

THE CITY OF DOUGLAS

425 10th Street, Douglas, Arizona 85607

May 20, 2016

Arlthe Rios
Clerk of the Board
Cochise County Board of Supervisors
1415 W. Melody Lane
Bisbee, AZ 85603

RE: IGA Bay Acres Sewer Project

Dear Arlthe:

Enclosed please find two original IGA's reference the Bay Acres Colonia Sewer Collection System Installation Project. Once agreements are signed, please send us an original executed for our records.

Should you have any questions regarding this correspondence, please do not hesitate to contact this office.

Sincerely,

Alma Andrade
Executive Assistant

send to Britt

RECEIVED
COCHISE COUNTY
BOARD OF SUPERVISORS
2016 MAY 23 A 10:28

INTERGOVERNMENTAL AGREEMENT
between
COCHISE COUNTY and CITY of DOUGLAS
FOR BAY ACRES SEWER PROJECT

THIS INTERGOVERNMENTAL AGREEMENT (“IGA”) is made by and between Cochise County, a political subdivision of the State of Arizona (“County”), and the City of Douglas, a political subdivision of the State of Arizona (“City”), pursuant to A.R.S. § 11-952.

WHEREAS, the City is in the process of constructing and installing a sewer collection system for the Bay Acres Colonia in order to ameliorate problems with infrastructure deficiencies, specifically those associated with failing septic systems, which currently pose a threat to the regional aquifer that supplies drinking water to the City and Agua Prieta, Sonora; and

WHEREAS, in order to construct and install the sewer collection system (“Sewer Project”), it will be necessary for the contractor to cut trenches in and otherwise impact County roads;

WHEREAS, as a result, the County will need to repair impacts to County roads, including replacing pavement;

WHEREAS, the County is supportive of the Sewer Project, and is willing to permit a contractor to cut trenches in County roads on the terms and conditions of this IGA, including reimbursement for repair to the impacts on County roads,

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

1. **Purpose.** The purpose of this IGA is to set out the understanding of the parties as to their mutual responsibilities and rights regarding the Sewer Project, specifically regarding trench cutting of County roads and repairing the impact.

2. **Term.** This IGA shall become effective on the date that it is executed by all parties and shall continue in effect until the Sewer Project is completed, unless terminated

as provided herein. Modifications may be made only upon execution of a written amendment signed by the parties hereto.

3. **Scope of Work and Cost of Repair.** Based on engineering designs obtained by the City, and reviewed by the County, it will be necessary to cut approximately 27,990 linear feet of trenches on County roads for the Sewer Project. Based on that estimate, the impact to the County to repair the roads and bring them to County Road Standards will cost the County \$783,333. Provided, however, that this cost is based on the assumption that the contractor employed by the City will repair the trenches, including compaction, to County Road Standards before the County repairs the roads at no cost to the County. The City agrees and warrants that any contract that it enters into with a third party contractor to repair trenches will include this obligation. It is further agreed that the County will inspect the trench repair to assure that such repair meets County Road Standards.

4. **Reimbursement to the County.** The City will pay the County an impact fee of \$322,853 ___ to cover the cost of repairing the roads to County standards. Such impact fee will become due and payable in full prior to any pavement disturbance by sewer line contractor.

5. **Termination for Cause.** This Agreement may be terminated by either party for cause for material default of any obligations under this Agreement; provided, however, that termination shall not affect reimbursement obligations for costs already incurred by the County.

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

7. **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, the Americans with Disabilities Act, and any State law that mandates that all persons, regardless of race, religion, handicap, color, age, sex, political affiliation, veteran's status, genetic code or national origin shall have equal access to employment and educational opportunities.

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

9. **Indemnification.** Each party agrees to be responsible for the conduct of its operations and performance of IGA 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 IGA. This indemnification provision shall survive termination of the IGA.

10. **Retention of Equipment and Supplies.** Upon termination of this IGA, equipment and supplies furnished by either party shall be retained by such party.

11. **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."

12. **General Provisions.**

12.1 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.

12.2 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.

12.3 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.

