

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
HOUSING AUTHORITY OF COCHISE COUNTY
AND
THE CITY OF DOUGLAS**

This is an Intergovernmental Agreement hereinafter referred to as “IGA”, between the Housing Authority of Cochise County (“HACC”) by and through Cochise County and the City of Douglas, an Arizona municipal corporation (“City”). HACC and City are individually referred to herein as “Party” and collectively referred to herein as “Parties.”

WHEREAS, the City currently administers a Housing Choice Voucher Section 8 Program (“HCVP”) and the Family Self Sufficiency (FSS) program for the benefit of its citizens;

WHEREAS, the HACC’s mission is to expand affordable housing options, promote homeownership and improve the quality of housing in Cochise County;

WHEREAS, the parties have determined that it is in the best interest of the City and the HACC that the HACC absorb the HCVP and FSS program of the City.

NOW THEREFORE, in consideration of the promises made herein, the parties hereby agree as follows:

1. AUTHORITY

Both parties are authorized to enter into this IGA pursuant to A.R.S. §§ 11-952 and 36-1422.

2. TERM

Unless terminated as otherwise provided in the Agreement, this Agreement shall become effective on the date specified above and shall remain in effect until the later date of January 1, 2023 or when the United States Department of Housing and Urban Development (HUD) has approved the transfer of the HCVP from the City to HACC, whichever occurs later.

3. CONTROL AND SUPERVISION

No employee, agent, or servant of a Party shall be deemed to be an employee, agent or servant of the other Party. Each Party will be solely and entirely responsible for its acts and the acts of its employees, agents, servants, subcontractors, and volunteers during the performance of this Agreement. Each Party will have total responsibility for all salaries, wages, bonuses, retirement withholdings, worker’s compensation, occupational disease compensation, unemployment compensation, other employment compensation, other employee benefits, and all employer’s taxes and premiums concerning the persons who are supplied by that Party in the performance of this Agreement, and each Party agrees to hold the other Party harmless from any liability thereof. County shall have sole

supervisory authority over County personnel, operations, services, property, and materials; and CITY shall have sole supervisory authority over CITY personnel, operations, services, property, and materials.

4. PARTY OBLIGATIONS

A. Cochise County agrees to:

- i. HACC will absorb the **193 allocated vouchers in the** HCVP from the City of Douglas. HACC's duty to absorb the HCVP from the City is expressly conditioned upon execution and approval by the United States Department of Housing and Urban Development of the transfer of administration of the vouchers to HACC. The City shall cooperate in all respects reasonably necessary to enable the transfer of the HCVP to the HACC.
- ii. HACC will absorb the Family Self-Sufficiency (FSS) Program, to include participating households and the FSS escrow account associated with the program, and perform the required activities to ensure that there are no gaps in services and support to active participating FSS program families.
- iii. Make any and all necessary records and information available to CITY and cooperate with CITY in all practical matters necessary to effectuate the purpose and intent of this IGA.

B. City agrees to:

- i. Use all reasonable efforts to facilitate the transfer of the HCVP program **and the FSS Program** through the United States Department of Housing and Urban Development.
- ii. Transfer or convey to HACC, the assets and equipment used to administer the HCVP **and the FSS Program** as the City, in its discretion, deems appropriate.

5. FINANCING

Each party shall be responsible for any financing required to perform its obligations pursuant to this IGA. The City shall transfer any remaining cash assets after all HCVP **and FSS Program** obligations are extinguished and as required by HUD to HACC upon complete absorption by the HACC. **Should the HUD transfer of bank accounts fail to coincide with the voucher absorption, the administering Public Housing Authority (PHA) will bill accordingly with supporting documentation for timely administrative and Housing Assistance Payments (HAP) reimbursements.**

6. REPORTING & RECORDS

Upon successful transfer of the HCVP **and FSS Program**, annual audit files relating to the HCVP shall be kept for five (5) years after termination of this IGA and shall be open to reasonable inspection and audit by the other party during that period.

7. CONFIDENTIALITY

All written student records shall be kept confidential in accordance with the Family Rights and Privacy Act (FERPA) and regulations adopted pursuant to that Act, the Individuals with Disabilities Education Act (“IDEA”) and regulations adopted thereunder, and applicable school board policies as to the disclosure of personally identifiable information from students education records.

8. TERMINATION/DISPOSITION OF PROPERTY

This IGA may be terminated for cause by any Party upon thirty days written notice. Termination shall not relieve either Party from its obligation to pay funds for services already provided, if any. The Parties do not contemplate acquisition of any joint property pursuant to this IGA.

9. RESPONSIBILITY

Each Party agrees to be responsible for the conduct of its operations and performance of contract obligations and for any accidents or injuries to persons or property arising out of acts or omissions by its officers, agents or employees acting in the course or scope of their employment while performing duties undertaken pursuant to this IGA.

