

April 13, 2021

Board of Supervisors of Cochise County
Attn: Kim Lemons
1415 Melody Lane Bldg. G
Bisbee, AZ 85603

Re: Court Co-Location Intergovernmental Agreement by and between Cochise County, Arizona and Cochise County Superior Court and Bisbee Justice Court #1 and the City of Bisbee, Arizona.

Dear Ms. Lemons,

Enclosed please find two original copies of the above referenced Intergovernmental Agreement that has been approved and signed. Once you have signed the documents please return an original back to our office.

City of Bisbee
Attn: City Clerk Office
P.O. Box 4601
Bisbee, AZ 85603

If I can be of further assistance, please feel free to contact me at (520) 432-6011.

Sincerely,

Nina Williams
Deputy City Clerk

2021 APR 15 PM 1:08

RECEIVED
COCHISE COUNTY
BOARD OF SUPERVISORS

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**COURT CO-LOCATION INTERGOVERNMENTAL AGREEMENT
BY AND BETWEEN
COCHISE COUNTY, ARIZONA
AND
COCHISE COUNTY SUPERIOR COURT
AND
BISBEE JUSTICE COURT #1
AND
THE CITY OF BISBEE, ARIZONA**

THIS IS AN AGREEMENT made and entered into between Cochise County Superior Court, Bisbee Justice Court #1, the County of Cochise, a body politic, and the City of Bisbee, a municipal corporation. Said agreement is approved by the Cochise County Board of Supervisors, the Bisbee City Council, the Presiding Judge of the Superior Court for Cochise County, the Cochise County Attorney, and the Justice of the Peace for Precinct #1 of which the City of Bisbee is part, as authorized by the powers and authority granted by the laws of the State of Arizona.

RECITALS

WHEREAS, Cochise County (County) and the City of Bisbee (City) are authorized to enter into this Intergovernmental Agreement pursuant to A.R.S. §§ 11-952 *et seq.*; and

WHEREAS, The County staffs and operates the Bisbee Justice Court #1, a non-record court established pursuant to Article 4, §§ 32 of the Arizona Constitution and A.R.S. §§ 22-101 *et seq.*; and

WHEREAS, the corporate limits of the City are within the boundaries of the Bisbee Justice Court jurisdiction; and

WHEREAS, The City desires to operate a municipal court ("Municipal Court") on the terms set forth in this agreement and pursuant to A.R.S. § 22-402.C.1.; and

WHEREAS, both Courts process cases involving matters originating within the corporate limits of the City (with the exception of City ordinance violations), which this agreement addresses; and

WHEREAS, City ordinance violations, shall be filed in the Bisbee Municipal Court;
and

WHEREAS, the Presiding Justice of the Peace of the Bisbee Justice Court #1 shall be involved in the negotiation of any new intergovernmental agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

I. LOCATION AND DESIGNATION

Bisbee Justice Court #1 and the Bisbee Municipal Court shall occupy the same facility. The courts shall be located at 207 North Judd Road, Bisbee, Arizona 85603.

II. DUTIES OF THE COUNTY

- A. The County will operate the Bisbee Justice Court #1 and will also be responsible for the performance of the following related functions:
1. The prosecution and defense of all cases, with the exception of the City ordinance violations, occurring in the City, that are filed by the City Police Department.
 2. The transportation and incarceration of defendants appearing before the Bisbee Justice Court #1, except that the City's Police Department shall be responsible for initial transportation to a County jail facility upon arrest by the City's Police Department.
 3. The service of process as required by law for parties appearing before the Bisbee Justice Court #1, as a result of citations or long form complaints, except for City ordinance violations.
 4. The service of process as required by law for parties appearing before the Bisbee Justice Court #1 for all Orders of Protection, Injunctions Against Harassment and other civil matters.
 5. The issuance of Search Warrants, Civil and Criminal Arrest Warrants, as required or authorized by law or by Court rules, for parties appearing before the Bisbee Justice Court #1, except for City ordinance violations.

6. Provide staffing for cases heard by the municipal judge.
 7. If available, the County shall 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 the County Administrator upon mutual agreement.
 8. On a monthly basis, on behalf of the County, the Justice of the Peace for Bisbee Justice Court #1 shall submit copies of the Court Financial Remittance Reports to the City.
- B. The County shall budget for Bisbee Justice Court staff as it deems appropriate. The Justice of the Peace in cooperation with the Presiding Superior Court Judge shall have exclusive authority and control over the hiring, firing and supervision of all court staff in conformity with applicable personnel policies.
 - C. All City ordinance violations shall be filed in the Bisbee Justice Court #1's City data base. All other cases filed by the City Police Department will be filed in the Bisbee Justice Court #1's State data base. Bisbee Justice Court #1 shall be responsible for the collection of all County fees, fines, surcharges, restitution, and other financial assessments which are ordered in all cases. Bisbee Justice Court #1 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 shall adhere to all time standards set forth by the Supreme Court.

III. DUTIES OF CITY

- A. The City shall file all criminal cases and civil traffic complaints, which would otherwise be processed in the Bisbee City Municipal Court, in the Bisbee Justice Court #1.

