

RESOLUTION NO. 22-1529

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A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF DOUGLAS, COCHISE COUNTY, ARIZONA, AUTHORIZING THE ENTRY INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF BISBEE TO PROVIDE PUBLIC TRANSIT SERVICES THROUGH THE ESTABLISHED DOUGLAS TRANSIT PROGRAM; 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 provide public transit services outside their general service area; and

WHEREAS, the Arizona Department of Transportation 5311 Public Transportation Division authorized the City of Douglas and the City of Bisbee to replace the expired service contract for operation of the City of Bisbee's transit service and to enter into an intergovernmental agreement; and

WHEREAS, the terms and conditions to provide public transit operations by the City of Douglas to the City of Bisbee are outlined in the intergovernmental agreement attached hereto along with 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 intergovernmental agreement as the City of Douglas will receive the required funding from the City of Bisbee to operate the transit routes applied toward current City of Douglas transit costs.

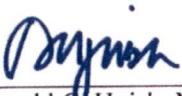
NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Douglas, Arizona, as follows:

Section 1. The terms of the Public Transit Intergovernmental Agreement will be for a term of two (2) years from October 1, 2022 through September 30, 2024, to coincide with the City of Bisbee's 5311 grant cycle and these terms are deemed to be in the best interest of the City of Douglas.

Section 2. The Mayor and the City Clerk are hereby authorized to execute and deliver the Intergovernmental Agreement (attached) and any related documentation necessary to consummate the transaction contemplated by the noted agreement 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 intergovernmental agreement.

PASSED AND ADOPTED by the Mayor and Council of the City of Douglas, Arizona, this 9<sup>th</sup> day of November, 2022.

  
\_\_\_\_\_  
Donald C. Huish, Mayor

Attest:  
  
\_\_\_\_\_  
Alma Andrade, City Clerk

Approved as to form:  
  
\_\_\_\_\_  
Denis Fitzgibbons, City Attorney

Prepared by:  
Xenia Gonzalez, Neighborhoods Resources and Grants Director

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BISBEE AND  
THE CITY OF DOUGLAS FOR BISBEE PUBLIC TRANSIT SERVICE**

This agreement is made and entered into this 6th day of December, 2022, by and between the City of Bisbee, a municipal corporation of the State of Arizona, hereinafter referred to as the "City", and the City of Douglas, a municipal corporation of the State of Arizona, herein after referred to as "Douglas".

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

**WHEREAS** the City needs certain transit services performed, as more particular specified in the Statement of Work, attached as Exhibit A which is incorporated herein by reference, and

**WHEREAS** Douglas offered to perform certain transit services within the terms of this Intergovernmental 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:

1. Douglas agrees to perform the work and to provide the services as described in the "Statement of Work and Special Instructions to Douglas", and "Special Instructions", attached as Exhibit A which is incorporated herein by reference, and made part of the agreement. This work shall be provided in compliance with Federal Transportation Administration (FTA), Grant Agreement Bisbee-00015 (Exhibit B) with ADOT, Title VI compliance requirements, Limited English Proficiency (LEP) compliance requirements, Disadvantaged Business Enterprises (DBE) compliance requirements, and with the Americans with Disabilities Act (ADA).

2. Douglas further agrees to provide all services required by this Agreement in a complete and acceptable form, as is customarily provided according to normal professional standards applicable in the transit industry.

3. This Agreement shall remain in effect for a period of 2 years, with an option of up to two (2) one (1) year renewals if agreed to in writing by both parties. This Agreement may be renewed for an additional period upon the mutual agreement of the parties. The effective date of this IGA shall be October 1, 2022.

4. The City will compensate Douglas for its performance, and Douglas agrees to accept as complete payment for such full performance, a sum not to exceed \$227,125 per year. . The City shall have the right to reject all or any work or work product submitted under this Agreement which does not meet the required specifications. In the event of any such rejection, Douglas agrees

to promptly remedy any and all deficiencies. No compensation shall be due for any rejected work until such deficiencies have been corrected, and are to be corrected at Douglas' sole cost.