10. CANCELLATION FOR CONFLICT OF INTEREST

This IGA may be canceled pursuant to A.R.S. § 38-511, the pertinent provisions of which are fully incorporated herein by reference.

11. NONASSIGNABILITY

Neither Party may assign a duty or responsibility under this IGA without the prior written consent of the other Party.

12. COMPLIANCE WITH NON-DISCRIMINATION LAWS

To the extent applicable, the Parties shall comply with all laws and regulations, including, but not limited to, 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. All Parties shall comply with 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, with all federal regulations regarding equal employment opportunity, with relevant orders issued by the U.S. Secretary of Labor and with 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 C.F.R. Parts 35 & 36.

13. RIGHTS/OBLIGATIONS OF PARTIES ONLY

The terms of this IGA are intended only to define the respective rights and obligations of the Parties. Nothing expressed herein shall create any rights or duties in favor of any potential third-party beneficiary or other person, agency or organization.

14. ENTIRE IGA

This IGA 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 IGA shall be made in writing and signed by the Parties to this IGA.

15. INVALIDITY OF PART OF THE IGA

The Parties agree that should any part of this IGA be held to be invalid or void, the remainder of the IGA shall remain in full force and effect with those offending portions omitted.

16. GOVERNING LAW

The terms and conditions of this IGA shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either party for the purpose of enforcing a right or rights provided for in this Agreement, shall be tried in a court of competent jurisdiction in Cochise County, State of Arizona. The Parties hereby waive all provisions of law providing for a change of venue in such proceeding to any other county. In the event either Party shall bring suit to enforce any term of this IGA or to recover any damages for and on account of the breach of any term or condition in this IGA, it is mutually agreed that the prevailing Party in such action shall recover all costs including: all litigation and appeal expenses, collection expenses, reasonable attorneys' fees, necessary witness fees and court costs to be determined by the court in such action.

17. WORKERS' COMPENSATION

An employee of either Party shall be deemed to be an "employee" of both public agencies while performing pursuant to this IGA, 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 further 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."

18. REVIEW BY LEGAL COUNSEL

Pursuant to A.R.S. § 11-952(D), an attorney for each party must review this IGA.

19. NOTICE

All notices, requests for payment, or other correspondence between the Parties regarding this IGA shall be mailed or delivered personally to the respective Parties to the following addresses:

If to Housing Authority of Cochise County:

Anita Baca
Executive Director
Housing Authority of Cochise County
1415 Melody Lane, Building A
Bisbee, AZ 85603

If to City of Douglas:

Ana Urquijo
City Manager
City of Douglas
425 E. 10th Street
Douglas, AZ 85607

20. INDEMNIFICATION AND JOINT DEFENSE.

- A. The HACC and Cochise County shall defend, hold harmless, and indemnify the CITY, its officers, agents and employees, from all claims, demands, suits, damages or loss ("claims") that result from the negligence or intentional acts of the HACC or Cochise County, its agents, officers and employees, in the performance of this IGA, but only to the extent that such claims arise from such negligence or intentional acts. The CITY shall defend, hold harmless and indemnify the HACC or Cochise County, its officers, agents and employees, from all claims, demands, suits, damages or loss ("claims") that result from the negligence or intentional acts of the CITY, its agents, officers, and employees, in the performance of this IGA, but only to the extent that such claims arise from such negligence or intentional acts. This duty to defend, indemnify and hold harmless is not negated or otherwise limited by the characterization of the underlying duty as a "non-delegable duty" for which either party may be vicariously liable, as a matter of law.
- B. The Parties when involved in a Claim or Claims brought by a third-party have a common interest in a coordinated defense in any lawsuit. In the absence of a conflict, the Parties agree to have one lawyer jointly represent the defendants in the lawsuit. To the extent applicable, the Parties agree to abide by the Memorandum of Understanding Regarding Joint Defense ("MOU") between the Arizona Counties Insurance Pool ("ACIP") and the

Arizona Municipal Risk Retention Pool (“AMRRP”). If applicable, each Party acknowledges that it has received a copy of the MOU from either ACIP or AMRRP.
C. The obligations under this Section shall survive the termination of this IGA.

IN WITNESS WHEREOF, the parties hereto have executed this IGA on the date written below.

COCHISE COUNTY:

CITY OF DOUGLAS:

Ann English
Board of Supervisors Chairman

Donald C. Huish
Mayor

ATTEST:

ATTEST:

Tim Mattix
Clerk of the Board

Alma Andrade
City Clerk

Pursuant to A.R.S. § 11-952(D), the undersigned attorneys have reviewed the foregoing Agreement, and confirm the Agreement is in proper form, and is within the powers and authority granted to each party under Arizona law.

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kris Carlson
Deputy County Attorney

Denis Fitzgibbons
City Attorney