

RESOLUTION NO. 17-1235

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF DOUGLAS, COCHISE COUNTY, ARIZONA, AUTHORIZING THE ENTRY INTO AN INTERAGENCY AGREEMENT (IAA) WITH THE CITY OF BISBEE FOR PUBLIC TRANSIT SERVICES THROUGH THE EXPANSION OF THE DOUGLAS RIDES PROGRAM AS MANAGED BY THE CITY OF DOUGLAS' NEIGHBORHOODS HOUSING AND GRANTS DEPARTMENT; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION.

WHEREAS, City leaders determined that it will be beneficial to its residents and the surrounding community to continue to provide public transit services and expand outside their general service area; and

WHEREAS, in July 2015, the Mayor and Council authorized the City of Douglas to engage with the City of Bisbee to begin operation of its Transit Service and to enter into a service contract; and

WHEREAS, the City of Douglas is expanding their regional public Transit Service and will now operate an Inter-City Bus Service now encompassing a Bisbee-Sierra Vista route and the Inter-Agency Agreement (IAA) to be entered into by the parties is attached hereto as Exhibit "A", and incorporated herein by reference as though fully set forth herein verbatim; and

WHEREAS, it is in the best interest of the City to enter into the noted IAA with funding provided partnership with ADOT's transit grant, Freeport-McMoran and Cochise County to provide the Cochise Connection route.

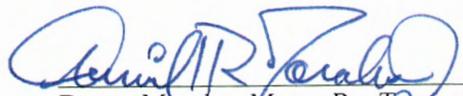
NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Douglas as follows:

Section 1. The terms of the IAA with the City of Bisbee will be for a term of one (1) years through August 10, 2017 through June 30, 2018, with an option for one (1) year renewals and these terms are deemed to be in the best interest of the City of Douglas.

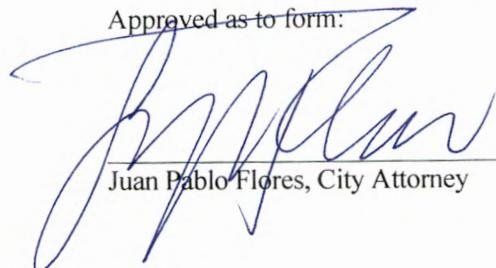
Section 2. The Mayor and City Clerk are hereby authorized to execute and deliver the Inter-Agency Agreement with the City of Bisbee as attached hereto as Exhibit "A", along with any related documentation necessary to consummate the transaction contemplated by the noted contract for and on behalf of the City of Douglas.

Section 3. The officers of the City Council and the City of Douglas are hereby authorized and directed to fulfill all obligations under the terms of the service contract.

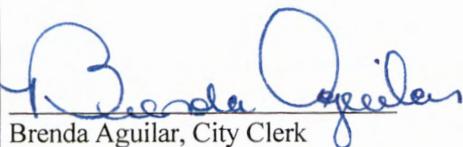
PASSED AND ADOPTED by the Mayor and Council of the City of Douglas, Arizona, this 9th day of August, 2017.


Danny Morales, Mayor Pro Tempore

Approved as to form:


Juan Pablo Flores, City Attorney

Attest:


Brenda Aguilar, City Clerk

INTERAGENCY GOVERNMENTAL AGREEMENT

BETWEEN

THE CITY OF DOUGLAS

AND

THE CITY OF BISBEE

INTERCITY ROUTE SERVICES

This Interagency Governmental Agreement (hereinafter referred to as AGREEMENT) is entered into, in accordance with Arizona Revised Statutes, Section 11-952, on this 18th day of July, 2017, by and between the City of Douglas, a municipal corporation, organized under the laws of the State of Arizona (hereinafter referred to as CITY) and the City of Bisbee (hereinafter referred to as AGENCY).

BACKGROUND AND INTENT

WHEREAS, CITY will operate an intercity bus route (Cochise Connection) originating in Douglas with stops in Bisbee and Sierra Vista; and

WHEREAS, both parties acknowledge demand for such service is warranted pursuant to the inter-city route feasibility study conducted by the SouthEastern Arizona Governments Organization (SEAGO) and that success of the service is dependent upon participation of public transportation providers in the cities of Bisbee and Sierra Vista; and

WHEREAS, pursuant to Arizona Revised Statutes, Section 11-952, which allows contracts/agreements between public agencies for cooperative actions, CITY and AGENCY desire to enter into an Intergovernmental Agreement whereby AGENCY agrees to allow the use of certain facilities and services, as stipulated in this agreement.