5. Payment shall be made by the City to Douglas on the basis of invoices. Douglas' billing period shall be on a monthly basis, or as otherwise specified in the Statement of Work documents. Invoices shall be submitted within 15 days after the end of the billing period. The City shall make every effort to process payment within twenty-one (21) calendar days after the date of the invoice. Douglas shall provide periodic reports and updates on the progress being made in connection with the work included within each billing period payment requests, sufficient for the City to determine that satisfactory progress is being made.

6. All notices, invoices and payment shall be made in writing and may be given by personal Delivery, mail or email. The names and addresses of the designated recipients for such notices, invoices and payments are as follows:

TO DOUGLAS:  
City of Douglas  
Attn: Transit Division  
425 E. 10<sup>th</sup> Street  
Douglas, AZ 85607

TO CITY:  
City of Bisbee  
Attn: Public Works  
76 Erie Street  
P.O. Box 4601  
Bisbee, AZ 85603

#### **OTHER TERMS**

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

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

9. **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.

10. **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.

11. **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.

12. **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.

13. **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.

14. **AGREEMENT SUBJECT TO APPROPRIATION.** The performance by each Party to this Agreement of its respective obligations under the Agreement is subject to actual availability of funds appropriated by each Party for such purposes. Each Party to the Agreement shall be the sole judge and authority in determining the availability of funds under the Agreement and each Party shall keep the other Party fully informed as to the availability of funds for its obligations. The obligation of each Party to fund any obligation pursuant to the Agreement is a current expense of such Party, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Party. If the Council or Governing Board of a Party fails to appropriate money sufficient to meet its obligations as set forth in the Agreement during any immediately succeeding fiscal year, the Agreement shall terminate at the end of the then-current fiscal year and the Parties shall thereafter be relieved of any subsequent obligation under the Agreement.

15. **GRATUITIES.** Either Party may, by written notice to the other Party, cancel this Agreement if it is found by a Party that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the other Party or any agent or representative of the Party to any officer, agent or employee of the Party for the purpose of securing this Agreement.

16. **INDEMNIFICATION.** Each Party (each, an "Indemnitor") agrees, to the extent permitted by law, to indemnify, defend and hold harmless the other Party (each, an "Indemnitee") for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any Indemnitee may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Indemnitor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement.

17. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed original hereof.

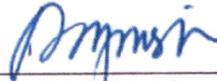
**APPROVED BY THE MAYOR AND COUNCIL OF THE CITY OF DOUGLAS, ARIZONA, this 9<sup>th</sup> day of November 2022**

ATTEST:



Alma Andrade  
City Clerk

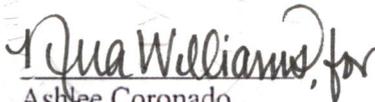
CITY OF DOUGLAS



Donald C. Huish  
Mayor

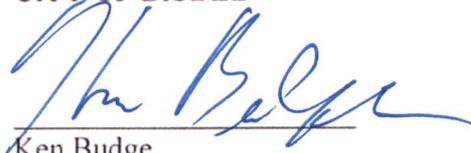
**APPROVED BY THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, ARIZONA, this 6<sup>th</sup> day of December, 2022**

ATTEST:



Ashlee Coronado  
City Clerk

CITY OF BISBEE



Ken Budge  
Mayor

In accordance with the requirements of A.R.S. § 11 952, the undersigned attorneys acknowledge that (i) they have reviewed the above Agreement on behalf of their respective clients and that (ii) as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

Attorney for City of Douglas

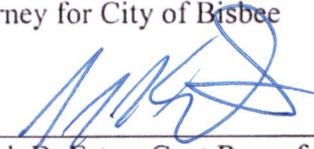
By:



Date: 11/10/2022

Attorney for City of Bisbee

By:

  
Joseph D. Estes, Gust Rosenfeld, PLC

Date: 12/6/2022

**EXHIBIT A  
STATEMENT OF WORK**

Douglas shall provide operations management, dispatch, driver's trainings, substance abuse monitoring, and operation of the transit service. The City will provide public transit vehicles (buses), maintenance of the transit vehicles; Douglas will assist the City in the requirements of the preventative maintenance schedule and delivery of the vehicles to and from the maintenance facilities. A deviated flex route service is proposed. This service will operate much like a fixed route with deviation system, except that the vehicle will not be required to return to the route near the point at which it left the route. Rather, fixed service will be provided to a series of "hub stops" located at key activity centers and residential areas throughout the community. Between the hub stops, the vehicle driver will be able to deviate as necessary to serve door-to-door transportation needs. This service type provides more flexibility than traditional route deviation, and thus can better serve all passengers with greater efficiency.

Currently the City provides a flex service with thirty (30) designated stops made on a scheduled basis. The present schedule is Monday through Friday, 5:50 a.m. through 6:30 p.m. with ten (10) runs per day. Saturday service begins at 9:30 a.m. through 4:00 p.m. with four (4) runs with the same thirty (30) designated stops. The bus does not currently operate on Sundays or major holidays.

Because of the configuration of the City of Bisbee, one (1) route has been selected. Each run has sufficient time built into the trip for deviations. The route begins at the top of Tombstone Canyon, through Old Bisbee to the Lowell area, to the Warren town-site and continues on Highway 92 past Briggs Addition to the San Jose Area. After servicing the San Jose area including the Safeway Plaza and the Bisbee Senior Center, the route diverts south to Naco, Arizona six (6) times each weekday (all routes on Saturday) and returns to the Bisbee Senior Center and Safeway Plaza. The route reverses itself to the Warren town-site and continues through Saginaw back to the Lowell area and returns through historic Old Bisbee to the top of Tombstone Canyon.

Principal hub stops served by the system will be Copper Queen Plaza/Lyric, City Hall, D.E.S., Safeway, Copper Queen Hospital, and the Senior Center. In Naco, AZ the principal hub stop is the Turquoise Valley Golf Course and the stop at Martinez/Towner.

Changes to fares, routes, schedules, and the schedule of activities may not be made without prior written approval from the City in consultation with the City's Transit Advisory Committee (TAC) and the ADOT. Such changes can be made without requiring a written amendment to this agreement.

The present fee schedule is as follows:

General Public:	\$1.00 per ride
Students (7 – 18):	\$0.25 per ride
Senior Citizens:	\$0.50 per ride
Disabled Persons:	\$0.50 per ride

Deviations: \$0.50 per person (requires advance notice)

In addition, monthly passes will be available, at the following prices:

General Public: \$25.00

Students: \$ 7.50

Senior Citizens: \$15.00

Disabled Persons: \$15.00

Monthly passes will be available through the City of Bisbee and Douglas.

With these on-going transit services, some adjustments may be needed during the year in order to provide more effective service or to meet rider's requests. Should City mandate a change in service levels thereby occasioning an increase in operating costs, Douglas shall be compensated, for the increase in operating costs through a prompt renegotiation process to be completed within one monthly billing cycle of the mandated change in service.

A Transportation Advisory Committee (TAC) has been established and the facilitator of that committee is the City of Bisbee. The purpose of the TAC is to advise the transit system on any matter concerning the operation and administration of the system. Douglas will become a member of the TAC committee, attend and provide ridership stats, maintenance updates, and other reports relevant to the program.

The City currently operates three (3) buses; two buses are used in the daily route and one is the designated back up.

#### **Service Levels**

Service shall be provided Monday through Friday, with minimum hours of operation being from 5:50 a.m. until 6:30 p.m., Monday through Friday, and Saturdays from 9:30 a.m. until 4:00 p.m. No service will be provided on Sundays or on City of Douglas holidays.

