# Cochise County
## Board of Supervisors

*Public Programs…Personal Service*
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**ANN ENGLISH**
Chairman
District 2

**PATRICK G. CALL**
Vice-Chairman
District 1

**PEGGY JUDD**
Supervisor
District 3

**EDWARD T. GILLIGAN**
County Administrator

**ARLETHE G. RIOS**
Clerk of the Board

**AGENDA FOR REGULAR BOARD MEETING**
**Tuesday, March 27, 2018 at 10:00 AM**
BOARD OF SUPERVISORS HEARING ROOM
1415 MELODY LANE, BUILDING G, BISBEE, AZ 85603

**ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION**

**PLEDGE OF ALLEGIANCE**

**THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING**

**ROLL CALL**
***Members of the Cochise County Board of Supervisors will attend either in person or by telephone, video or internet conferencing.***

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The Board may permit public comment during the discussion of any item on this agenda. If you wish to be heard on a specific item, please sign up to be heard using the 'Specific Item' on the speaker form provided, and please list the item about which you wish to be heard. Persons will be permitted three minutes to speak.

*Note that some attachments may be updated after the agenda is published. This means that some presentation materials displayed at the Board meeting may differ slightly from the attached version.*

## *CALL TO THE PUBLIC*

*This is the time for the public to comment. Members of the Board may not discuss items that are not specifically identified on the agenda.*

## *PRESENTATION*

Present a proclamation to proclaim April 2018 as National County Government Month - "Serving the Underserved" in support of counties taking pride in our responsibility to protect and enhance the health, well-being and safety of our residents in sensible and cost-effective ways.

## *CONSENT*

### Board of Supervisors

1. Approve the Minutes of the regular meeting of the Board of Supervisors of March 13, 2018.

2. Approve a proclamation to proclaim April 2018 as National County Government Month - “Serving the Underserved” in support of counties taking pride in our responsibility to protect and enhance the health, well-being and safety of our residents in efficient and cost-effective ways.

3. Approve an application for a temporary Extension of Premises liquor license submitted by Mr. Leonel Urcadez for Gay 90s Bar located at 3856 S. Towner Avenue, Naco, AZ 85620 on April 14, 2018 through April 15, 2018, for the Berserkers MC Riders for Rehab.

4. Approve a liquor license application for a series #16 (Wine Festival/Wine Fair) submitted by Ms. Lori Marie Reynolds for a Wine Festival to be held at 4023 E. Ramsey Road, Sierra Vista, AZ 85650 on April 20, 2018.

5. Approve a letter of support for Ladd Family Ranches regarding the State Land Department and private land access to Border Patrol sites.

**Elections**

6. Approve the appointment of Precinct Committee Members for the Democratic Party upon the recommendation of the 2nd Vice Chair, Cynthia Aspengren - Precinct: 05 BI DON LUIS, Obholz, Mary Rose; Bever, Marilyn; Precinct: 28 SV BUSBY, Hodges, Erin M.

**Finance**

7. Approve demands and budget amendments for operating transfers.

**Information Technology**

8. Approve license agreement for Benson Hospital to place communication equipment on Cochise County’s microwave tower in Benson, for a one year period with automatic renewals for ten successive one year periods in the amount of $500 annually.

## *PUBLIC HEARINGS*

**Community Development**

9. Adopt Zoning Ordinance 18-03 approving Docket Z-18-03 amending certain zoning district boundaries from R-36 (Residential, one dwelling per 36,000 square feet) to R-18 (Residential, one dwelling per 18,000 square feet), pursuant to the application of Cochise County.

10. Deny the appeal of the decision to approve docket SU-18-03 (Tim's Electric), a request for a Special Use Authorization to allow Contract Construction Services on a 9.25 acre site zoned RU-4, located at 402 E. Papago Way, Cochise, thereby upholding the February 14, 2018 Planning and Zoning Commission decision.

## *ACTION*

**Board of Supervisors**

11. Approve Amendment to Contract with County Administrator Edward Gilligan.

**Community Development**

12. Approve an extension request of the Assurance Agreement for Kings Ranch at Coronado Subdivision with Pioneer Title Agency, Inc, as Trustee under Trust No. 321365 for K Ranch, LLC as Beneficiary of Trust No. 321365 to February 14, 2021.

**Housing Authority**

13. Approve the Fiscal Year 2018-19 Administrative and Annual Plan submission for the Housing Authority of Cochise County.

**Solid Waste**

14. Approve changes to the Free Dump Day program and Official Certificate mailing, effective May 1, 2018 through June 30, 2019.

## *STATE & FEDERAL LEGISLATION*

15. Discussion and possible action regarding state and federal legislative matters, including but not limited to the items in the attached County Supervisors Association Legislative Policy Committee Agenda, the Arizona Association of Counties (AACo) Committee Agenda and the proposed State budget.

## *REPORT BY EDWARD T. GILLIGAN COUNTY ADMINISTRATOR -- RECENT AND PENDING COUNTY MATTERS*

## *SUMMARY OF CURRENT EVENTS*

**Report by District 1 Supervisor, Patrick Call**

**Report by District 2 Supervisor, Ann English**

**Report by District 3 Supervisor, Peggy Judd**

Pursuant to the Americans with Disabilities Act (ADA), Cochise County does not, by reason of a disability, exclude from participation in or deny benefits or services, programs or activities or discriminate against any qualified person with a disability. Inquiries regarding compliance with ADA provisions, accessibility or accommodations can be directed to Chris Mullinax, Safety/Loss Control Analyst at (520) 432-9720, FAX (520) 432-9716, TDD (520) 432-8360, 1415 Melody Lane, Building F, Bisbee, Arizona 85603.

**Presentations / Special Events**

**Regular Board of Supervisors Meeting** **Board of Supervisors**

**Meeting Date:** 03/27/2018

Presentation of Proclamation - National County Government Month

**Submitted By:** Kim Lemons, Board of Supervisors

**Department:** Board of Supervisors

| | | | |
|---|---|---|---|
| **Presentation:** | No A/V Presentation | **Recommendation:** | |
| **Document Signatures:** | | **# of ORIGINALS Submitted for Signature:** | |
| **NAME of PRESENTER:** | na | **TITLE of PRESENTER:** | na |
| **Mandated Function?:** | | **Source of Mandate or Basis for Support?:** | |

**Information**

**Agenda Item Text:**

Present a proclamation to proclaim April 2018 as National County Government Month - "Serving the Underserved" in support of counties taking pride in our responsibility to protect and enhance the health, well-being and safety of our residents in sensible and cost-effective ways.

**Background:**

National County Government Month — held each April — is an annual celebration of county government. Since 1991, the National Association of Counties has encouraged counties to actively promote the services and programs they offer. Counties can schedule activities any time during the month. NCGM is an excellent opportunity for Cochise County to highlight effective county programs and raise public awareness and understanding about the various services provided to the community. This year's theme is "Serving the Underserved".