- B. The City shall file all City ordinance violations in the Bisbee Justice Court #1.
- C. The City shall be responsible for the initial transportation for incarceration of defendants appearing before the Bisbee Justice Court #1, as a result of citations or complaints issued by the City's Police Department, or an arrest made by the City's Police Department.
- D. The City shall be responsible for issuing and filing of all City code violations. The prosecution of all City code violations shall be the responsibility of the City's Attorney's Office.

IV. REVENUES AND COSTS

- A. The City understands and agrees that, in consideration of the County providing court services, the County shall be entitled to any and all fees, fines, or other similar revenues for criminal misdemeanor cases and civil traffic cases arising within the boundaries of the Bisbee Justice Court #1, during the effective date of this Agreement, which are within the jurisdiction of Bisbee Justice Court #1, including those cases arising within the corporate limits of the City.
- B. The City shall be entitled to any and all fees, fines and or other similar revenues for City ordinance violations.
- C. The City agrees to pay the County \$24,760 for Court services for FY 2020-21. Said payment shall be payable quarterly, in advance, or payment may be made in one lump sum at the beginning of the fiscal year. For subsequent fiscal years, a calculation of the appropriate reimbursement from the City to the County, shall be as determined by formula in Appendix A. Said calculation shall be subject to approval of both the County Board of Supervisors and the City Council. The compensation, costs and expenses related to or arising out of the City Magistrate's services shall be the sole responsibility of the City.

V. APPOINTMENT OF A NEW JUSTICE OF THE PEACE

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.

VI. APPOINTMENT OF THE CITY MAGISTRATE

- A. The City shall have authority to appoint the City Magistrate, pursuant to A.R.S. §§ 22-403 *et seq.*
- B. The City shall establish the compensation for the City Magistrate, as provided for under a separate agreement with the Justice of the Peace.
- C. The compensation of the City Magistrate shall be the sole responsibility of the City.
- D. As a condition precedent to the County's obligation to provide services pursuant to this agreement, the City shall:
 - 1. Appoint the Justice of the Peace as the Bisbee City Magistrate.
 - 2. Renew such appointment or make a new appointment with subparagraph 1, as required by election of a new Justice of the Peace, or resignation of an incumbent Justice of the Peace followed by the appointment of another individual, or otherwise.

VII. INDEMNIFICATION AND INSURANCE

- A. The County agrees to hold harmless the 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 The 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 expenses 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.

VIII. TERM AND TERMINATION

- A. The term of this Agreement shall be retroactive to July 1, 2020 and shall continue through June 30, 2022.
- B. This agreement shall automatically renew for additional successive one (1) year term 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.
- C. Any party to this Agreement, or a person who is not a signatory to the Agreement who subsequently takes office as the Justice of the Peace, may terminate this Agreement upon written notice to the other parties, no less than 120 days prior to the end of a fiscal year.
- D. This Agreement is subject to cancellation pursuant to A.R.S. §§ 38-511 *et seq*, the provisions of which are incorporated herewith by reference.
- E. 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 Bisbee Justice Court #1 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 City Municipal 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.

IX. 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.

X. 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.

XI. 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.

XII. 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 *et seq*) and all applicable Federal Regulations under the Act including 28 CFR Parts 35 & 36 *et seq*.

XIII. 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, the City, the Presiding Superior Court Judge of The County, the Presiding Judge of Bisbee Justice Court #1, and the County Attorney. In the event that any 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 the County Board of Supervisors and attested to by the Clerk of the County Board of Supervisors. The City has caused this Agreement to be executed by its Council and attested to by the Clerk of the City on the dates set forth below.


APPROVED BY:

COCHISE COUNTY

Ann English, Chair Date
Chairman Board of Supervisors

APPROVED BY:

CITY OF BISBEE



Ken Budge, Mayor Date
City of Bisbee

ATTESTED BY:

Kim Lemons, Clerk Date
Board of Supervisors

ATTESTED BY:



Ashlee Coronado, City Clerk Date
City of Bisbee

APPROVED BY:

SUPERIOR COURT
COCHISE COUNTY

Honorable Tim Dickerson Date
Presiding Superior Court Judge

APPROVED BY:

BISBEE JUSTICE COURT #1
BISBEE CITY MAGISTRATE

Honorable Janus Poppe Date
Justice of the Peace/City Magistrate

COCHISE COUNTY ATTORNEY

Brian M. McIntyre Date
County Attorney

INTERGOVERNMENTAL AGREEMENT DETERMINATION

This Agreement has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Deputy County Attorney who has determined that it is in appropriate form and is within the powers and authority granted to the County of Cochise.

Christine J. Roberts Date
Chief Civil Deputy County Attorney

This Agreement has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Bisbee City Attorney who has determined that it is in appropriate form and is within the powers and authority granted to the City of Bisbee, Cochise County, Arizona.