#### **Dispatching/Office Staff**

Douglas shall establish an office where business is to be conducted, which includes but not limited to a space to hold driver and dispatch trainings and meetings. All furnishings, equipment and supplies are the responsibility of Douglas. Personnel with dispatch capabilities will be on call and/or staff the Douglas office from 5:50 a.m. through 6:30 p.m., Monday through Friday and 9:30 a.m. to 4:00 p.m. on Saturday. Dispatcher and/or Transit Manager shall be available on call if not in the office in the event driver assistance is required. Compliance with this provision may be attained by having an office anywhere within Douglas' regional transit service area.

#### **Deviations**

Douglas shall receive service requests from elderly, disabled, and general public transit riders for door-to-door and door-to-hub stop service. Requests for service for door to the door or for changes in standing order trips must be made with a prior days' notice before service is needed in order to allow time to prepare the driver schedules. A will-call return trip will be scheduled only for normal

flex service hours, and the pickup will be accomplished on the next regularly scheduled route. An answering service shall be available after hours to inform callers how to obtain bus information.

**Transit Revenues**

Douglas drivers shall collect the fares and remit the full amount to the City on a daily basis. The City of Bisbee encourages Douglas to pursue advertising as a means of enhancing revenues. The City reserves the right to approve the advertising methods used by Douglas.

Douglas shall provide a secure method of collecting fares and accounting for same. A description of this method shall be included as part of the proposal. Douglas is not required to make change for riders. Douglas is responsible for developing and issuing a system to regulate monthly passes. Douglas and its employees are prohibited from soliciting or accepting tips or gifts of any kind.

**Personnel**

Douglas shall be solely responsible for the provision and satisfactory performance of all Douglas employees as described by this Request for Proposal. Douglas shall be solely responsible for payment of all employee and/or subcontractor compensation and benefits. Without any additional expense to the City, Douglas shall comply with the requirements of employee liability, Worker's Compensation, employment insurance, Social Security, and all other applicable laws. The City of Bisbee shall have the right to demand removal from the project, for reasonable cause, any personnel furnished by Douglas. Douglas agrees to compensate all personnel with wages and benefits comparable to normal transit industry standards and provide regular evaluations and reviews of all employees. Each of Douglas' employees shall, at all times while on duty in the performance of the services required herein, be neatly and cleanly dressed and maintain a courteous and cooperative attitude in their contact with the public.

**Transit Manager:**

Douglas shall designate a Transit Manager who shall oversee the day-to-day operation of the service. Douglas shall provide a job description for this position in the proposal package including compensation amount. Due to the Transit Manager's critical role, the City requires that this person be identified, that a detailed resume be furnished by Douglas, and that this person be available to be interviewed by the City.

**Administrative/Financial Staff:**

Douglas shall supply a sufficient number of employees to staff the office at all required times and perform all necessary tasks associated with the service. Douglas shall be responsible for training these employees and making sure that all program policies and procedures are understood.

**Drivers & Dispatchers:**

Douglas shall supply a sufficient number of properly qualified personnel to operate the equipment and to provide the services required. Douglas shall provide a list of their proposed drivers and dispatchers, their qualifications, and salaries. Drivers are required to wear appropriate uniforms.

**Ridership Tracking App.**

City of Douglas will provide a Ridership Tracking App to Bisbee Drivers including training so they can electronically record ridership, statistics, pre/post inspections, GPS, Electronic passes and

mileage using a mobile device. The tablet that the City provides to the Drivers will be only for City business related purposes. Employees are responsible for the general care of the tablet and associated equipment issued by the Douglas. Employees are expected to protect mobile devices used for work-related purposes from loss, damage, or theft. It is the responsibility of the Driver to ensure the City-provided tablet is kept in a reasonable and safe condition. Employees are expected to refrain from using their tablets while driving. Regardless of the circumstances, including slow or stopped traffic, employees are required to pull off to the side of the road and safely stop the vehicle before entering ridership. Employees are responsible for notifying the supervisor of any issues related to the operation of the tablet.

**Attendants:**

Douglas will not supply attendants but must allow a disabled passenger to bring an attendant, if so requested. Douglas shall not charge a fare for personal care attendants, in compliance with the Americans with Disabilities Act. Personal care attendants must be authorized and will not be counted as passengers.

