

RESOLUTION 2016-062

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; AUTHORIZING THE CITY TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH COCHISE COUNTY TO PROVIDE ELECTION SERVICES; 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 will be scheduling a Primary Election to be held on August 30, 2016 and a General Election to be held on November 4, 2016; and

WHEREAS, it is the mutual desire of the parties to provide citizens in the region with all necessary means and opportunities to participate in elections; and

WHEREAS, the City and County, in accordance with A.R.S. § 11-952, (Intergovernmental Agreements) A.R.S. § 11-251(41) (Count Lease of Personal Property), A.R.S. § 11-41-2632 (Cooperative Purchasing), and A.R.S. § Title 16 (Elections and Electors) are empowered to contract, or agree to jointly contract, for services and/or jointly exercise any powers common to both parties, which will mutually benefit both City and County.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the settled policy to contract with other governmental agencies to perform services whenever it is determined to be in the best interest of the citizens of Sierra Vista to not duplicate the ability to perform the service be, and hereby is, reaffirmed.

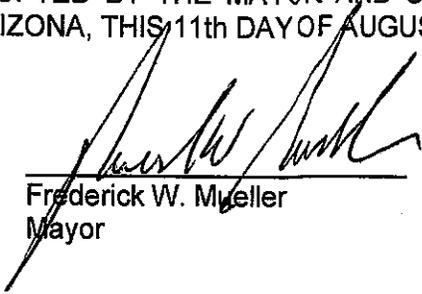
SECTION 2

That the proposed Intergovernmental Agreement, attached hereto as Exhibit A, between the City of Sierra Vista and Cochise County, providing for election services in accordance with the terms and conditions specified in said agreement, be, and hereby is, approved.

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.

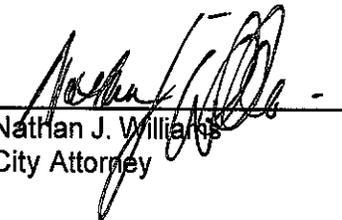
PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 11th DAY OF AUGUST 2016.



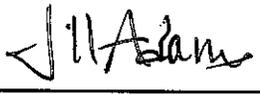
Frederick W. Mueller
Mayor

Approval as to form:

Attest:



Nathan J. Williams
City Attorney



Jill Adams
City Clerk

Prepared by:
Jill Adams, City Clerk

**INTERGOVERNMENTAL AGREEMENT
FOR ELECTION SUPPLIES AND SERVICES**

THIS AGREEMENT is made and entered into this *first day August of 2016*, by and between COCHISE COUNTY (COUNTY), a political subdivision of the State of Arizona, and the City of SIERRA VISTA (CITY), for certain election supplies and services;

WHEREAS, it is the mutual desire of the parties to provide citizens in the region with all necessary means and opportunity to participate in elections and exercise their right to vote;

WHEREAS, the COUNTY seeks to assist in the elections process by providing election supplies and services to cities, districts, or other governing bodies within the region;

WHEREAS, the COUNTY is willing to provide election services using a vote center model for election districts wishing to participate in the consolidated state primary and general elections, but will not provide election services to districts wishing to conduct vote-by-mail elections on the consolidated election dates for Primary and General elections;

WHEREAS, the COUNTY, as determined by a Resolution approved by the CITY, is willing to provide election services using either a vote center model or a vote-by-mail election for elections held on dates other than the consolidated state primary and general elections;

WHEREAS, the CITY wishes to enter into an agreement with the COUNTY for the provision of elections services subject to the terms and conditions set forth herein,

WHEREAS, the parties have authority to enter into an intergovernmental agreement to provide for election supplies and services pursuant to A.R.S. § 11-952 (Intergovernmental Agreements), A.R.S. § 11-251(41) (County Lease of Personal Property), A.R.S. § 41-2632 (Cooperative Purchasing) and A.R.S. Title 16 §§ 16-205(C), 16-225, or 16-408(D), (Elections and Electors), the parties agree as follows:

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and obligations herein set forth, the parties agree:

1. **COUNTY DUTIES.** The COUNTY agrees contingent upon receipt of a timely, specific request as provided in Paragraph 2(C), to provide the following election services:
 - A. Election equipment:
 1. Provide e-pollbook tablets (electronic poll register), touch-screen voting equipment and tabulation equipment at vote centers, for vote center model elections.
 2. Provide central election tabulation equipment for early ballots (or for vote-by-mail elections).
 3. Provide election reporting system.
 4. Provide signage and supplies (paper rolls for machines, tape, scissors, etc.).