**Department's Next Steps (if approved):**

Proclamation signed and filed in the Clerk of the Board office

**Impact of NOT Approving/Alternatives:**

N/A

**To BOS Staff: Document Disposition/Follow-Up:**

NCGM will not be recognized by the Board of Supervisors

**Budget Information**

*Information about available funds*

| | | |
|---|---|---|
| **Budgeted:** ☐ | **Funds Available:** ☐ | **Amount Available:** |
| **Unbudgeted:** ☐ | **Funds NOT Available:** ☐ | **Amendment:** ☐ |

**Account Code(s) for Available Funds**

**1:**

**Fund Transfers**

**Attachments**

*No file(s) attached.*

**Consent 1.**

**Regular Board of Supervisors Meeting** **Board of Supervisors**

| | | | |
|---|---|---|---|
| **Meeting Date:** | 03/27/2018 | | |
| Minutes | | | |
| **Submitted By:** | Arlethe Rios, Board of Supervisors | | |
| **Department:** | Board of Supervisors | | |
| **Presentation:** | No A/V Presentation | **Recommendation:** | |
| **Document Signatures:** | | **# of ORIGINALS Submitted for Signature:** | |
| **NAME of PRESENTER:** | n/a | **TITLE of PRESENTER:** | n/a |
| **Mandated Function?:** | | **Source of Mandate or Basis for Support?:** | |

**Information**

**Agenda Item Text:**
Approve the Minutes of the regular meeting of the Board of Supervisors of March 13, 2018.

**Background:**
Minutes

**Department's Next Steps (if approved):**
Signed minutes routed for processing and posted on the internet.

**Impact of NOT Approving/Alternatives:**
n/a

**To BOS Staff: Document Disposition/Follow-Up:**
Scan to OnBase and File.

**Budget Information**

*Information about available funds*

**Budgeted:** ◯ **Funds Available:** ◯ **Amount Available:**

**Unbudgeted:** ◯ **Funds NOT Available:** ◯ **Amendment:** ☐

**Account Code(s) for Available Funds**

**1:**

**Fund Transfers**

**Attachments**

Minutes

**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS**
**REGULAR MEETING HELD ON**
**Tuesday, March 13, 2018**

A regular board meeting of the Cochise County Board of Supervisors was held on Tuesday, March 13, 2018 at 10:00 a.m. in the Board of Supervisors' Hearing Room, 1415 Melody Lane, Building G, Bisbee, Arizona.

| | |
|---|---|
| Present: | Ann English, Chairman; Peggy Judd, Member |
| Absent: | Patrick G. Call, Vice-Chairman |
| Staff Present: | Edward T. Gilligan, County Administrator; Britt W. Hanson, Chief Civil Deputy County Attorney; Arlethe G. Rios, Clerk of the Board; Elda Orduno, Civil Deputy County Attorney |

Chairman English called the meeting to order at 10:13 a.m.

**ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION**

**PLEDGE OF ALLEGIANCE**

**THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING**

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## *CALL TO THE PUBLIC*

Chairman English opened the call to the public.

Jack Cook addressed the Board on matters of personal concern.

No one else chose to speak and Chairman English closed the call to the public.

*This is the time for the public to comment. Members of the Board may not discuss items that are not specifically identified on the agenda.*

## *PRESENTATION*

Present a Fair Housing Proclamation and proclaim April 2018 as Fair Housing Month in Cochise County.

Chairman English read the proclamation and presented it to Ms. Anita Baca, Housing Director.

Ms. Baca said that she was appreciative of the Board's support and being able to provide County citizens many wonderful services.

## *CONSENT*

**Board of Supervisors**

1. Approve the Minutes of the regular meeting of the Board of Supervisors of February 27, 2018.

2. Approve letter appointing Mr. Ed Gilligan, in his capacity as County Administrator, to the Arizona Counties Insurance Pool (ACIP) Board of Trustees.

3. Approve amendment to the committee appointments for members of the Board of Supervisors and executive staff for the 2017-18 Fiscal Year and approve continuing annual memberships for 2017-18, with payment of associated dues as described herein.

4. Approve revisions to the Cochise County Toilet Rebate Program regarding certain restrictions to Cochise County applicants within the Sierra Vista Sub-watershed of the San Pedro River; and deleting eligibility requirements for 501(c)3 non-profit water conservation organizations.

**Community Development**

5. Approve an addendum of an approved Intergovernmental Agreement (IGA) with the Arizona Department of Housing Office of Manufactured Housing to enforce installation standards for manufactured housing and factory-built buildings for the City of Tombstone for a five-year term, effective December 20, 2016.

6. Approve the County Engineer's recommendation to establish a portion of Linda Vista Lane as a County Highway and schedule a public hearing for April 10, 2018.

**Finance**

7. Approve demands and budget amendments for operating transfers. Warrants Nos. 24187-24424 were issued in the amount of $1,082,987.42.

   Pursuant to A.R.S. §11-217(C), the published minutes shall include all demands and warrants approved by the Board in excess of one thousand dollars except that multiple demands and warrants from a single supplier or individual under one thousand dollars whose cumulative total exceeds one thousand dollars in a single reporting period shall also be published. The voided warrants are listed below.

| Fund | Vendor | Amount |
|---|---|---|
| 100 | Norris, Dianna L. | $16.81 |
| 100 | Circle K Store | $16.81 |

   Issued warrants are listed as an attachment at the end of the minutes.

**Housing Authority**

8. Approve a Fair Housing Proclamation to proclaim April 2018 as Fair Housing Month in Cochise County.

   Supervisor Judd moved to approve items 1-8 on the consent agenda. Chairman English seconded the motion and it carried unanimously.

***ACTION***

**Board of Supervisors**

9. Adopt the Strategic Plan for Cochise County for 2017-2020.

   Chairman English gave the background information on how the strategic plan process had occurred this time.

   Supervisor Judd said it had been a great process as a new County Supervisor and would assist her in her decision making process.

   Chairman English noted that the strategic plan would be used by the Board to make budget decisions.

   Mr. Gilligan said it had been a positive experience and he was excited to move forward with a strategic plan that is inclusive and represents the Board's vision.

   Supervisor Judd moved to adopt the Strategic Plan for Cochise County for 2017-2020. Chairman English seconded the motion.

   Chairman English called for the vote and it was approved 2-0-1 (Call absent).

**Health & Social Services**

10. Approve contract amendment: ADHS15-096693:2, Health Start Program, between the Arizona Department of Health Services, Bureau of Women's & Children's Health, and Cochise Health & Social Services to extend the contract period from July 1, 2018 through June 30, 2019.

    Ms. Judy Gilligan, Prevention Services Manager, presented this item. Ms. Gilligan gave the background; stated that the purpose of this amendment would be an extension of the term period; and described specific program details.

    Chairman English asked if Ms. Gilligan had any statistics or data on the success of this program.

    Ms. Gilligan said she did not have that information, but would provide it for the Board.

    Supervisor Judd asked about other partners for this program.

    Ms. Gilligan said that there were other partners involved like First Things First and the Womens, Infant, Child (WIC) programs and between all the partners families were taken care of.

    Supervisor Judd moved to Approve contract amendment: ADHS15-096693:2, Health Start Program, between the Arizona Department of Health Services, Bureau of Women's & Children's Health, and Cochise Health & Social Services to extend the contract period from July 1, 2018 through June 30, 2019. Chairman English seconded the motion.

    Chairman English called for the vote and it was approved 2-0-1 (Call absent).

11. Approve amendment No. 107-18-1 to the SEAGO-Area Agency on Aging Grant for FY17-18, Contract #107-18 for Case Management and Family Caregiver Services between SEAGO and Cochise Health and Social Services which changes the new total grant award from $180,063 to $195,063 for the period of July 1, 2017 through June 30, 2018.