**Safety/Inspection**

Douglas shall require drivers to perform written and signed daily safety inspections of vehicles in accordance with Federal Motor Vehicle Regulations at the beginning (Pre-trip) and end (Post-trip) of each day's service. All defects identified in the inspection shall be noted in writing, the Transit Program Manager shall be notified of the defect, and the vehicle will be scheduled for repair at the City's garage 940 Tovreaville Road, Bisbee, Arizona or a designated repair facility. Unless an emergency, all repair appointments must be scheduled 24 hours in advance. Vehicles failing the daily inspection shall not be used in service until the reason for failure is corrected. The maintenance record must reflect the date the vehicle was submitted for repair and when the repair has occurred.

Douglas reserves the right to ensure that vehicles are being maintained properly and are in safe operating condition. Douglas may inspect vehicles and maintenance/inspection records at any reasonable time and may remove a vehicle from service until problem(s) are corrected.

**Accident/Incident Investigation**

Douglas shall establish a policy on accident/incident investigations in accordance to the current Section 5311 Guidebook and ADOT Grant Agreement which includes but is not limited to a specific timeframe for investigation, reporting responsibilities, and a statement that the City Transit Program Manager shall be notified immediately, following the reporting to the appropriate authorities, of any accidents. A description of this plan shall be submitted to the City.

**Maintenance**

All vehicles used in performance of this IGA shall be maintained, at a minimum, according to the manufacturer's specifications for routine and preventive maintenance and in accordance with Federal Motor Carrier Regulations, the City's Preventative Maintenance Plan applicable ADOT regulations, the cost of which shall be borne by the City. Douglas will work directly with the City mechanics or staff regarding maintenance issues. The buses are housed outdoors at the City Garage/Yard located at 940 Tovreaville Rd in Bisbee, Arizona. Douglas shall bear the cost of drivers required to transport vehicles for repair. Douglas shall be required to keep vehicles clean,

inside and out. Service records must be kept for all vehicles and must be available for City inspection during normal office hours.

Passenger comfort and safety are necessary vehicle maintenance requirements. Safety exits shall be clearly marked and easy to use. Air conditioning is required to be operational throughout the year. Adequate heating shall also be maintained in working condition and available when needed. Douglas shall remove from service any vehicle with faulty air conditioning and/or heating and schedule them for repair at the City's garage or a City agreed upon vehicle maintenance provider.

**Insurance Requirements**

Douglas and/or any subcontractor shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under the Agreement, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by Douglas, its agents, representatives, employees and/or subcontractors.

The Insurance Requirements herein are minimum requirements for the IGA and in no way limit the indemnity covenants contained in the ADOT Grant Agreement. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect Douglas from liabilities that arise out of the performance of work under the IGA by Douglas, its agents, representatives, employees and/or subcontractors, and Douglas is free to purchase additional insurance.

**MINIMUM SCOPE AND LIMITS OF INSURANCE**

Douglas shall provide coverage with limits of liability not less than those stated below. Deductible(s), Self-Insurance, and Self-Insured Retention (SIR) amounts are subject to review and approval by ADOT Safety and Risk Management.

**Commercial Automobile Liability and Physical Damage Coverage**

The policy shall contain Bodily Injury and Property Damage coverage for any owned, leased, hired, and/or non-owned vehicles used in the performance of the IGA.

**Combined Single Limit Auto Liability (CSL)**

- \$1,000,000 Vehicles carrying four (4) or fewer passengers
- \$2,000,000 Vehicles carrying five (5) up to fifteen (15) passengers
- \$5,000,000 Vehicles carrying sixteen (16) or more passengers

**Physical Damage Coverage**

- \$5,000 Maximum Comprehensive Deductible
- \$5,000 Maximum Collision Deductible

The policy shall be endorsed, as required by written agreement, to name the "The State of Arizona and/or ADOT" as loss payee(s) as their interests may appear.



