

**AGREEMENT BETWEEN
CITY OF BISBEE AND BISBEE COUNCIL ON ARTS & HUMANITIES, INC.
REGARDING A MUSEUM AND VISITOR CENTER POSITION**

This Agreement between the City of Bisbee, an Arizona municipal corporation (“COB”) and the Bisbee Council on Arts & Humanities, Inc., an Arizona corporation (“BCAH”) is entered into effective as of April 19, 2016 (the “Effective Date”).

Recitals

- A. The COB operates a Visitor Center in order to enhance services to tourists and other visitors and to direct them to businesses in the City.
- B. The BCAH operates the Bisbee Mining & Historical Museum (the “Museum”).
- C. COB would like to have a visitor representative greet and assist tourists and other visitors in a convenient location in downtown Old Bisbee.
- D. The BCAH would like additional office assistance to enhance the operation of the Museum.
- E. Bisbee and the BCAH believe that it would be beneficial to retain one part-time employee, employed by the BCAH, to serve both as a visitor representative and office assistant, with funding by both Bisbee and the BCAH, with a job description as set forth in Exhibit A hereto (the “Position”), and based on the benefits and conditions described in Exhibit B hereto, a document entitled “Bisbee Partnerships in Tourism: The Bisbee Mining & Historical Museum and the Bisbee Visitor Center Information Annex.”
- F. The Museum has space to house the position in the old Phelps Dodge Paymaster Office on the east side of the Museum, to be known as the Visitor Center Annex, as described in Exhibit B, if the space is appropriately remodeled.

In consideration of the mutual promises and covenants as set forth in this Agreement, Bisbee and BCAH agree as follows:

- 1. **Recitals.** The Recitals set forth above are incorporated into the terms of this Agreement.
- 2. **Effective Date.** The Effective Date of this Agreement is as of May 1, 2016.
- 3. **Duration.** This Agreement shall be in effect through April 30, 2017. Either party can terminate this Agreement, with or without cause, upon sixty (60) days written notice to the other. The parties may renew this Agreement for an additional term or terms; provided further that each party shall notify the other in writing whether it intends to renew the Agreement at least sixty (60) days before the termination date.

4. **BCAH's Obligations.**

- a. BCAH shall hire and supervise someone for the Position to work in the proposed Museum Office/Visitor Center Annex, working twenty-eight (28) hours per week at approximately \$9.00/hour; provided, however, that the interview and hiring committee shall consist of Bisbee's Visitor Center Manager along with the Museum Director. Furthermore, the Bisbee City Manager and Visitor Center Manager will have access during normal business hours in order to review the work on Bisbee's behalf and provide input to the employee on performing responsibilities for Bisbee. Dismissal for unsatisfactory performance will be by agreement of both the BCAH and the COB.
- b. BCAH will be responsible for paying all wages of the Position, which at fourteen (14) hours per week at approximately \$9.00/hour, along with all payroll deductions including Social Security, Medicare and workers' compensation, which are estimated to be 7.65% of wages; provided, however, that these obligations are subject to reimbursement by COB for half of the wages and deductions as set forth in paragraph 5(a) below. The Position is considered a part-time/hourly employee and is not eligible for benefits.
- c. BCAH will supply space in the proposed Visitor Center Annex provide all requirements necessary for the Position, including computer and all utilities, except as described in paragraph 5(b) below.
- d. BCAH will perform all other requirements required by law of an employer with respect to the Position.
- e. BCAH shall appropriately remodel the Annex for the purposes of serving the Position.

5. **Bisbee's Obligations.**

- a. Bisbee will fund half of the wages of the Position, which will total approximately \$126 per week, plus one-half of the payroll deductions. Bisbee will pay the BCAH any amounts owed promptly upon receipt of a monthly invoice; provided, however, it is understood that the amount invoiced and owed by Bisbee shall be only one-half of actual wages paid by the BCAH. That is, should the employee serving in the position work less than 28 hours in any given week, Bisbee will be responsible for reimbursing only half of the hours actually worked.
- b. Bisbee will be responsible for moving or adding a phone line to serve the Visitor Center Annex and paying the monthly charge.
- c. As part of the remodeling, Bisbee will supply labor for pulling up the old carpet and moving heavy furniture.

6. **Cooperation.** Bisbee and the BCAH shall each take all acts necessary or reasonably necessary to cooperate with the other to effect the terms and conditions of this

Agreement. It is understood that this Position is new, and thus will require monthly, documented communication between the parties in order to ensure an efficient working relationship that serves both parties well.