THEREFORE, in consideration of the mutual promises contained in this agreement, and of the mutual benefits to result there from, parties agree as follows:

TERM

The initial term of this AGREEMENT shall be from August 7, 2017 through August 7, 2018. Thereafter, it shall be deemed renewed for successive one-year terms as of August 7 of each year, unless terminated pursuant to the conditions of this AGREEMENT.

FACILITY USE AND SIGNAGE

AGENCY will make available for use the existing bus stops shown on Exhibit A, and will allow CITY to place Cochise Connection bus stop signs and schedules at the locations. The signs and schedules will be mounted on the existing poles at said locations. AGENCY will allow Cochise Connection passengers access to their bus stops identified in Exhibit A.

PASSENGER TRANSFER

AGENCY will allow passengers departing the Cochise Connection service one free transfer/ride on the AGENCY'S existing bus service (Bisbee Bus). The bus driver shall collect and place in the farebox the transfer ticket provided from said Cochise Connection passenger. Following the initial transfer, Cochise Connection passengers shall pay the full fare for all follow-up transfers.

TERMINATION, DEFAULT, AND REMEDIES

Either party may terminate this AGREEMENT at any time without cause with a 60-day prior written notice.

INSURANCE

It is understood that AGENCY and CITY are both public bodies in the State of Arizona. Each party shall maintain worker's compensation insurance as required by statutes, general commercial liability insurance, property damage insurance, and automobile liability insurance with respect to its activities under this AGREEMENT.

INDEMNIFICATION

To the fullest extent permitted by law, CITY shall defend, indemnify, and hold harmless the AGENCY, its agents, officers, officials, and employees from and against all tortuous claims, damages, losses, and expenses, including but not limited to attorney fees, court costs, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work, or services of CITY, its agents, or employees. CITY's duty to defend, hold harmless, and indemnify the AGENCY, its agents, officers, officials, and employees shall arise in connection with any tortuous claim, damage, loss, or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any CITY's acts, errors, mistakes, omissions, work, or services in the performance or failure to perform under this AGREEMENT, including any employee of the CITY or any other person for whose acts, errors, mistakes, omissions, work, or services the CITY may be legally liable. The

amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

To the fullest extent permitted by law, AGENCY shall defend, indemnify, and hold harmless the CITY, its agents, officers, officials, and employees from and against all tortuous claims, damages, losses, and expenses, including but not limited to attorney fees, court costs, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work, or services of AGENCY, its agents, or employees. AGENCY's duty to defend, hold harmless, and indemnify the CITY, its agents, officers, officials, and employees shall arise in connection with any tortuous claim, damage, loss, or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused by any AGENCY's acts, errors, mistakes, omissions, work, or services in the performance or failure to perform under this AGREEMENT, including any employee of the AGENCY or any other person for whose acts, errors, mistakes, omissions, work, or services the AGENCY may be legally liable. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

ADMINISTRATION OF AGREEMENT

Each party shall designate a representative or representatives, notice of the same to be provided to the other party, who shall be jointly responsible for developing procedures to be utilized in fulfilling this AGREEMENT and providing other administrative services as necessary. Any disputes arising under this AGREEMENT which cannot be resolved by the above-mentioned representatives, shall be referred to AGENCY'S City Manager and CITY's representative for joint resolution. Disputes not resolved at this level shall be referred to binding arbitration to be conducted by a panel of three arbitrators, one selected by each party, and the third selected by the two arbitrators.

NOTICES

Unless otherwise specified herein, any notice or communication required or permitted under this AGREEMENT shall be in writing and sent to the address given below for the party to be notified.

CITY

City of Douglas
ATTN: Transit Manager
425 E. 10th St.
Douglas, AZ 85607
Tel: 520.417.7300

AGENCY

City of Bisbee
Attn: City Manager
118 Arizona St.
Bisbee, AZ 85603
Tel: 520.432.6000

ASSIGNMENT

Neither party shall assign the rights or duties under this AGREEMENT to a third party without the written consent of the other party. Any such assignment in violation of this AGREEMENT will be grounds for termination of the AGREEMENT.

NON-DISCRIMINATION

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 75-5 which mandated 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 Act 101-336, 42 U.S.C. Sections 12101-12213, and all applicable Federal Regulations under the Act, including 28 C.F.R. Parts 35 & 36.

