

**MEMORANDUM OF UNDERSTANDING
BETWEEN COCHISE COUNTY
AND THE CITY OF DOUGLAS
FOR NON-EXCLUSIVE COMMERCIAL USE OF
BISBEE-DOUGLAS INTERNATIONAL AIRPORT**

This Memorandum of Understanding (“Agreement”) between the County of Cochise (“County”), owner of the property known as the Bisbee-Douglas International Airport (“BDI”), and the City of Douglas (“City”), which wishes to promote the development of airport-related or airport-compatible economic activities thereon, is intended to provide parameters for a license to be granted to the City for said purpose.

I. Definitions

BDI premises: All that property described in the quitclaim deed issued May 13, 1949, from the United States War Assets Administration to the County of Cochise, the legal description of which is incorporated herewith by reference.

FAA: Federal Aviation Administration.

Subject property: Any land on the BDI premises except those lands used for or within 200 feet of an airport runway, taxiway, parking apron; any fenced area; any land currently under lease or occupied by or planned to be occupied by any structure, road, highway, public utility line, pipeline, well; or any other easement of record for any rights of way for any purpose.

II. Scope of license

Subject to terms described herein, the City is hereby granted a non-exclusive five-year license to:

1. Encumber any of the subject property within the scope of this license for any economic development purpose that is determined by the FAA to be compatible with the use of said premises as an airport, and so long as such use does not interfere with other uses at BDI.
2. Enter into agreements with other private parties, non-profit organizations and/or governmental or quasi-governmental entities for the lease of any of the subject property within the scope of this license for any period of time within the term of this license, for any airport-compatible purpose, as determined by the FAA.
3. Construct or allow to be constructed within the boundaries of the subject property on the BDI premises any structures that the City deems to be necessary to its development of airport-related or airport-compatible economic activities, provided that any such construction shall comply with all County building codes

and shall be subject to all County permitting, permit fee and inspection requirements.

III. Procedures for exercise of license rights

Prior to entering any agreement pursuant to Section II above, the City shall:

1. Confirm with the County Administrator or his designee that the proposed use is within the scope of this license and not otherwise committed to another planned use. If approval by the Board of Supervisors is required, the County shall seek such approval within sixty (60) days of receipt of the proposal from the City.
2. Obtain written approval of the FAA for the proposed use as airport-compatible.

IV. Effective date

This Agreement shall be effective upon written approval of its terms of the FAA and signing of this Agreement by the parties hereto.

V. Term, termination

This Agreement shall remain in effect for five years and may be renewed by mutual agreement of the parties for successive five-year terms. It is subject to termination by either party, for any reason, on six months' written notice.

Termination by City or by expiration of term: If this Agreement is terminated by the City, or if this Agreement expires without renewal, any improvements made pursuant to this Agreement shall be retained by the County upon termination and the City shall be responsible for the cost of removal of any obstructions and/or repair of any damage to the property caused by or resulting from the City's use or control thereof.

Termination by County: If this Agreement is terminated by the County, the County shall reimburse the City the fair market value of any improvements it wishes to retain, but the City shall be responsible for the cost of removal of any obstructions and/or repair of any damage to the property caused by or resulting from the City's use or control thereof.

VI. Income

Any net income derived, directly or indirectly, by the City from any economic development sponsored or undertaken by the City under terms of this license shall be shared equally with the County.

VII. Reservations of mineral rights

Any rights granted to the City under this Agreement for use of the subject property on BDI premises shall be subject to those mineral rights specifically reserved by

the U.S. in the quitclaim deed referenced in Section I, above, and incorporated herewith; and all other mineral, oil and gas rights, in deposits in the lands covered by this Agreement, which are retained by Cochise County. Both the United States government and the County reserve the right to come on the land, or to grant that right to any other parties of their choosing, to prospect, making just compensation for any damage or injury caused thereby.

VIII. Amendment

This Agreement is intended to memorialize the purpose and basic terms of agreement between the parties with respect to City use of the subject property on the BDI premises. It is anticipated by the parties that it may be augmented from time to time by sub-agreements between the parties, consistent with the terms contained herein, that may serve to provide additional specific terms as to particular property uses, and/or evolving purposes and functions of the parties with respect to said property. The terms of this basic Agreement may be amended by the parties at any time, by mutual written agreement.

IX. Contacts

Any notices, questions, comments and concerns regarding the duties and responsibilities of the Parties under this Agreement are to be directed to:

COUNTY: Mike Ortega, Cochise County Administrator
1415 Melody Lane, Bldg. G
Bisbee, Arizona 85603

CITY: Carlos De La Torre, City Manager
City of Douglas
425 E. 10th Street
Douglas, Arizona 85607

X. General Terms

10.1 Compliance with Laws, Rules and Regulations. The Parties and their subcontractors shall comply with all applicable Federal and state laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Agreement. The laws and regulations, of the State of Arizona govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement. Any action relating to this Agreement must be brought by arbitration to the extent required by A.R.S. § 12-1518 or in an appropriate court. Any arbitration award will be enforced in an appropriate court.

10.2 Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this Agreement. The Parties shall comply with the provisions of

Executive Order 755, as amended by Executive Order 994, which is incorporated into this Agreement by reference, as if set forth in full herein.

10.3 ADA. The Parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, as modified by Pub. L. 110-325, codified at 42 U.S.C. §§ 12101 through -12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

10.4 Conflict of Interest. This Agreement is subject to termination for conflict of interest pursuant to terms of A.R.S. § 38-511.

10.5 Severability. The provisions of this Agreement are severable. If any provision is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.

10.6 Indemnification. Each Party (as Indemnitor) agrees to indemnify, defend and hold harmless the other Party (as Indemnitee) from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

10.7 No Third Party Beneficiaries. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or effect the legal liability of any Party to the Agreement.

10.8 No Joint Venture. Nothing in this Agreement is intended to create a joint venture between or among the Parties, and it will not be so construed. None of the Parties' employees shall be considered officers, agents or employees of any of the other Parties, or be entitled to receive any employment related fringe benefits from any of the other Parties.

IN WITNESS THEREOF, the Parties hereto have executed this Agreement on the date and year specified below:

COCHISE COUNTY

Ann English, Chair

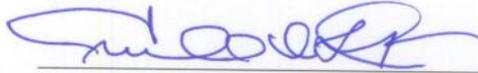
Date

Attest:

Arlethe Rios, Clerk of the Board

Date

CITY OF DOUGLAS

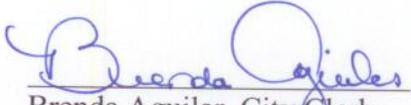


Carlos A. De La Torre, P.E., City Manager

10-14-2013

Date

Attest:



Brenda Aguilar, City Clerk

10/09/2013

Date