Each Accident	\$500,000
Disease – Each Employee	\$500,000
Disease – Policy Limit	\$1,000,000

The policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of Douglas.

This requirement shall not apply to an agency or subcontractor exempt under A.R.S. § 23-901, if such agency or subcontractor executes the ADOT Workers' Compensation Waiver for Sole Proprietors and Independent Contractors form.

**ADDITIONAL INSURANCE REQUIREMENTS**

Douglas' policies, as applicable, shall stipulate that the insurance afforded the Company shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and non-contributory insurance, as prescribed by A.R.S. § 41-621 (E).

Insurance provided by Douglas shall not limit Douglas' liability assumed under the indemnification provisions of this Agreement.

**NOTICE OF CANCELLATION**

With the exception of ten (10)-day notice of cancellation for non-payment of premium, any changes material to compliance with the Agreement in the insurance coverages above shall require sixty (60) days written notice to the State of Arizona. Such notice(s) shall be sent directly to the ADOT Risk Management, Insurance & Indemnification Section and shall be sent by certified mail, return receipt requested.

**ACCEPTABILITY OF INSURERS**

Douglas' insurance shall be placed with insurance companies duly licensed in the State of Arizona or which hold approved non-admitted status on the Arizona Department of Insurance's List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII or be duly authorized to transact Workers' Compensation insurance in the State of Arizona. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect Douglas from potential insurer insolvency.

**VERIFICATION OF COVERAGE**

Douglas shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by the ADOT Grant Agreement. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates required by the ADOT Grant Agreement shall be sent directly to the ADOT Risk Management, Insurance and Indemnification Unit by email to [mvd1@azdot.gov](mailto:mvd1@azdot.gov). The MPD program description, grant and/or agreement number. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by the ADOT Grant Agreement at any time.

All insurance certificates and endorsements are to be received and approved by the State of Arizona before work commences under the IGA.

Insurance coverages must be in effect at or prior to commencement of work under the IGA and must remain in effect for its duration. Failure to maintain the required insurance coverages or provide timely evidence of coverage renewal is a material breach of the ADOT Grant Agreement and IGA.

All certificates required by this Contract shall be uploaded to the Arizona Grant Management System. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by the grant agreement at any time.

## **SUBCONTRACTORS**

Douglas' certificate(s) shall include all subcontractors as insureds under its policies, or Douglas shall furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

## **APPROVAL**

Any modification or variation from the insurance requirements in this Agreement shall be made in consultation with ADOT, Safety & Risk Management Division. Such action will not require a formal amendment to this Agreement, but may be made by administrative action.

## **EXCEPTIONS**

In the event Douglas or its sub-contractor(s) is/are a public entity, then the above- referenced insurance requirements shall not apply. Such public entity shall instead provide the Department with a copy of its Certificate of Self-Insurance. If Douglas or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above insurance requirements shall apply.

## **INDEMNIFICATION**

To the fullest extent permitted by law, Douglas shall indemnify, defend, and hold harmless the State of Arizona, ADOT MVD and its officers, officials, agents and employees (hereinafter referred to in this section as "indemnitee") from and against any and all claims, actions, liabilities, damages, losses or expenses, including court costs, attorneys' fees and costs of claim processing, investigation and litigation) ( hereinafter referred to as "claims") for bodily injury or personal

injury (including death), or loss or damage to tangible or intangible property caused or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Douglas or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of Douglas to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the indemnitee, be indemnified by Douglas from and against any and all claims. It is agreed that Douglas will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this IGA, Douglas agrees to waive all rights of subrogation against the State of Arizona, ADOT MVD and its officers, officials, agents and employees for losses arising from the work performed by Douglas under this Third Party Authorization Agreement.

This indemnity clause shall not apply if Douglas or its subcontractor(s) is/are an agency, board, commission or university of the State of Arizona.

