shall appoint the City Magistrate Pro Tem, who shall be an attorney in good standing and licensed to practice law in the State of Arizona.

C. The Consolidated Court shall be responsible for the collection of fees, fines, surcharges, City Code administrative fees, and disbursements to the State of Arizona, the COUNTY and/or the CITY, as may be required by law, the State of Arizona and the Arizona Supreme Court.

D. The COUNTY shall be responsible for the administration and management of all compensation, payroll and employee benefits of the City Magistrate and City Magistrate Pro Tem.

IV. DUTIES OF CITY

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

B. The CITY understands and agrees that, in consideration of the COUNTY'S operation of the Consolidated Court, the CITY shall be responsible for performance of the following related functions.

1. Initial transportation for incarceration of defendants appearing before the Consolidated 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 for persons appearing before the Consolidated Court. 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 operation of the consolidated court, 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 or the City Magistrate Court, including those cases arising within the corporate limits of the **CITY**.

D. The CITY agrees to pay the COUNTY \$100,000 for municipal court services for FY2019-20, and \$61,000 for the 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 April 1, 2020. Said calculation shall be subject to approval of both the City Council and the County Board of Supervisors.

E. The CITY shall have the sole authority to appoint the City Magistrate pursuant to A.R.S. §§ 22-402 and 22-403, *et seq.*

F. The CITY shall have sole authority to renew such appointment or make a new appointment as may be required by the election of a new Justice of the Peace, applicable City Code or Charter, or the resignation of the Justice of the Peace followed by appointment of another individual.

G. Notwithstanding any other provision of this Agreement, it is acknowledged and agreed that the County's obligations and responsibilities under this Agreement are conditioned upon the CITY's appointment of the Justice of the Peace, Precinct #5, as City Magistrate.

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, 2019 and shall continue through June 30, 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.

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:

APPROVED:

COUNTY OF COCHISE:

CITY OF SIERRA VISTA:

Peggy Judd, Chair Date
Board of Supervisors

Frederick W. Mueller, Mayor Date
City of Sierra Vista

ATTEST:

ATTEST:

Arlthe G. Rios, Clerk Date
Board of Supervisors

Jill Adams, City Clerk Date
City of Sierra Vista

APPROVED:

APPROVED:

SUPERIOR COURT IN AND FOR
THE COUNTY OF COCHISE

JUSTICE COURT, PRECINCT #5
CITY MAGISTRATE

Hon. James Conlogue Date
Presiding Judge

Hon. Patrick Call Date
JP/City Magistrate

COCHISE COUNTY ATTORNEY

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 ____ day of _____, 2019.

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 _____, 2019.

Britt W. Hanson, Chief Civil Deputy.
Cochise County Attorney