- B. In-House programming services to include the following:
 - 1. Ballot layout & design, all ballot styles
 - 2. Program the operation of the voting equipment
 - 3. Program the operation of the tabulating equipment
 - 3. Program the operation of the election reporting module

- C. Elections administrative services to include the following:
 - 1. Obtain facilities for use as vote centers
 - 2. Recruit, train and oversee election poll workers to staff the vote centers, and such staff as needed for early boards, write-in boards, tabulation boards, etc.
 - 3. Conduct logic and accuracy tests of programs and equipment
 - 4. Provide ballots for vote-by-mail elections
 - 5. Deliver and pick up equipment, ballots, signage and supplies
 - 6. Provide abstract of results of tabulation to include total ballots cast within the jurisdiction; total votes for each candidate, question or proposition.

- E. Arrange for vote-by-mail services from vendor to include the following:
 - 1. Printing, folding, insertion and mailing of ballots and required notices

- F. Prior to or within ten (10) working days after the Cochise County Elections Officer receives notice, pursuant to Paragraph 2(C), that the CITY desires services, provide an estimate of the aggregate cost of the services and supplies.

2. CITY DUTIES. The CITY understands and agrees that:

- A. The CITY retains the primary responsibility for ensuring that its election is noticed, held and conducted in the manner required by applicable local, state and federal laws and that the COUNTY does not assume responsibility under this agreement for any aspects of this election other than those that are expressly stated in Paragraph 1.

- B. For any specific election for which the CITY desires services and supplies pursuant to this Agreement, the CITY shall pay to the COUNTY the amounts at the rates set forth on Exhibit A hereto.

- C. With respect to any specific election for which the CITY desires services and supplies pursuant to this Agreement, the CITY shall provide written notice of the election to the Cochise County Elections Officer at least one hundred and twenty (120) days prior to such election.

- D. The CITY shall inform the Cochise County Elections Officer in writing within ten (10) workings days after receiving the COUNTY estimate of the

aggregate cost of elections services and supplies of the CITY'S acceptance or rejection of the COUNTY'S services and supplies. Acceptance by the CITY shall constitute agreement by the CITY to pay actual costs up to ten percent (10%) over the estimate for the supplies and services provided, plus the actual cost of additional services provided, as set forth in **FEES**, below.

- E. The CITY shall provide the detail necessary to support the programming of the ballot to include the Wards or citywide districts for which elections are to be held, the offices to be listed on the ballot, the exact listing of the candidates' names to be included, the exact wording (in English and in Spanish) of any Proposition or ballot Question to be included on the ballot, using the **City Ballot Programming Request Form** supplied by the COUNTY (Exhibit B).
- F. The CITY shall be responsible for the preparation, printing and distribution of the Publicity Pamphlet for a CITY election.
- G. The CITY shall remit payment to the Elections Office in a timely manner or in any event within thirty (30) days of receipt of invoice. The CITY understands that they will be billed separately by the Recorder's office for staff time and/or any outside vendor utilized for ballot mailing services.

3. **FEES.** The CITY shall compensate the COUNTY for election services provided pursuant to this Agreement in accordance with the fees set forth in Exhibit A. The fee schedule is for base services only. Any additional services required by the CITY will result in additional charges. Additional services include, but are not limited to, the following:

Hand count audit, court preparation, court appearances, supplemental mailings, recounts,
or any service which will cause the COUNTY to incur increased costs or expenses.

If a recount/hand count is necessary, the CITY shall reimburse the COUNTY for administrative costs of conducting a recount at the rate of \$500 per contest/questions/proposition.

All other additional services will be billed based on actual costs, including staff time, materials, vendor services and equipment usage.