7. **Scope of Relationship.** Nothing in this Agreement will be construed as establishing a partnership, joint venture or similar relationship between the Parties and nothing in this Agreement will be construed to authorize either party to act as agent for the other.
8. **Employees.** Each party's employees shall remain under the exclusive direction and control of their respective employer, and no employee of each party shall be considered employee or joint employee of the other party. Each party's employees shall not be entitled to employment benefits or any compensation from the other party.
9. **Notices.** Notices shall be delivered to the addresses as set forth below. Notices are deemed to be received 24 hours after they are transmitted via telefax or are deemed received immediately if provided by hand delivery or by email with acknowledgement of receipt.

To COB
Attn. City Manager
118 Arizona St.
Bisbee, Arizona 85603

To BCAH
Attn. Museum Director
P.O. Box 14
Bisbee, Arizona 85603

10. **Indemnification.** Each party to this Agreement agrees to indemnify, defend, and hold harmless the other, its officials, officers, employees and agents, individually and collectively, from all losses, claims, suits, demands, expenses, subrogation, attorney's fees or actions of any kind resulting from all personal injury, including bodily injury and death, and property damage liability to a limit of not less than \$1,000,000.00. The insurance limits set forth above shall not be deemed to limit the scope of indemnification set forth above.

11. 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. The provisions of A.R.S. 41-1463 and Executive Orders 99-4 and 2009-09 issued by the Governor of the State of Arizona are incorporated by this reference as a part of this Agreement.
- c. 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.
- d. BCAH hereby warrants that it will at all times during the term of this Agreement comply with all federal immigration laws applicable to

Consultant's employment of its employees , and with the requirements of A.R.S. § 23-214(A) (together the "State and Federal Immigration Laws"). Bisbee shall have the right at any time to inspect the books and records of the BCAH in order to verify such party's compliance with the State and Federal Immigration Laws. Any breach of the BCAH's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Agreement, which may result in suspension or termination of this Agreement.

12. **Workers' Compensation Coverage.** An employee of either Party shall be deemed to be an "employee" of both public agencies, while performing pursuant to this Agreement, only for purposes of A.R.S. 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each Party shall comply with the employee notice provisions of A.R.S. 23-906(0) and 23-1022(E).
13. **Cancellation for Conflict of Interest.** This Agreement may be canceled for conflict of interest pursuant to A.R.S. 38-511.
14. **Binding Effect.** This Agreement shall be binding upon and enforceable by the Parties, their heirs, executors, administrators, personal representatives, successors, successors in interest, and assignees.
15. **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.
16. **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.
17. **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.
18. **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.
19. **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.
20. **Governing Law.** This Agreement and all documents and instruments executed in furtherance hereof, and the rights and obligations of the Parties hereunder, shall be

construed and enforced in accordance with, and shall be governed by, the laws of the State of Arizona, statutory and decisional, in effect from time to time, without giving effect to principles of conflicts of law. All Parties consent to personal jurisdiction in Arizona, and venue for any action to enforce this Agreement shall be in Cochise County, Arizona.

21. **Attorney's Fees and Costs.** Should it become necessary to retain legal counsel to enforce any provisions of this Agreement, the Parties hereto agree that the prevailing Party shall be entitled to the award of reasonable attorney's fees and other costs.

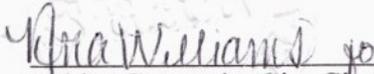
CITY OF BISBEE

By:  4-20-16
Ron Oertle, Mayor Date

BISBEE COUNCIL ON ARTS & HUMANITIES, INC.

By:  4-25-16 Date

ATTEST:

 4-20-16
Ashlee Coronado, City Clerk Date

ATTEST:

Date

Approved as to Form:

ATTORNEY FOR BISBEE

 04 20 16
Britt Hanson Date

Exhibit A



PART TIME POSITION OFFICE ASSISTANT BISBEE MINING & HISTORICAL MUSEM & VISITOR'S CENTER

Duties: Under close supervision, performs a variety of clerical work in support of the Bisbee Mining & Historical Museum & Visitor's Center operations, including greeting customers by telephone and in person, volunteer scheduling for both the Museum & Visitor Center, group tour scheduling; brochure cataloguing and inventory; maintaining Museum & Visitor Center databases; responding to email inquiries; prepare visitor/school/relocation/quantity packets; other mailings; and other duties as assigned.

Qualifications: High School diploma or GED and one (1) year general office and/or retail experience. Experience with computer database programing and social media required; previous customer service or retail experience preferred.

Special Requirements: Must possess and maintain a State of Arizona class D driver's license.

Starting Salary: \$8.77 to \$9.10 / hour DOE

The Bisbee Council on the Arts & Humanities is an Equal Opportunity Employer

Exhibit B

Bisbee Partnerships in Tourism:

The Bisbee Mining & Historical Museum and the Bisbee Visitor Center Information Annex

The Bisbee Mining & Historical Museum and the Bisbee Visitor Center are proposing an innovative partnership to enhance tourism in Bisbee – a Visitor Information Annex (*Annex*) housed in the Bisbee Museum Office. The 1914 Paymaster Office added to the east side of the Museum will serve as the Annex site, which will be paired with a Museum Assistant’s office space; this site has its own exterior access door.

