

## Executive Summary Form

### Agenda Number: HLT (Wellness IGA)

#### Recommendation:

Approval of the new IGA between Cochise County and the City of Douglas For The Exchange of Services and Facilities for the period of March 26, 2013 thru December 31, 2014, for the purpose of providing exercise and health coach services for City of Douglas and County employees. These services will include the use of the exercise room located in the City of Douglas facility by County employees and City employees will have access to an Active Adults Exercise Specialist for health coaching, on a minimal basis.

#### Background (Brief):

Because the newly renovated government building in Douglas, AZ, does not have a space allocated for employee physical activities, it was brought to our attention that there is a room located in the City of Douglas building that is already equipped with some exercise equipment. This IGA would allow county employees to utilize this room and the equipment in the room during regular business hours. In addition, city employees would be allowed to meet with our Active Adults Exercise Specialist for brief coaching services.

The Active Adults Program aims to improve the health of employees and assist those who currently struggle with a chronic condition. In addition to approving this IGA, it allows the Active Adults Program to accomplish one of their state deliverables by partnering with other worksites in assisting them in the development of their own worksite wellness program. This sets the stage for implementation of a wellness policy either by the county or the city which is another state deliverable.

#### Fiscal Impact & Funding Sources:

There will be no financial impact for either Cochise County or City of Douglas.

Next Steps/Action Items/Follow-up: Your approvals are respectfully requested.

#### Impact of Not Approving:

Not approving this amendment would not allow county employees to use the exercise room within the Douglas City Hall building; and would not allow city employees to utilize our Active Adults services.

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
COCHISE COUNTY  
AND  
THE CITY OF DOUGLAS  
FOR EXCHANGE OF SERVICES AND FACILITIES**

**THIS AGREEMENT** is made by and between Cochise County (“County”) and the City of Douglas (“City”), for the joint exercise of their powers in providing exercise and health coach services for employees.

**WHEREAS**, the County employs an Active Adults Health Educator to coach employees on wellness issues and exercise; and

**WHEREAS**, the City owns and operates a workout/training room at City Hall for City employees; and

**WHEREAS**, County employees would benefit from having access to the workout/training room, including access by the Active Adults Health Educator; and

**WHEREAS**, City employees would benefit from Active Adults Health Educator services; and

**WHEREAS**, pursuant to A.R.S. § 11-952, the County and City are authorized to enter into this intergovernmental agreement for joint and cooperative action for exchanging services and facilities.

**NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the parties agree as follows:**

**1. Purpose.** The purpose of this Agreement is to set out the understanding of the parties as to their mutual responsibilities and rights regarding the exchange of the City’s workout/training room facilities for the services of the County’s Active Adults Health Educator.

**2. Term.** This Agreement shall take when it has been approved by the parties’ governing boards, executed by both parties, reviewed by their legal counsel and filed with the Cochise County Recorder, pursuant to A.R.S. § 11-952(A) and (D). It shall remain in full force and effect through December 31, 2014. This IGA may be extended for additional term of years by appropriate action of the parties and filing notification of the renewal with the Cochise County Recorder. Modifications may be made only upon execution of a written amendment signed by the parties hereto.

**3. City’s Obligations.**

a) The City will provide shared use of their employee workout room, located at City Hall, to County employees as part of a joint health education and wellness program.

b) The City will provide access to the workout room during regularly scheduled business hours, Monday – Friday, 8:00 a.m. – 5:00 p.m., with the exception of observed City holidays.

**4. County's Obligations.** County will make available the services of its Active Adults Health Educator to City employees for coaching employees on wellness issues and exercise at least two days per month according to Cochise County employee schedules.

**5. Workers' Compensation.** For the purposes of Workers' Compensation, an employee of either party to this Agreement, who works under the jurisdiction or control of, or who works within the jurisdictional boundaries of, the other party pursuant to this Agreement, is deemed to be an employee of both the party who is the employee's primary employer and the party under whose jurisdiction or control or within whose jurisdictional boundaries the employee is then working, as provided in A.R.S. § 23-1022(D).

- A. The primary employer party of such employee shall be solely liable for the payment of Worker's Compensation benefits payable as the result of the employee's participation in such activity.
- B. Each party to this Agreement shall comply with the provisions of A.R.S. § 23-1022(E) by posting the required public notice pursuant to provisions of ARS § 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.”

**6. Termination.** This Agreement may be terminated immediately by either party at any time upon written notice. Any property provided by either party to this Agreement for use in the workout/training room shall remain the separate property of that party upon termination of this Agreement.