RIGHTS OF PARTIES

The provisions of this AGREEMENT are intended only to define the respective rights and obligations of the parties. Nothing expressed herein shall create any rights or duties of any nature or kind in favor of any third party.

SEVERABILITY

The Parties hereto shall comply with all applicable laws, rules, regulations and ordinances, as may be amended. In the event that any provision of this AGREEMENT or portion thereof is held invalid, illegal or unenforceable, such, provision or portion thereof shall be severed from this Agreement and shall have no effect on the remaining provisions of this Agreement, which shall remain in full force and effect.

OTHER TERMS

1. NON-DISCRIMINATION. The parties shall comply with all applicable state and federal statutes and regulations governing Equal Employment Opportunity, Non-Discrimination, and Immigration.

2. WORKER'S COMPENSATION: For purposes of workers' compensation, an employee of a Party to this Agreement, who works under the jurisdiction or control of, or who works within the jurisdictional boundaries of another Party pursuant to this intergovernmental agreement, is deemed to be an employee of both the Party who is her primary employer and the Party under whose jurisdiction or control or within whose jurisdictional boundaries she is then working, as provided in A.R.S. §23-1022(D). The primary employer of such employee shall be solely liable for payment of workers' compensation benefits for the purposes of this section. Each Party herein shall comply with the provisions of A.R.S. §23-1022(E) by posting the notice required.

3. CONFLICT OF INTEREST. This Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511 regarding Conflict of Interest.

4. NO BOYCOTT OF ISRAEL. In accordance with A.R.S. § 35-393.01, the parties certify that they are not currently engaged in, and for the duration of this Agreement agree not to engage in, a boycott of Israel, and will not adopt a procurement, investment, or other policy that has the effect of inducing or requiring a person or company to boycott Israel.

5. COMPLIANCE WITH IMMIGRATION LAWS. The parties hereby warrant that they will at all times during the term of this Agreement comply with all federal immigration laws applicable to the parties' employment of its employees, and with the requirements of A.R.S. § 23-214(A) (together the "State and Federal Immigration Laws"). The parties shall further ensure that each sub-consultant who performs any work for the party under this Agreement likewise complies with the State and Federal Immigration Laws.

6. INSPECTION AND AUDIT. The parties agree to keep all books, accounts, reports, files, and other records relating to this Agreement for five (5) years after completion of the contract; and, in addition, agrees that such books, accounts, reports, files, and other records shall be subject to audit pursuant to A.R.S. § 35-214.

7. PUBLIC RECORDS LAW. Notwithstanding any other provision of the agreement, the parties understand that all of the other parties are public entities and, as such, are each subject to Arizona's public records law, A.R.S. § 39-121 et. seq.

8. JURISDICTION AND APPLICABLE LAW. This Agreement shall be governed by the laws of the State of Arizona. Jurisdiction and venue for any action under this Agreement shall be in Cochise County, Arizona.

IN WITNESS WHEREOF, two (2) identical counterparts of this AGREEMENT, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named on the date and year first above written.

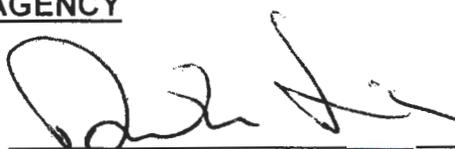
APPROVED BY:

APPROVED BY:

CITY

AGENCY

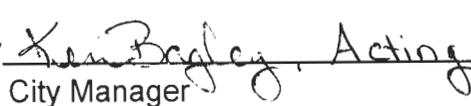
By  Mayor Pro Tempore
(Name & Title)

By 
David M. Smith, Mayor

DATED: 8/15/2017

DATED: July 19, 2017

425 10th Street
Address

By  Acting
City Manager

Douglas, AZ 85607
City, State, Zip

DATED: 7/19/17

(520)417-7302
Phone

ATTEST: Ashlee Coronado
By

City Clerk

Pursuant to A.R.S. §11-952, this AGREEMENT has been reviewed by legal counsel for each party to determine it is in proper form and is within the power and authority granted under the laws of the State of Arizona to the respective e client agency.

APPROVED AS TO FORM:

APPROVED AS TO FORM:

B

[Signature]

AGENCY

City Attorney

EXHIBIT "A"

List of Bus Stop Facilities

1. Lowell Plaza