Gust Rosenfeld, P.L.C. Date
By: Joseph D. Estes, City 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	34,740	208	43,370	26,384	461,689	181,699
JP2 - Douglas	497,997	69,480	20,464	66,775	50,330	705,046	337,392
JP3 - Benson	472,593	34,740	7,983	16,788	26,523	558,627	551,543
JP4 - Willcox	380,333	34,740	6,754	40,712	46,384	508,923	384,306
JP 5 - Sierra Vista	828,455	69,480	7,783	163,867	126,281	1,195,865	585,234

Municipal Costs Expenses (above) x Caseload %	Court Operating	Court Security	Utilities	Prosecution	Defense	Total	Municipal Rev Share	Municipal Costs Due
JP1 - Bisbee	50,788	4,942	30	6,170	3,754	65,684	25,850	39,834
JP2 - Douglas	253,838	35,415	10,431	34,036	25,654	359,375	171,975	187,400
JP3 - Benson	44,750	3,290	756	1,590	2,511	52,897	52,226	671
JP4 - Willcox	110,005	10,048	1,953	11,775	13,416	147,198	111,154	36,043
JP 5 - Sierra Vista	382,376	32,069	3,592	75,633	58,285	551,956	270,117	281,839

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

EXHIBIT A

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	14.23%
JP2 - Douglas PD	1,687	114	-	533	2,334	4,579	50.97%
JP3 - Benson PD	200	44	-	184	428	4,520	9.47%
JP4 - Willcox PD	914	115	-	462	1,491	5,155	28.92%
JP 5 - Sierra Vista PD	2,050	665	-	1,925	4,640	10,053	46.16%

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)

EXHIBIT A

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.

EXHIBIT A

Court Security Costs - Revised

	Weekly Court Security Hours	Annual Hours	Annual Cost	Munic Case %	Munic Share
JP 1 - BSB	40	2080	34,740	14%	4,942
JP 2 - DGL	80	4160	69,480	51%	35,415
JP 3 - BSN	40	2080	34,740	9%	3,290
JP 4 - WLX	40	2080	34,740	29%	10,048
JP 5 - SV	80	4160	69,480	46%	32,069

Court Security Operating Costs

FY20 Expense Actuals	
General Fund	660,061
Special Revenue (163)	1,509
Special Revenue (563)	398,153
Special Revenue (564)	39,089
Total Court Security Expenses	1,098,812
General Fund FTEs	9.50
Special Revenue FTEs	9.50
	19.00
Total Security Hours (FTEs x 2080)	39,520
Hourly Court Security Cost to County	16.70

Notes:

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

Timeframe: FY 20

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

The County is able to provide a grand total of 19.0 FTEs (39,520 hours of Court Security), at a General Fund cost of \$660,061. The County receives \$438,751 in Court Security Fees, which is applied directly to Court Security and reduces the General Fund burden, and thereby reduces the cost of Court Security provided to JPs/Municipalities.

This provides credit to the JPs/Municipalities for the Court Security Fees collected from their cases.

EXHIBIT A

Utility Costs

Court	Utility Totals	Sq Ft % JP Court	JP Court Costs	Munic %	Munic Cost
JP 1 - BSB	1,150	18%	208	14%	30
JP 2 - DGL	54,459	38%	20,464	51%	10,431
JP 3 - BSN	60,374	13%	7,983	9%	756
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 %

EXHIBIT A

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	76.00%				36.00%	40.00%
Attorney II	100.00%					100.00%
Attorney II	80.00%	30.00%	50.00%			
Attorney III	20.00%	4.00%	7.00%	1.00%		8.00%
Legal Secretary	92.00%				20.00%	72.00%
Legal Secretary	100.00%	29.00%	35.00%	36.00%		

Total Prosecution Costs	Employee Cost	JP 1 Bisbee	JP 2 Douglas	JP 3 Benson	JP 4 Willcox	JP 5 Sierra Vista
Attorney II	88,739	-	-	-	31,946	35,496
Attorney II	88,739	-	-	-	-	88,739
Attorney II	88,739	26,622	44,369	-	-	-
Attorney III	100,922	4,037	7,065	1,009	-	8,074
Legal Secretary	43,831	-	-	-	8,766	31,558
Legal Secretary	43,831	12,711	15,341	15,779	-	-
		43,370	66,775	16,788	40,712	163,867

Total Prosecution Costs	JP 1 Bisbee	JP 2 Douglas	JP 3 Benson	JP 4 Willcox	JP 5 Sierra Vista
Munic Caseload %	14%	51%	9%	29%	46%
Munic Share	6,170	34,036	1,590	11,775	75,633

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

EXHIBIT A

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	Total Defense Costs by JP				
		JP 1 Bisbee	JP 2 Douglas	JP 3 Benson	JP 4 Willcox	JP 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
Contract Attorney		14,100	33,000	20,600	34,100	80,000
		26,384	50,330	26,523	46,384	126,281

Total Prosecution Costs	Total Prosecution Costs by JP				
	JP 1 Bisbee	JP 2 Douglas	JP 3 Benson	JP 4 Willcox	JP 5 Sierra Vista
Munic Caseload %	14%	51%	9%	29%	46%
Munic Share	3,754	25,654	2,511	13,416	58,285

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.
Includes Contract Attorney actuals for CY2019

Staff Costs:

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

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