## **REPORTING**

All passenger and vehicle-related accidents involving any property damage or personal injury resulting from service provided under this agreement must be reported verbally to the City immediately after they occur. A complete report on the accident shall be forwarded within 24 hours of notice of the accident. The bus driver involved in the accident shall be driven to the testing facility within the required amount of time.

### **Marketing Plan**

The City and Douglas shall promote the service to ensure the general public is aware of the program and to increase ridership. Acceptable marketing media include, but are not limited to: distribution of flyers; posting of signs and posters in public gathering places; radio and television announcements; press releases in local organizational newspapers, bulletins and newsletter, and printed route maps and schedules. Vehicles used for this service shall carry placards or decals. All promotional efforts must contain the program name: "City of Bisbee Public Transit Service." Douglas may provide the City with copies or examples of promotional materials to be used. The City reserves the right to approve these materials.

As part of the annual marketing plan, the City shall conduct market analysis to determine what improvements can be made to the program to better serve the general public. Douglas shall have the Transit Manager ride the bus for at least a complete cycle at least two (2) times per year to evaluate the program. . All associated direct marketing costs shall be the City's responsibility and budget for as part of its 5311-grant award.

### **Records and Reports**

Douglas shall keep separate books and records of its operations in accordance with generally recognized accounting procedures. Douglas shall permit the authorized representatives of the City, the Arizona Treasurer's Office, Arizona Department of Transportation, and the Comptroller General of the United States to inspect and audit all data and records of Douglas relating to its

performance under this IGA. The ADOT Grant Agreement requires the records to be produced at any reasonable time. The records must clearly show revenues collected, and hours and costs of operation. Such records shall be maintained for a period of seven (7) years. Douglas shall, at his own expense, have a third-party financial audit performed on an annual basis, a full copy of which shall be submitted to the City.

The City shall require Douglas to maintain records necessary to monitor the performance of the transit system. These will include the following types of records:

- Driver Logs of all trips taken and passengers carried;
- Daily Service Report listing total passenger trips by type and fare, unserved trips, service hours, total miles, service miles, and any road calls or accidents. Records shall be summarized for a monthly report.
- FTA 5311 (formally Section 18) Operations Revenue Reports.
- Maintenance records including Pre/Post Trip daily inspection, defects reported and when repaired, preventive and unscheduled maintenance, and amount of fuels and lubricants.
- Monthly Disadvantaged Business Enterprise (DBE) Report which identifies all expenditures made with qualified DBE firms. Register and report in the DBE system. In addition to reporting revenues received by the City of Bisbee regarding payment.
- Quarterly management report encompassing the following:
  - Accomplishments and goals – administration, transportation, maintenance
  - Existing and anticipated problems with recommendation for resolution
- Incident Report filed within 24 hours of reportable accident
- Drug and Alcohol Compliance Program Statistical Report
- Manager, Staff, Dispatcher and Driver Training records

All records and reports shall be available for review by the City Transit Program Manager. Douglas shall work with the City to assist in the preparation of annual reports for ADOT which may include, but not be limited to, the following:

- Five (5) year Transit Plan
- Marketing Plan
- Private sector policies
- Accessibility Plan
- Annual Disadvantaged Business Enterprise (DBE) report
- Financial reports
- Safety, Security and Emergency Preparedness Plan (SSEPP)
- RU 20 Annual Transit Report NTD
- Douglas shall conduct an annual rider survey and assist the City in distributing and collecting an independent City Ridership Survey.

#### **Coordination for Stopping Points**

The City shall coordinate with the City to secure and establish bus stops. Douglas may assist when necessary or required.

#### **Other Assistance**

Douglas shall assist and advise the City in managing the transit services including, but not limited to: safety, accident investigation, Title VI investigations, agency liaison, general administration,

triannual Site Reviews, and procurement of capital items (e.g., fare boxes, bus shelters, benches, video equipment, etc.).

The Transit Manager shall assist in writing the 5311 ADOT Rural Transportation Grant application. The Transit Manager shall also assist in writing the Safety, Security and Emergency Preparedness Plan (SSEPP).