    Ms. Belvet Elsouhag, County Public Fiduciary, presented this item. Ms. Elsouhag gave the background and said that this amendment was to receive additional funding to provide case workers with more hours to further assist clients.

Supervisor Judd moved to approve amendment No. 107-18-1 to the SEAGO-Area Agency on Aging Grant for FY17-18, Contract #107-18 for Case Management and Family Caregiver Services between SEAGO and Cochise Health and Social Services which changes the new total grant award from $180,063 to $195,063 for the period of July 1, 2017 through June 30, 2018. Chairman English seconded the motion.

Chairman English called for the vote and it was approved 2-0-1 (Call absent).

**Housing Authority**

12. Approve the Housing Opportunities for Persons With AIDS (HOPWA) Notice of Grant Award in the amount of $611,584 for program administration by the Housing Authority of Cochise County during the period of March 1, 2018 to February 28, 2021.

    Ms. Anita Baca, Housing Director, presented this item using a PowerPoint presentation. Ms. Baca gave the background and explained how the grant award was funded; who was eligible for the grant; and other eligible activities that can be used by the person; along with referral services; and finished with the history of the grant.

    Supervisor Judd moved to approve the Housing Opportunities for Persons With AIDS (HOPWA) Notice of Grant Award in the amount of $611,584 for program administration by the Housing Authority of Cochise County during the period of March 1, 2018 to February 28, 2021. Chairman English seconded the motion.

    Chairman English called for the vote and it was approved 2-0-1 (Call absent).

**Human Resources**

13. Approve the funding for the proposed schedule of benefits and rates adopted by the Cochise Combined Trust for fiscal year 2018-2019.

    Mr. Ed Gilligan, County Administrator, gave a brief overview of the process used by the Trust to come up with the benefit structure. He stated that staff was recommending that the County absorb increasing rates for administrative services within the current budget.

    Ms. Julie Morales, Human Resources Director, presented this item using a PowerPoint presentation. Ms. Morales went over the plan changes. She stated that the prescription drug changes would only impact ten employees.

    Mr. Gilligan noted that any modifications made were in line with nationwide models to decrease employee costs and staff always considered the impact to employees.

    Supervisor Judd moved to approve the funding for the proposed schedule of benefits and rates adopted by the Cochise Combined Trust for fiscal year 2018-2019. Chairman English seconded the motion.

    Chairman English called for the vote and it was approved 2-0-1 (Call absent).

14. Adopt Resolution 18-02 revising the Cochise County Compensation Policy.

    Ms. Julie Morales, Human Resources Director, presented this item. Ms. Morales said this was a revision to the compensation plan to align it with the new compensation approved by the Board. She noted that the only department to give feedback had been the Sheriff's Office and they were interested on coming onboard with the Board's plan.

Supervisor Judd moved to adopt Resolution 18-02 revising the Cochise County Compensation Policy. Chairman English seconded the motion.

Chairman English called for the vote and it was approved 2-0-1 (Call absent).

## *STATE & FEDERAL LEGISLATION*

15. Discussion and possible action regarding state and federal legislative matters, including but not limited to the items in the attached County Supervisors Association Legislative Policy Committee (LPC) Agenda, the Arizona Association of Counties (AACo) Committee Agenda and the proposed State budget.

    Supervisor Judd said she wanted to discuss food trucks crossing county lines and how that would be beneficial to all involved without added processes.

    Chairman English said she would add this comment to the next LPC meeting.

## *REPORT BY EDWARD T. GILLIGAN COUNTY ADMINISTRATOR -- RECENT AND PENDING COUNTY MATTERS*

Mr. Gilligan gave an update on Southeast Arizona Communication Center (SEACOM). He said the building had been completed and staff was working on network connectivity, while looking at a June or July opening date. He added that the SEACOM boar was also working on a recruitment for the director and budget projections for next fiscal year.

Chairman English asked Mr. Gilligan about his appointment to the Arizona Counties Insurance Pool (ACIP).

Mr. Gilligan said he had recently attended a conference to learn more about liability and risk management and was honored to be named vice-chairman of that board.

## *SUMMARY OF CURRENT EVENTS*

**Report by District 1 Supervisor, Patrick Call**

Vice-Chairman Call was absent.

**Report by District 2 Supervisor, Ann English**

Chairman English said she would be attending a meeting with the federal government regarding the Douglas Port of Entry and would keep the Board updated on the status of that project.

**Report by District 3 Supervisor, Peggy Judd**

Supervisor Judd said she had done a road tour with new Highways Director, Marty Haverty; would be attending the Mayor/Managers Luncheon; and the County Supervisors Association Board meeting.

Chairman English adjourned the meeting at 11:00 a.m.

APPROVED:

_____
Ann English, Chairman

ATTEST:

_____
Arlethe G. Rios, Clerk of the Board

C Co. Demands 3.13.18

| | | | |
|---|---|---|---|
| 24013 | 02/22/2018 | ACT Environmental, Inc. | $2,200.00 |
| 24014 | 02/22/2018 | Amazon.com LLC | $456.60 |
| 24015 | 02/22/2018 | American Planning Association | $498.00 |
| 24016 | 02/22/2018 | AZ Association of Assessing Officers | $250.00 |
| 24017 | 02/22/2018 | AZ Department of Corrections | $1,653.71 |
| 24018 | 02/22/2018 | AZ Water Company | $7,130.64 |
| 24019 | 02/22/2018 | B & S Supply Co, Inc | $3,071.84 |
| 24020 | 02/22/2018 | Barton, Jonathan Scott | $100.00 |
| 24021 | 02/22/2018 | Beacon Secure | $50.00 |
| 24022 | 02/22/2018 | Bisbee NAPA | $403.69 |
| 24023 | 02/22/2018 | Blackstone Audio, Inc. | $232.99 |
| 24024 | 02/22/2018 | BookPage | $30.00 |
| 24025 | 02/22/2018 | Borer, Thomas Edward | $29.37 |
| 24026 | 02/22/2018 | Botero, Orlando | $100.00 |
| 24027 | 02/22/2018 | Bruner, Fred | $16.80 |
| 24028 | 02/22/2018 | Call, Pat Gerard | $82.99 |
| 24029 | 02/22/2018 | Cameron Udall Attorney At Law | $2,900.00 |
| 24030 | 02/22/2018 | Cardinal Health Inc. | $269.18 |
| 24031 | 02/22/2018 | Casteel, Joann | $16.80 |
| 24032 | 02/22/2018 | Cengage Learning, Inc. | $59.98 |
| 24033 | 02/22/2018 | CenturyLink | $3,749.71 |
| 24034 | 02/22/2018 | CenturyLink | $67.81 |
| 24035 | 02/22/2018 | CenturyLink | $61.18 |
| 24036 | 02/22/2018 | Cintas Corporation No. 445 | $214.83 |
| 24037 | 02/22/2018 | Cintas Fire Protection | $824.25 |
| 24038 | 02/22/2018 | Cochise College | $4,000.00 |
| 24039 | 02/22/2018 | Cochise Floor Covering | $12,264.00 |
| 24040 | 02/22/2018 | Conner, Donna | $96.27 |
| 24041 | 02/22/2018 | Corlett, Vicki Lynn | $300.00 |
| 24042 | 02/22/2018 | Culligan of Tucson | $483.87 |
| 24043 | 02/22/2018 | DePew, Kimberly A. | $27.78 |
| 24044 | 02/22/2018 | Edie, Patricia Ann | $38.88 |
| 24045 | 02/22/2018 | Emily Danies Attorney at Law LLC | $1,263.90 |
| 24046 | 02/22/2018 | Flores, Juan P | $1,367.70 |
| 24047 | 02/22/2018 | Greene, Patrick K. | $34.54 |
| 24048 | 02/22/2018 | Gregan, Wayne | $33.44 |
| 24049 | 02/22/2018 | Griffith, David Bruce | $16,300.00 |
| 24050 | 02/22/2018 | Griffith, John W | $2,600.00 |
| 24051 | 02/22/2018 | Hernandez-Mosher, Barbara A. | $300.00 |
| 24052 | 02/22/2018 | International Chemtex Corporation | $737.00 |
| 24053 | 02/22/2018 | JCG Technologies | $534.36 |
| 24054 | 02/22/2018 | Jensen's Sierra Vista Mortuary | $1,000.00 |
| 24055 | 02/22/2018 | John William Lovell, PC | $2,355.00 |
| 24056 | 02/22/2018 | JWS Web Design LLC | $400.00 |
| 24057 | 02/22/2018 | Law Office of Donielle Wright | $1,844.88 |
| 24058 | 02/22/2018 | Law Office of Janelle A. McEachern | $600.00 |
| 24059 | 02/22/2018 | Law Office of Joan M Sacramento | $5,750.00 |
| 24060 | 02/22/2018 | Law Office of Sarah Michele Martin | $7,700.00 |
| 24061 | 02/22/2018 | Law Offices of Harriette P Levitt, PLLC | $1,030.00 |
| 24062 | 02/22/2018 | Lowell A. Jensen, PLC | $4,555.00 |
| 24063 | 02/22/2018 | Manch Law Firm PLLC | $2,400.00 |
| 24064 | 02/22/2018 | Martzke, James F. | $68.75 |
| 24065 | 02/22/2018 | McCook Boiler & Pump Company | $1,488.00 |
| 24066 | 02/22/2018 | McGowan, Mark J. | $13,650.00 |
| 24067 | 02/22/2018 | Moffit, Alice | $100.00 |
| 24068 | 02/22/2018 | Palmer Law Group, PLLC | $2,900.00 |
| 24069 | 02/22/2018 | Prudential Overall Supply | $93.62 |
| 24070 | 02/22/2018 | Rafael Malanga, PC | $1,312.50 |
| 24071 | 02/22/2018 | Ramsey, Christian McDonald | $450.00 |
| 24072 | 02/22/2018 | Reed, Elizabeth | $16.80 |
| 24073 | 02/22/2018 | Reynolds, Warren or Donna | $16.80 |
| 24074 | 02/22/2018 | Richardsons Remembrance Center | $1,000.00 |
| 24075 | 02/22/2018 | Robert J. Zohlmann, Esq. | $1,000.00 |
| 24076 | 02/22/2018 | Rocha, Mario F. | $16.83 |
| 24077 | 02/22/2018 | Runbeck Election Services Inc. | $4,184.87 |
| 24078 | 02/22/2018 | RWC International, LTD | $2,549.26 |
| 24079 | 02/22/2018 | Senergy Petroleum LLC | $1,029.81 |
| 24080 | 02/22/2018 | Sheakley Pension Administration Inc. | $2,341.75 |
| 24081 | 02/22/2018 | Sierra Vista NAPA | $589.72 |
| 24082 | 02/22/2018 | Sonora Beh. Health | $8,250.00 |
| 24083 | 02/22/2018 | SourceHOV | $906.97 |
| 24084 | 02/22/2018 | Sparkletts | $106.97 |
| 24085 | 02/22/2018 | Sparkletts | $32.99 |
| 24086 | 02/22/2018 | Sulphur Springs Valley Electric Coop., Inc. | $3,318.31 |
| 24087 | 02/22/2018 | Sulphur Springs Valley Electric Coop., Inc. | $5,421.49 |
| 24088 | 02/22/2018 | Sulphur Springs Valley Electric Coop., Inc. | $1,019.82 |
| 24089 | 02/22/2018 | The Law Office of Christopher W. Caine | $4,600.00 |
| 24090 | 02/22/2018 | The W Law Firm PLLC | $6,151.50 |
| 24091 | 02/22/2018 | Thorn Law Office | $2,501.65 |
| 24092 | 02/22/2018 | U.S. HealthWorks Med Group, P.C. | $37.00 |
| 24093 | 02/22/2018 | Valley Telephone Coop., Inc. | $198.47 |
| 24094 | 02/22/2018 | W W Grainger Inc | $10,612.80 |
| 24095 | 02/22/2018 | WadeSound, Inc | $2,000.00 |
| 24096 | 02/22/2018 | Waxie Sanitary Supply | $1,770.75 |
| 24097 | 02/22/2018 | Westlawn Chapel & Mortuary | $500.00 |
| 24098 | 02/22/2018 | Wick Communications | $546.00 |
| 24099 | 02/22/2018 | Willcox Auto Parts Inc. | $286.78 |
| 24100 | 02/22/2018 | Willey, Catherine | $300.00 |
| 24101 | 02/22/2018 | WIST Office Products Co | $868.91 |
| 24102 | 02/22/2018 | Banning Creek Enterprises, LLC | $5,544.00 |
| 24103 | 02/22/2018 | Boone, Rhonda R | $13.14 |
| 24104 | 02/22/2018 | Scott, Johanna | $100.00 |
| 24105 | 02/27/2018 | Adorama Inc | $26,885.10 |
| 24106 | 02/27/2018 | Advanced Controls Corporation | $1,368.00 |
| 24107 | 02/27/2018 | Amazon.com LLC | $27.94 |
| 24108 | 02/27/2018 | Aqua Life | $38.50 |
| 24109 | 02/27/2018 | AZ Counties Insurance Pool | $3,863.65 |
| 24110 | 02/27/2018 | AZ Department of Corrections | $296.00 |
| 24111 | 02/27/2018 | AZ Public Service - APS | $1,252.33 |
| 24112 | 02/27/2018 | AZ Public Service - APS | $2,212.10 |
| 24113 | 02/27/2018 | AZ State Prison Complex | $6,270.67 |
| 24114 | 02/27/2018 | AZ Supreme Court | $15,052.50 |
| 24115 | 02/27/2018 | Baca, Anita | $482.35 |
| 24116 | 02/27/2018 | Baker & Taylor, LLC | $2,893.74 |
| 24117 | 02/27/2018 | Benson, City of | $391.56 |
| 24118 | 02/27/2018 | Blackstone Audio, Inc. | $94.00 |
| 24119 | 02/27/2018 | Blair, Steven | $265.00 |
| 24120 | 02/27/2018 | Bob Barker Company, Inc. | $4,430.41 |
| 24121 | 02/27/2018 | Burnett, Steve | $11.81 |
| 24122 | 02/27/2018 | Camarillo-Clark, Sylvia | $26.84 |
| 24123 | 02/27/2018 | Cengage Learning, Inc. | $114.36 |
| 24124 | 02/27/2018 | CenturyLink | $61.44 |
| 24125 | 02/27/2018 | CenturyLink | $30.84 |
| 24126 | 02/27/2018 | CenturyLink | $571.20 |
| 24127 | 02/27/2018 | CenturyLink | $62.18 |
| 24128 | 02/27/2018 | CenturyLink | $1,390.00 |
| 24129 | 02/27/2018 | Cochise County Finance Revolving Fund | $25.00 |
| 24130 | 02/27/2018 | Cochise County Finance Revolving Fund | $25.00 |
| 24131 | 02/27/2018 | Cochise County Finance Revolving Fund | $25.00 |
| 24132 | 02/27/2018 | Cochise County Justice Court #2 | $300.00 |
| 24133 | 02/27/2018 | D L Sales Corp | $1,921.31 |
| 24134 | 02/27/2018 | Deneke, Buffy | $392.00 |
| 24135 | 02/27/2018 | Direct TV | $30.63 |
| 24136 | 02/27/2018 | East, Suzanne | $430.00 |
| 24137 | 02/27/2018 | Flores, Juan P | $75.00 |
| 24138 | 02/27/2018 | Frazzitta, Anthony | $25.00 |
| 24139 | 02/27/2018 | Gignac, Judith | $51.84 |
| 24140 | 02/27/2018 | Gomez, Mary Conlogue | $260.00 |
| 24141 | 02/27/2018 | Green, Patty J. | $250.00 |
| 24142 | 02/27/2018 | Gregan & Associates | $1,800.00 |
| 24143 | 02/27/2018 | Gruhn, Sylvia Diane | $150.00 |
| 24144 | 02/27/2018 | Herrera, Oscar | $25.00 |
| 24145 | 02/27/2018 | Honeman, Van G. | $691.60 |
| 24146 | 02/27/2018 | Houston, Bruce | $288.69 |
| 24147 | 02/27/2018 | Howard, Katie A | $135.00 |
| 24148 | 02/27/2018 | Hubble, Anthony D | $250.00 |
| 24149 | 02/27/2018 | Kaeser & Blair, Inc. | $4,417.57 |
| 24150 | 02/27/2018 | Keefe Commissary Network, LLC | $2,309.32 |
| 24151 | 02/27/2018 | Law Office of Stephanie C. Stoltman | $1,200.00 |
| 24152 | 02/27/2018 | Law Office of Thomas C Holz PLLC | $5,295.00 |
| 24153 | 02/27/2018 | Law Offices of Christopher Hitchcock | $700.00 |
| 24154 | 02/27/2018 | Legend Technical Services of AZ, Inc. | $57.00 |
| 24155 | 02/27/2018 | Life-Assist, Inc. | $266.98 |
| 24156 | 02/27/2018 | Lopshire, Robert | $100.00 |
| 24157 | 02/27/2018 | Madrid, Vanessa | $36.60 |
| 24158 | 02/27/2018 | Marshall & Swift/Boeckh, LLC | $1,304.45 |
| 24159 | 02/27/2018 | McCook Boiler & Pump Company | $934.83 |
| 24160 | 02/27/2018 | Mitchell, Victoria | $297.10 |
| 24161 | 02/27/2018 | Mortensen, Cynthia | $42.01 |
| 24162 | 02/27/2018 | Nugent, Glenda | $215.00 |
| 24163 | 02/27/2018 | Prudential Overall Supply | $51.64 |
| 24164 | 02/27/2018 | Pueblo del Sol Water Company | $389.62 |
| 24165 | 02/27/2018 | RevolutionaryText, LLC | $95.20 |
| 24166 | 02/27/2018 | Schlesinger, Aaron | $257.60 |