4. **TERM.** The term of this Agreement shall begin on August 1, 2016 and continue until December 31, 2017 provided that the Agreement shall be effective only when it is executed by all parties.
5. **INDEMNIFICATION.** To the extent permitted by law, each party to this agreement shall indemnify, defend and hold harmless the other party, its officers,

departments, employees and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature which results from the act or omission of the indemnifying party, its agents, officers, employees or anyone acting under its direction, control or on its behalf, whether intentional or negligent.

6. **CANCELLATION DUE TO CONFLICT OF INTEREST.** Pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein by reference, all parties are hereby put on notice that this Agreement is subject to cancellation by the political subdivision or its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of such political subdivision is, at any time while the contract is or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.
7. **NON-DISCRIMINATION.** To the extent required by law, each party to this agreement shall comply with all state and federal equal opportunity and non-discrimination requirements and conditions of employment, including the American with Disabilities Act, in accordance with A.R.S. Title 41, Chapter 9, Article 4, and Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin, or political affiliation, shall have equal access to employment opportunities.
8. **WORKER'S COMPENSATION.** 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 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 the purposes of workers' compensation.

9. **NOTICE.** All written communications shall be addressed and mailed or personally served upon the parties, as follows:

To: COUNTY
Katie Howard, Director
Elections/Special Districts
1415 Melody Lane, Bldg A
Bisbee, AZ 85603

To: CITY
Jill Adams
City Clerk, Sierra Vista
1011 N. Coronado
Sierra Vista, AZ 85635

10. **GOVERNING LAW.** This Agreement shall be governed and interpreted by the laws of the State of Arizona.
11. **SAVINGS CLAUSE.** Should any part of this Agreement be held to be invalid or void, the remainder of the Agreement shall remain in full force and effect with those offending portions omitted.
12. **AGREEMENT MODIFICATION.** This Agreement may only be modified in writing and must be signed by both parties and their duly authorized agents.
13. **BREACH.** Failure by the COUNTY and/or CITY to provide the services/ material or to provide the documentation at the time and in the manner described in this Agreement shall constitute a breach of this Agreement.
14. **WAIVER OF CONFLICT.** The parties to this Agreement are aware that the County Attorney's Offices represents the Cochise County Elections Department, and may or may not also represent other party (for example, City, Special Districts, including but not limited to Flood, Fire or School Districts) to this agreement in this and other matters. By signing this Agreement each party specifically acknowledges that it is aware of a potential conflict of interest and specifically waives any such claim based upon legal counsels' representation of other parties to this Agreement.
15. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding of the parties hereto. There are no representations or other provisions other than those contained herein, and any amendment or modification of this Agreement shall be made in writing and signed by the parties to this Agreement.

APPROVED:

COCHISE COUNTY

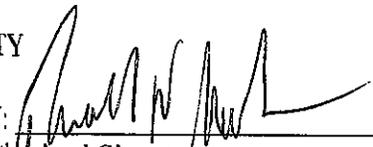
BY: _____
 Richard Searle, Chairman
 Cochise County Board of Supervisors

ATTEST:

BY: _____
 Arlethe Rios
 Clerk of the Board of Supervisors

APPROVED:

CITY

BY: 
 Authorized Signatory
 RICK W. Mueller
 Mayor, Sierra Vista, Az

ATTEST:

BY: _____
 Authorized Signatory

INTERGOVERNMENTAL AGREEMENT DETERMINATION

RE: Intergovernmental Agreement for election services and supplies between the City of Sierra Vista and the County of Cochise for Elections held between January 1, 2016 and December 31, 2017.

Pursuant to A.R.S. Section 11-952, this Agreement has been reviewed by the undersigned attorney for Cochise County, who has determined that it is in proper form and is within the powers and authority granted, respectively, to the contracting bodies.

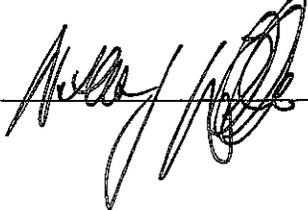
DATED this _____ day of _____, 2016.

Cochise County Attorney

By: _____
Britt Hanson
County Attorney

Pursuant to A.R.S. Section 11-952, this Agreement has been reviewed by the undersigned attorney for City of Sierra Vista, who has determined that it is in proper form and is within the powers and authority granted, respectively, to the contracting bodies.

DATED this 11 day of August, 2016.

By:  _____