**DEFINITION OF KEY WORDS:**

**ACCOMPANYING CHILD:** Any child or children younger than six (6) years of age traveling with a fare-paying passenger, accompanying children shall not be charged a fare. Children must use a seatbelt.

**ADOT:** The Arizona Department of Transportation

**BUS STOPS AND SHELTERS:** City shall maintain the bus stops and shelters including updating the schedule, signs, and notify the City of any damages to the shelter.

**CHILD:** No one under the age of eight (8) is allowed to ride the bus without an adult.

**CITY:** The City of Bisbee, Arizona, 76 Erie Street, Bisbee, AZ 85603

**DBE:** Refers to the Disadvantaged Business Enterprise.

**DEADHEAD:** The time or distance required for the transit vehicle to travel to and from the storage or layover location and the beginning or end of a flex route when it is not available to carry passengers.

**DES:** Refers to the Arizona Department of Economic Security.

**ELDERLY:** Persons over the age of 60, as defined by the Older Americans Act of 1965.

**FTA:** Refers to the Federal Transit Administration.

**DEVIATED FLEX ROUTE SERVICE:** Transportation of persons over prescribed fixed routes according to published schedules that repeat on a daily basis with deviation in routes to provide service to disabled, elderly persons, and general public.

**GRANT CYCLE:** The City of Bisbee Transit Program is funded through the Formula Grants for Rural Areas (CFDA#20.509), FTA/ADOT 5311 Grant Program and is dependent upon continued funding from the 5311 transit program. The Annual Cycle begins October 1 through September 30.

**LAYOVER:** A break in regularly scheduled flex route service exceeding thirty (30) minutes in duration, when the vehicle is not available to carry passengers.

**MAY:** Indicates something that is not mandatory but permissible.

**PASSENGER:** A person, other than the driver, traveling in the transit vehicle, including an accompanying child. Employees of Douglas traveling as part of duties necessitated by service under the IGA (e.g., relief drivers, instructors, inspectors, and mechanics) are not considered to be passengers.

**PASSENGER TRIP:** Transportation provided to a passenger from a point of origin (boarding) to a specific destination point (deboarding.)

**PICKUP TIME:** Actual time the transit vehicle arrives at a scheduled stop for fixed route transit, or the passenger's point of origin for demand responsive or route deviation service.

**RIDER'S BROCHURE:** The most recent brochure published by the City, containing the official route schedule, map and fare information.

**ROUTE DEVIATION:** Departure from the fixed route to pick up or drop off a disabled, elderly passenger, or the general public who could not otherwise get to the nearest bus stop location. A route deviation to pick up a passenger shall only be provided as a pre-scheduled trip.

**SERVICE HOURS:** The time period during which a vehicle shall be considered to be in service and available to transport passengers under the terms of this IGA. For flex route service, this means commencing at the beginning of the scheduled route and ending at the end of the route. A vehicle is considered to be in continuous service if the time between the end of one route and the beginning of the next route is thirty (30) minutes or less.

**SERVICE MILE:** The actual distance traveled, calculated to the nearest one-tenth of one mile, while the vehicle is considered to be in service under the terms of the IGA.

**SHALL, MUST:** Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of the proposal as non-responsive.

**SHOULD:** Indicates something that is recommended but not mandatory; if the Bidder fails to provide recommended information, the City may, at its sole option, ask the Bidder to provide the information or evaluate the proposal without the information.

**STUDENT:** A passenger between the ages of 8-18.

**TRAVEL REIMBURSEMENT:** Travel and reimbursement is based on State Reimbursement Rates.

**DOT:** Refers to the United States Department of Transportation

**WILL:** Indicates an expression of intent, but is not binding.

**WILL CALL RETURN TRIP:** A trip for which a passenger requests transportation but is unable to provide an exact return time, due to the nature of an appointment. The passenger is then required to call for a vehicle when he/she is ready for pickup. The passenger must call during normal business hours for a pickup which must be accomplished during normal flex route-deviation hours.