As tourism is one of Bisbee’s primary economic drivers, this project offers a unique opportunity for the City, the Museum, and our tourism-related businesses to work together to enhance the visitor experience, laying the foundation for enhanced tourism revenues.

As seen below, there has been a sharp decline in the number of visitors using the Visitor Center in the Queen Mine Tour during the last four years; a decline roughly paralleling the decline in Underground Tour participants in the last three of those years. The proposed Annex will pick up those not crossing Highway 80, direct visitors to businesses of their interest, and encourage extended stays.

	2014	2013	2012	2011
Queen Mine Tour	38,498	41,885	43,295	41,642
Bisbee Visitor Center	50,314	54,786	59,067	63,659

The Visitor Center now located at the Queen Mine Tour will remain as the primary center for visitor information, particularly for its statewide coverage plus its continuation in offering information to those taking the Underground Tour. The Museum site will serve as an “Annex,” centrally located in the Historic District, and will focus on providing information relevant to all of Bisbee’s businesses, services, and events.

The Museum has budgeted for a part-time contract employee to serve as a Museum Office Assistant. The Visitor Center has budgeted for a part-time contract employee to serve as the Visitor Center Manager’s assistant. The required skill set for both these positions is the same; thus the idea of sharing an employee! With a shared employee plus several volunteers, the Annex could be kept open seven days a week.

Scope of Work – Visitor Center

1. People skills in dealing with the public – working with visitors, volunteers, and Bisbee businesses;
2. Reception duties - answering phone & in person inquiries;
3. Volunteer scheduling – keep active schedule of volunteers for Visitor Center, Saturday through Monday, 10:00 – 4:00;
4. Clerical/Office skills – organizing & stocking Bisbee information section, prepare mailing & visitor relocation packets, keep updated list of local business hours, etc., collect event information for monthly press releases; and

5. Computer skills (separate City of Bisbee equipment) - Visitor Center = maintain listings, stats, data entry, and social media)

Scope of Work – Museum

1. People skills in dealing with the public – working with visitors and volunteers;
2. Reception duties - answering phone;
3. Volunteer scheduling – keep active schedule of volunteers for the Museum weekdays, 10:00 – 4:00 (the Museum currently has approximately 70 volunteers);
4. Clerical/Office skills – organizing & stocking Museum Store, keep updated list of volunteers and members, and prepare bulk mailings, etc.; and
5. Computer skills - maintain membership database and Museum Store inventory, and basic data entry.

Because of the overlapping skill set, sharing an employee would allow the Annex to be open every day (staffed by volunteers Sunday through Monday) and for the Museum volunteers to know and talk with their coordinator during their shifts. The requirements of each part-time position are focused on the 14-hour scope-of-work, giving the employee the flexibility to work both jobs within the combined timeframe. We are proposing a one-year trial period for this rather unique partnership.

An Agreement to define this partnership and would include:

1. Use of Museum space for one year at no charge (rent, utilities, and security);
2. The Annex will be open 10:00 – 4:00 daily;
3. Museum will hire an administrative assistant with a skill set focused on tourism;
4. The Visitor Center Manager and the Museum Director will serve as the interview committee for this position;
5. This administrative assistant will work the equivalent of 14 hours/week for the Annex and 14 hours/week for the Museum;
6. Assigned scope-of-work will be reviewed weekly by Visitor Center Manager & Museum Director;
7. The Visitor Center will be invoiced on a monthly basis to cover their share of the employee's duties; and
8. The Museum will comply with American with Disabilities Act, Title II Regulations by adding a bell just outside the exterior door and information brochures will be brought to those unable to do the steps (see attached ADA Title II Regulations excerpts for "reasonable accommodation" in historic buildings).

The combined Museum/Annex space will consolidate the "office" function to the front of the room parallel to the stairs (see attached schematic). The Museum has raised \$5,500 to upgrade the office space and we are working with Bisbee artists for art chairs to create a small meeting area, bringing together our history through its historic setting with the creativity of Bisbee's contemporary artist scene! Informational rack card shelving will line two walls.

What's in it for the City? Enhanced tourism through accessible and quality services as well as a likely increase in Mine Tour attendance through better visibility.

What's in it for businesses? Better information availability and direction for restaurants, retail shops, and lodging.

What's in it for tourists? Enhanced visitor experience with accessible and quality service in learning what Bisbee has to offer.

What's in it for the Museum? We will be tracking an expected increase in museum visitation.