| | | | |
|---|---|---|---|
| 24167 | 02/27/2018 | Scott, Joseph | $150.00 |
| 24168 | 02/27/2018 | Securus Technologies, Inc | $2,572.37 |
| 24169 | 02/27/2018 | Shreve, Virginia A. | $250.00 |
| 24170 | 02/27/2018 | Southwest Gas Corporation | $122.83 |
| 24171 | 02/27/2018 | Southwest Gas Corporation | $17,248.88 |
| 24172 | 02/27/2018 | Southwest Gas Corporation | $131.23 |
| 24173 | 02/27/2018 | Sulphur Springs Valley Electric Coop., Inc. | $1,767.55 |
| 24174 | 02/27/2018 | Sulphur Springs Valley Electric Coop., Inc. | $927.95 |
| 24175 | 02/27/2018 | The Bisbee Observer LLC | $428.27 |
| 24176 | 02/27/2018 | Thomson West | $4,378.71 |
| 24177 | 02/27/2018 | U.S. Healthworks Med Group of AZ, PC | $169.00 |
| 24178 | 02/27/2018 | Valley Telephone Coop., Inc. | $296.13 |
| 24179 | 02/27/2018 | VCA Apache Animal Hospital | $346.51 |
| 24180 | 02/27/2018 | Vlahovich, James | $260.00 |
| 24181 | 02/27/2018 | Waxaholics | $300.00 |
| 24182 | 02/27/2018 | Waxie Sanitary Supply | $945.83 |
| 24183 | 02/27/2018 | West Press | $196.09 |
| 24184 | 02/27/2018 | Wick Communications | $36.40 |
| 24185 | 02/27/2018 | Wick Communications | $32.00 |
| 24186 | 02/27/2018 | Sawinski, Todd A | $16.21 |
| 24187 | 03/01/2018 | Cochise County/Sheakley/National Bank | $6,029.80 |
| 24188 | 03/01/2018 | ECMC | $293.76 |
| 24189 | 03/01/2018 | Ewing & Ewing Attorneys | $239.74 |
| 24190 | 03/01/2018 | General Revenue Corporation | $363.83 |
| 24191 | 03/01/2018 | Licking County CSEA | $178.61 |
| 24192 | 03/01/2018 | NYS Child Support Processing Center | $32.00 |
| 24193 | 03/01/2018 | Pre-paid Legal Services, Inc. dba LegalShield | $1,261.64 |
| 24194 | 03/01/2018 | Support Payment Clearinghouse | $5,874.30 |
| 24195 | 03/01/2018 | U.S. Department of Education | $178.04 |
| 24196 | 03/01/2018 | Air Evac Services, Inc. | $30,742.40 |
| 24197 | 03/01/2018 | Ameripath Tucson, Inc DBA Dermpath Diag. | $293.66 |
| 24198 | 03/01/2018 | AZ Department of Corrections | $894.00 |
| 24199 | 03/01/2018 | AZ Department of Corrections ASPC-Tucson | $45.00 |
| 24200 | 03/01/2018 | AZ Department of Weights & Measures | $30.00 |
| 24201 | 03/01/2018 | AZ Public Service - APS | $35,184.60 |
| 24202 | 03/01/2018 | AZ State Forestry Division | $5,938.53 |
| 24203 | 03/01/2018 | AZ State Hospital | $2,863.78 |
| 24204 | 03/01/2018 | Authorized Technical Service, Inc. | $525.20 |
| 24205 | 03/01/2018 | B-R Constructors, Inc. | $31,314.48 |
| 24206 | 03/01/2018 | Banner-Univ. Med Center South Campus LLC | $229.00 |
| 24207 | 03/01/2018 | Banning Creek Enterprises, LLC | $7,392.00 |
| 24208 | 03/01/2018 | Beacon Secure | $1,047.50 |
| 24209 | 03/01/2018 | Benson, City of | $33.22 |
| 24210 | 03/01/2018 | Canyon Vista Med Center | $15,051.25 |
| 24211 | 03/01/2018 | CenturyLink | $63.34 |
| 24212 | 03/01/2018 | CenturyLink | $77.34 |
| 24213 | 03/01/2018 | CenturyLink | $6,077.69 |
| 24214 | 03/01/2018 | CenturyLink | $2,285.18 |
| 24215 | 03/01/2018 | CenturyLink | $161.38 |
| 24216 | 03/01/2018 | CenturyLink | $61.44 |
| 24217 | 03/01/2018 | Cintas Corporation No. 445 | $210.03 |
| 24218 | 03/01/2018 | Cintas Fire Protection | $2,973.18 |
| 24219 | 03/01/2018 | City of Sierra Vista | $3,968.75 |
| 24220 | 03/01/2018 | Cochise College | $650.00 |
| 24221 | 03/01/2018 | Cochise Private Industry Council, Inc. | $82,755.00 |
| 24222 | 03/01/2018 | Copygraphix Inc. | $174.92 |
| 24223 | 03/01/2018 | Cornejo, Gustavo E. | $37.50 |
| 24224 | 03/01/2018 | Deneke, Buffy | $360.00 |
| 24225 | 03/01/2018 | Dunn, Douglas | $100.00 |
| 24226 | 03/01/2018 | Entech | $3,112.94 |
| 24227 | 03/01/2018 | Federal Express Corporation | $54.36 |
| 24228 | 03/01/2018 | Granite Construction Company | $6,775.92 |
| 24229 | 03/01/2018 | Haws, Darren | $1,532.25 |
| 24230 | 03/01/2018 | JWS Web Design LLC | $400.00 |
| 24231 | 03/01/2018 | Korleski, Raymond G | $196.27 |
| 24232 | 03/01/2018 | Moreno, Virginia | $100.00 |
| 24233 | 03/01/2018 | Murphy, Cindy | $58.82 |
| 24234 | 03/01/2018 | Occup. Health Centers of the Southwest, P.A. | $143.00 |
| 24235 | 03/01/2018 | OneLogin, Inc. | $11,340.00 |
| 24236 | 03/01/2018 | Pacific Corrugated Pipe dba AZ Culvert | $37,761.56 |
| 24237 | 03/01/2018 | Pitney Bowes, Inc. | $2,438.04 |
| 24238 | 03/01/2018 | RevolutionaryText, LLC | $59.50 |
| 24239 | 03/01/2018 | SAManage USA Inc. | $1,750.02 |
| 24240 | 03/01/2018 | Schlesinger, Aaron | $17.50 |
| 24241 | 03/01/2018 | Sierra Vista Magistrate Court | $40.00 |
| 24242 | 03/01/2018 | Snider, Jessamyn Lane | $250.00 |
| 24243 | 03/01/2018 | Southwest Gas Corporation | $356.31 |