**7. Cancellation for Conflict of Interest.** This Agreement may be canceled pursuant to A.R.S. § 38-511, which are incorporated herein by reference.

**8. 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. 99-4 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.

**9. Audit and Records.** Both parties agree to retain all accounts, reports, files and other records relating to this Agreement for five (5) years after termination of this Agreement and to open such records for reasonable inspection and audit by the other party during that period.

#### **10. Insurance**

Each party to this Agreement shall secure such liability insurance as reasonable necessary and appropriate for its responsibilities under this Agreement, as customarily carried by each entity. Either or both parties may be self-insured.

#### **11. Property Damage**

a) The County shall be responsible for any and all damages to City property, which may be incurred as a proximate result of any activities supervised by the County. The City shall be responsible for any damage to County property which may be incurred as proximate result of any activities supervised by the City.

b) In the event of a dispute between the County and the City as the proximate cause of any such damages, the Authorized Representative of the County and the City Manager shall resolve the dispute. Should the dispute not be resolved by them, the matter shall be referred to arbitration, pursuant to A.R.S. § 12-1501, et seq., upon consent of the Governing Bodies of the City and the County.

**12. Indemnification.** Each party agrees to be responsible for the conduct of its operations and performance of Agreement 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 position, agency or employment while performing duties undertaken pursuant to this Agreement. This indemnification provision shall survive termination of the Agreement.

#### **13. General Provisions.**

13.1 The terms 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 in favor of any potential third party beneficiary or other person, agency or organization.

13.2 This Agreement 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 Agreement shall be made in writing and signed by the parties to this Agreement.

- 13.3 Should any part of this Agreement be held to be invalid or void, the remainder of the Agreement shall remain in full force and effect with those offending portions omitted.
- 13.4 This Agreement shall be construed under the laws of the State of Arizona and shall incorporate by reference all laws governing the intergovernmental agency agreements and mandatory contract provisions of state agencies required by statute or executive order.
- 13.5 The headings used in this Agreement are for convenience only and are not a substantive part of this Agreement.
- 13.6 Neither party may assign a duty or responsibility under this Agreement without the prior written consent of the other party.
- 13.7 Pursuant to A.R.S. §§ 35-391.06(A) and 35-393.06(B), Contractor certifies that it does not have a "scrutinized" business operation in either Sudan or Iran, as that term is defined in A.R.S. §§ 35-391(15) and 35-393(12), respectively.

**14. Counterparts.** This IGA may be executed in multiple counterparts, each of which shall constitute an original and together shall constitute the IGA.

**15. Notice.** Written notice shall be provided by sending the notice by first class mail to:

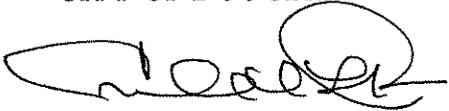
For County: Mary Gomez  
 1415 Melody Lane, Building A  
 Bisbee, AZ 85603

For City: Carlos De La Torre, P.E., City Manager  
425 Tenth Street  
Douglas, AZ 85607

IN WITNESS WHEREOF, the parties provide the following resolutions of approval:

CITY OF DOUGLAS

COCHISE COUNTY



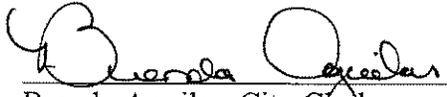
\_\_\_\_\_  
 Carlos A. De La Torre, P.E., City Manager

\_\_\_\_\_  
 Richard Searle, Chairman

Date: 1/9/2013

Date: \_\_\_\_\_

Attest:

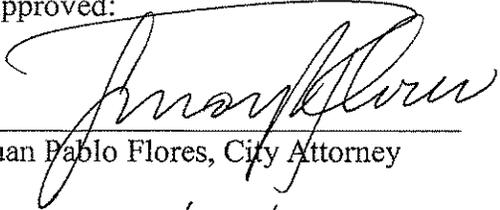
  
Brenda Aguilar, City Clerk

Attest:

\_\_\_\_\_  
Katie Howard, Clerk of the Board of Supervisors

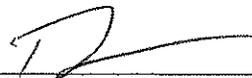
The above Agreement, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned legal counsel for each of the parties who has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to each of the parties.

Approved:

  
\_\_\_\_\_  
Juan Pablo Flores, City Attorney

Date: 01/09/2013

Approved:

  
\_\_\_\_\_  
Britt Hanson, Chief Civil Deputy  
Cochise County Attorney

Date: 3/11/13