12.4 This IGA 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.

12.5 The headings used in this IGA are for convenience only and are not a substantive part of this IGA.

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

12.7 The parties may pursue a method of alternative dispute resolution as authorized by ARS § 12-1518.

12.8 The parties agree that either party, including its attorney, may sign this Agreement using electronic signatures.

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

14. **Notice.** Written notice shall be provided by sending the notice by email to:

For COUNTY: Karen Riggs
Highways and Floodplain Director
kriggs@cochise.az.gov

For CITY: Carlos A. De La Torre, P.E.
Douglas City Manager
Carlos.delaTorre@douglasaz.gov

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

CITY OF DOUGLAS

**COCHISE COUNTY
BOARD OF SUPERVISORS**



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

Richard Searle, Chairman

Date: _____

Date: _____

ATTEST:

By: 
Brenda Aguilar, City Clerk

Date: 05/13/2016

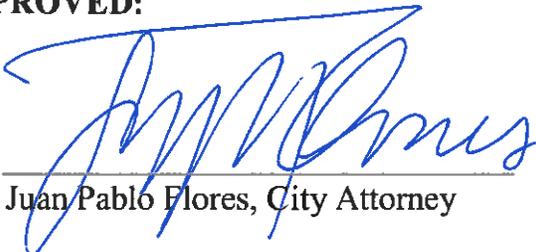
ATTEST:

By: _____
Arlethe Rios, Clerk of the Board

Date: _____

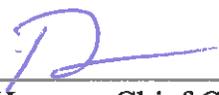
The above Intergovernmental Agreement for the Bay Acres Sewer Project, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned legal counsel for each of the parties who has determined that it is in proper form and is within the powers and authority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

APPROVED:

By: 
Juan Pablo Flores, City Attorney

Date: 5/13/2016

APPROVED:

By: 
Britt Hanson, Chief Civil Deputy
Cochise County Attorney

Date: 5/13/16

CERTIFICATION

I, Brenda Aguilar, certify that I am the duly appointed and City Clerk of the City of Douglas, Arizona and I further certify that the foregoing Resolution is a true and correct copy of the original Resolution No. 16-1143 passed at a Regular Meeting of the Douglas City Council held on the 11th day of May 2016, and further certify that said meeting was held pursuant to law and was in all aspects a true and lawful meeting and that all proceedings thereunder were held in accordance with the applicable law.

Dated this 19th Day of May, 2016.

-SEAL-


Brenda Aguilar, City Clerk

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RESOLUTION NO. 16-1143

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF DOUGLAS, COCHISE COUNTY, ARIZONA AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF DOUGLAS AND COCHISE COUNTY FOR CITY TO PROVIDE A PARTIAL REIMBURSEMENT FOR ROAD REPAIRS OCCASIONED BY NECESSARY TRENCHING FOR THE BAY ACRES COLONIA SEWER COLLECTION SYSTEM INSTALLATION PROJECT JUST OUTSIDE THE CITY OF DOUGLAS, ARIZONA.

WHEREAS, the City of Douglas the City is in the process of constructing and installing a sewer collection system for the Bay Acres Colonia in order to ameliorate problems with infrastructure deficiencies, specifically those associated with failing septic systems, which currently pose a threat to the regional aquifer that supplies drinking water to the City and Agua Prieta, Sonora; and

WHEREAS, the Cochise County the City of Douglas seek to enter into an Intergovernmental Agreement for the City to provide a partial reimbursement for road repairs that will be required upon installation of facilities and infrastructure in approximately 28,000 feet of trenching for the project; and

WHEREAS, the Intergovernmental Agreement will be for purposes of providing water testing and monitoring and to better allocate personnel resources between the parties to the subject IGA providing the terms and conditions of said agreement entered into by the parties is attached in Exhibit "A", and incorporated herein by reference; and

WHEREAS, it is in the best interests of the City of Douglas to enter into this agreement and improve aspects of the local environment with the County to facilitate road repairs as a result of the required project trenching.

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

Section 1. the terms of said Intergovernmental Agreement are in the best interest of the City of Douglas.

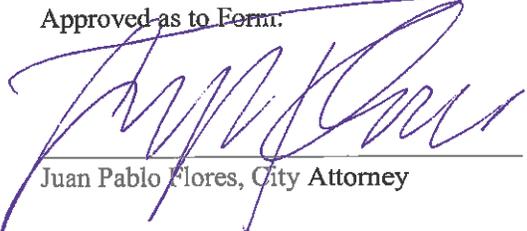
Section 2. The City Manager and the City Clerk are hereby authorized to execute and deliver the Intergovernmental Agreement and any related documents necessary to consummate the transaction contemplated by the agreement for and on behalf of the City of Douglas.

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.

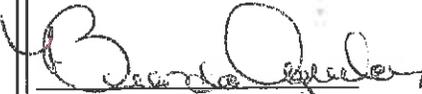
PASSED AND ADOPTED by the Mayor and Council of the City of Douglas, Arizona, this 11th day of May, 2016.


Margaret Morales, Mayor Pro Tempore

Approved as to Form:


Juan Pablo Flores, City Attorney

Attest:


Brenda Aguilar, City Clerk