| 24244 | 03/01/2018 | Stamback Septic Service | $611.50 |
| 24245 | 03/01/2018 | Stericycle Inc. | $1,034.08 |
| 24246 | 03/01/2018 | Sulphur Springs Valley Electric Coop., Inc. | $3,585.83 |
| 24247 | 03/01/2018 | Sulphur Springs Valley Electric Coop., Inc. | $71.68 |
| 24248 | 03/01/2018 | Technical Resource Mgmt, Inc. | $8,344.50 |
| 24249 | 03/01/2018 | Thomson West | $3,608.25 |
| 24250 | 03/01/2018 | Trachtman, Sean | $875.00 |
| 24251 | 03/01/2018 | Tyler Technologies, Inc. | $99,061.96 |
| 24252 | 03/01/2018 | U S Postal Service | $800.00 |
| 24253 | 03/01/2018 | U S Postal Service | $225.00 |
| 24254 | 03/01/2018 | UHS of Tucson, LLC dba Palo Verde Beh. Hlth | $5,000.00 |
| 24255 | 03/01/2018 | UniFirst Corporation | $189.37 |
| 24256 | 03/01/2018 | Waxie Sanitary Supply | $1,312.86 |
| 24257 | 03/01/2018 | Wells, Doris K. | $910.00 |
| 24258 | 03/01/2018 | Wick Communications | $20.49 |
| 24259 | 03/01/2018 | Zumar Industries, Inc. | $9,836.62 |
| 24260 | 03/01/2018 | U S Postal Service | $800.00 |
| 24261 | 03/06/2018 | ACE Hardware | $207.25 |
| 24262 | 03/06/2018 | Amazon.com LLC | $110.46 |
| 24263 | 03/06/2018 | AZ Department of Administration-Risk Mgmt | $127.84 |
| 24264 | 03/06/2018 | AZ Department of Corrections | $136.05 |
| 24265 | 03/06/2018 | AZ Department of Corrections | $138.51 |
| 24266 | 03/06/2018 | AZ Department of Transportation | $2,872.56 |
| 24267 | 03/06/2018 | AZ Public Service - APS | $245.36 |
| 24268 | 03/06/2018 | AZ Water Company | $197.20 |
| 24269 | 03/06/2018 | Auto Club of America, Corp | $100.00 |
| 24270 | 03/06/2018 | Aztec Welding Supply Company | $62.51 |
| 24271 | 03/06/2018 | Barnett's Towing & Oxygen LLC | $96.00 |
| 24272 | 03/06/2018 | Beacon Secure | $50.00 |
| 24273 | 03/06/2018 | Benson, City of | $533.50 |
| 24274 | 03/06/2018 | Bisbee NAPA | $2,320.76 |
| 24275 | 03/06/2018 | Bisbee, City of (Ambulance) | $2,364.18 |
| 24276 | 03/06/2018 | Bowie Water Improvement District | $45.48 |
| 24277 | 03/06/2018 | Boyd Equipment Center | $498.00 |
| 24278 | 03/06/2018 | Bradley R Johnson MD PLLC | $250.00 |
| 24279 | 03/06/2018 | Cable One | $307.87 |
| 24280 | 03/06/2018 | Carahsoft Technology Corporation | $8,552.12 |
| 24281 | 03/06/2018 | Center Point Large Print | $22.77 |
| 24282 | 03/06/2018 | CenturyLink | $30.72 |
| 24283 | 03/06/2018 | CenturyLink | $92.44 |
| 24284 | 03/06/2018 | CenturyLink | $60.52 |
| 24285 | 03/06/2018 | City of Sierra Vista | $10,141.77 |
| 24286 | 03/06/2018 | Conney Safety Products | $396.49 |
| 24287 | 03/06/2018 | Daniel B. Overbeck, Ph.D., P.C. | $1,520.00 |
| 24288 | 03/06/2018 | Del's Tire Company | $15.00 |
| 24289 | 03/06/2018 | Diaz, Dolores | $11.09 |
| 24290 | 03/06/2018 | Douglas, City of | $568.31 |
| 24291 | 03/06/2018 | Douglas, City of | $25.33 |
| 24292 | 03/06/2018 | Empire Southwest LLC | $11,458.44 |
| 24293 | 03/06/2018 | Federal Express Corporation | $146.62 |
| 24294 | 03/06/2018 | Fedko Emergency Physicians, LLC | $242.19 |
| 24295 | 03/06/2018 | George Medina - George's Upholstery | $130.68 |
| 24296 | 03/06/2018 | Hernandez-Mosher, Barbara A. | $300.00 |
| 24297 | 03/06/2018 | Hodges Glass Co Inc | $4,814.36 |
| 24298 | 03/06/2018 | Jennings, Jeffery | $33.61 |
| 24299 | 03/06/2018 | Jensen's Sierra Vista Mortuary | $500.00 |
| 24300 | 03/06/2018 | Keefe Commissary Network, LLC | $1,697.86 |
| 24301 | 03/06/2018 | Kitts, Danielle Marie | $91.00 |
| 24302 | 03/06/2018 | Long, Jerrod D. DDS | $976.00 |
| 24303 | 03/06/2018 | Med Diagnostic Imaging Group | $766.39 |
| 24304 | 03/06/2018 | Merle's Automotive Supply | $2,172.43 |
| 24305 | 03/06/2018 | Microwave Networks, Incorporated | $4,820.74 |
| 24306 | 03/06/2018 | MME Consulting Services LLC | $112.50 |
| 24307 | 03/06/2018 | Newt Fogal Sales Co. | $5,555.70 |
| 24308 | 03/06/2018 | O'Rielly Chevrolet, Inc. | $3,181.66 |
| 24309 | 03/06/2018 | OCLC Online Computer Library Center, Inc. | $350.11 |
| 24310 | 03/06/2018 | Prudential Overall Supply | $715.65 |
| 24311 | 03/06/2018 | Purcell Tire & Rubber Company | $5,446.01 |
| 24312 | 03/06/2018 | Ramsey, Christian McDonald | $300.00 |
| 24313 | 03/06/2018 | Reid, James L. | $275.00 |
| 24314 | 03/06/2018 | Ron Turley Associates, Inc. | $409.51 |
| 24315 | 03/06/2018 | Rothrock Investigations, LLC | $1,484.05 |
| 24316 | 03/06/2018 | Runbeck Election Services Inc. | $1,395.90 |
| 24317 | 03/06/2018 | RWC International, LTD | $12,659.87 |
| 24318 | 03/06/2018 | Safelite Autoglass Corp. | $2,974.79 |
| 24319 | 03/06/2018 | Senergy Petroleum LLC | $41,416.47 |
| 24320 | 03/06/2018 | Simpson Tool Box Company | $2,253.17 |

| | | | |
|---|---|---|---|
| 24321 | 03/06/2018 | South East AZ Legal Support (SEALS) | $8,318.75 |
| 24322 | 03/06/2018 | Southern AZ Auto Co. of Douglas | $416.07 |
| 24323 | 03/06/2018 | Southwest Gas Corporation | $1,372.50 |
| 24324 | 03/06/2018 | Sparkletts | $19.08 |
| 24325 | 03/06/2018 | Sparkletts | $21.22 |
| 24326 | 03/06/2018 | Sulphur Springs Valley Electric Coop., Inc. | $352.57 |
| 24327 | 03/06/2018 | Sulphur Springs Valley Electric Coop., Inc. | $148.82 |
| 24328 | 03/06/2018 | Tadeo Chevron | $15.00 |
| 24329 | 03/06/2018 | The Law Offices of Michael Ira Asen, P.C. | $76.51 |
| 24330 | 03/06/2018 | Tracking Products, Inc. | $306.00 |
| 24331 | 03/06/2018 | Trademark Visual | $258.37 |
| 24332 | 03/06/2018 | TRAK Engineering, Inc | $2,660.31 |
| 24333 | 03/06/2018 | UniFirst Corporation | $1,762.10 |
| 24334 | 03/06/2018 | United Fire Equipment Company | $518.14 |
| 24335 | 03/06/2018 | Valley Perinatal Services, LLC | $36.09 |
| 24336 | 03/06/2018 | Valley Telephone Coop., Inc. | $117.33 |
| 24337 | 03/06/2018 | Valley Telephone Coop., Inc. | $779.76 |
| 24338 | 03/06/2018 | Verizon Wireless | $6,411.59 |
| 24339 | 03/06/2018 | W W Grainger Inc | $167.34 |
| 24340 | 03/06/2018 | W. R. Ryan Company | $4,430.04 |
| 24341 | 03/06/2018 | Waste Mgmt of AZ, Inc. | $471.55 |
| 24342 | 03/06/2018 | Watson Chevrolet Inc | $2,523.61 |
| 24343 | 03/06/2018 | Waxie Sanitary Supply | $847.69 |
| 24344 | 03/06/2018 | West Press | $50.39 |
| 24345 | 03/06/2018 | Westlawn Chapel & Mortuary | $150.00 |
| 24346 | 03/06/2018 | Whetstone Water Improvement District | $100.67 |
| 24347 | 03/06/2018 | Wick Communications | $41.60 |
| 24348 | 03/06/2018 | Wick Communications | $36.40 |
| 24349 | 03/06/2018 | Willcox Auto Parts Inc. | $2,914.27 |
| 24350 | 03/06/2018 | Willcox, City of | $1,082.04 |
| 24351 | 03/06/2018 | Cochise County Sheriff's Department | $1,746.30 |
| 24352 | 03/06/2018 | Yungewaelter, Mark | $90.00 |

**Consent 2.**

**Regular Board of Supervisors Meeting** **Board of Supervisors**

**Meeting Date:** 03/27/2018

Proclamation - National County Government Month

**Submitted By:** Kim Lemons, Board of Supervisors

**Department:** Board of Supervisors

| | | | |
|---|---|---|---|
| **Presentation:** | No A/V Presentation | **Recommendation:** | |
| **Document Signatures:** | | **# of ORIGINALS Submitted for Signature:** | |
| **NAME of PRESENTER:** | na | **TITLE of PRESENTER:** | na |
| **Mandated Function?:** | | **Source of Mandate or Basis for Support?:** | |

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**Information**

**Agenda Item Text:**

Approve a proclamation to proclaim April 2018 as National County Government Month - “Serving the Underserved” in support of counties taking pride in our responsibility to protect and enhance the health, well-being and safety of our residents in efficient and cost-effective ways.

**Background:**

National County Government Month — held each April — is an annual celebration of county government. Since 1991, the National Association of Counties has encouraged counties to actively promote the services and programs they offer. Counties can schedule activities any time during the month. NCGM is an excellent opportunity for Cochise County to highlight effective county programs and raise public awareness and understanding about the various services provided to the community. This year’s theme is “Serving the Underserved”

**Department's Next Steps (if approved):**

Proclamation signed and filed in the Clerk of the Board office

**Impact of NOT Approving/Alternatives:**

N/A

**To BOS Staff: Document Disposition/Follow-Up:**

NCGM will not be recognized by the Board of Supervisors

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**Budget Information**

*Information about available funds*

| | | |
|---|---|---|
| **Budgeted:** ◯ | **Funds Available:** ◯ | **Amount Available:** |
| **Unbudgeted:** ◯ | **Funds NOT Available:** ◯ | **Amendment:** ☐ |

**Account Code(s) for Available Funds**

**1:**

**Fund Transfers**

**Attachments**

Cochise County Proclamation
Governor's Proclamation

**Cochise County**
**Board of Supervisors**

***Public Programs...Personal Service***
www.cochise.az.gov

**ANN ENGLISH**
Chairman
District 2

**PATRICK G. CALL**
Vice-Chairman
District 1

**PEGGY JUDD**
Supervisor
District 3

**EDWARD T. GILLIGAN**
County Administrator

**ARLETHE G. RIOS**
Clerk of the Board

# PROCLAMATION

## National County Government Month - April 2018
## "Serving the Underserved"

**WHEREAS,** the nation's 3,069 counties serving more than 300 million Americans provide essential services to create healthy, safe and vibrant; and

**WHEREAS,** counties move America forward by providing health care, administering justice, keeping communities safe, creating economic opportunities and much more; and

**WHEREAS,** Cochise County and all counties take pride in their responsibility to protect and enhance the health, welfare and safety of its residents in efficient and cost-effective ways; and

**WHEREAS,** through National Association of Counties President Roy Charles Brooks' "Serving the Underserved" initiative, NACo is focusing on the critical role counties play in breaking multi-generational cycles of poverty; and

**WHEREAS,** in order to remain healthy, vibrant and safe, America's counties provide public health, justice, safety, infrastructure, transportation, technology, environmental stewardship and economic services that play a key role in everything from residents' daily commutes to emergency response; and

**WHEREAS,** each year since 1991 the National Association of Counties has encouraged counties across the country to actively promote their own programs and services to the public they serve; and

**NOW, THEREFORE, BE IT RESOLVED THAT WE,** the Cochise County Board of Supervisors, do hereby proclaim April 2018 as National County Government Month and encourage all county officials, employees, schools and residents to participate in county government celebration activities.

**APPROVED AND ADOPTED** this 27th day of March 2018.

_____
Ann English, Chairman

_____
Patrick G. Call, Vice-Chairman

_____
Peggy Judd, Supervisor

1415 Melody Lane, Building G
Bisbee, Arizona 85603
520-432-9200
520-432-5016 fax
board@cochise.az.gov

GOVERNOR DOUGLAS A. DUCEY

# STATE OF ARIZONA

# PROCLAMATION

**WHEREAS,** counties play an essential role in keeping Arizona's communities safe and secure by preserving public health and well-being, ensuring public safety, and promoting local economies and resiliency; and

**WHEREAS**, counties take seriously their leadership role in protecting and enhancing the health, welfare, and safety of citizens in its community and provide the tools to deliver more effective and higher quality services while containing costs with the efficient use of local tax dollars, with the goal to strengthen Arizona's economies; and

**WHEREAS**, in order to remain healthy, vibrant, safe, and economically competitive, counties provide public health, justice, safety, infrastructure, transportation, technology, emergency management, and economic services that play a key role in every aspect from residents' daily health to disaster response; and

**WHEREAS**, there are 15 counties in the State of Arizona collectively responsible for and serving the needs of every resident of the State; and

**WHEREAS**, Arizona counties reflect the wide diversity of people, culture, and landscape in our State; and

**WHEREAS,** in recognition of the leadership, innovation, and valuable service provided by all Arizona counties.

**NOW, THEREFORE, I,** Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim April 2018 as

## COUNTY GOVERNMENT MONTH




**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

Douglas A. Ducey

**GOVERNOR**

**DONE** at the Capitol in Phoenix on this twenty-seventh day of February in the year Two Thousand and Eighteen and of the Independence of the United States of America the Two Hundred and Forty-Second.

*ATTEST:*

Michele Reagan

**SECRETARY OF STATE**

**Consent 3.**

**Regular Board of Supervisors Meeting** **Board of Supervisors**

**Meeting Date:** 03/27/2018

Temporary Extension of Premises Liquor License for Gay 90s Bar

**Submitted By:** Melissa Belasco, Board of Supervisors

**Department:** Board of Supervisors

| | | | |
|---|---|---|---|
| **Presentation:** | No A/V Presentation | **Recommendation:** | |
| **Document Signatures:** | | **# of ORIGINALS Submitted for Signature:** | |
| **NAME of PRESENTER:** | n/a | **TITLE of PRESENTER:** | n/a |
| **Mandated Function?:** | | **Source of Mandate or Basis for Support?:** | |

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**Information**

**Agenda Item Text:**

Approve an application for a temporary Extension of Premises liquor license submitted by Mr. Leonel Urcadez for Gay 90s Bar located at 3856 S. Towner Avenue, Naco, AZ 85620 on April 14, 2018 through April 15, 2018, for the Berserkers MC Riders for Rehab.

**Background:**

Mr. Urcadez has applied for a temporary Extension of Premises/Patio liquor license for Gay 90s Bar located at 3856 S. Towner Avenue, Naco, AZ 85620. The temporary extension is for April 14, 2018 through April 15, 2018 for the Berserkers MC Riders for Rehab. The Sheriff's Office has no recommendation and Planning and Zoning has recommended approval of the application and the Planning Department is currently working with the property owner on obtaining the proper permits for the Temporary Use.

**Department's Next Steps (if approved):**

Board staff will forward the Board's decision to the ADLLC.

**Impact of NOT Approving/Alternatives:**

The applicant will not be able to serve liquor outside of the established premises.

**To BOS Staff: Document Disposition/Follow-Up:**

Board staff will forward the Board's decision to the ADLLC.

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**Budget Information**

*Information about available funds*

| | | |
|---|---|---|
| **Budgeted:** ☐ | **Funds Available:** ☐ | **Amount Available:** |
| **Unbudgeted:** ☐ | **Funds NOT Available:** ☐ | **Amendment:** ☐ |

**Account Code(s) for Available Funds**

**1:**

**Fund Transfers**

**Attachments**

Application

Departmental Forms

Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

DLLC USE ONLY
CSR:
Log #:

# APPLICATION FOR EXTENSION OF PREMISES/PATIO PERMIT

Parcel # 102-57-030

***OBTAIN APPROVAL FROM LOCAL GOVERNING BOARD BEFORE SUBMITTING TO THE DEPARTMENT OF LIQUOR*** Series 6 Bar
****Notice: Allow 30-45 days to process permanent change of premises****

☐ Permanent change of area of service. **A non-refundable $50. Fee will apply.** Specific purpose for change:

☑ Temporary change **(No Fee)** for date(s) of: 4/14/18 through 4/15/18 list specific purpose for change:

1. Licensee's Name: Urcadez (Last) Leonel (First) A (Middle) License#: 06020071
2. Mailing address: P.O. Box 614 (Street) NACO (City) AZ (State) 85620 (Zip Code)
3. Business Name: Gay 90's Bar
4. Business Address: 3856 S. Tower Ave. (Street) NACO (City) AZ (State) 85620 (Zip Code)
5. Email Address: lurcadez@yahoo.com
6. Business Phone Number: 520-432-4677 Contact Phone Number: 520-432-2377
7. Is extension of premises/patio complete?
   ☑ N/A ☐ Yes ☐ No If no, what is your estimated completion date? ___/___/____
8. Do you understand Arizona Liquor Laws and Regulations?
   ☑ Yes ☐ No
9. Does this extension bring your premises within 300 feet of a church or school?
   ☐ Yes ☑ No
10. Have you received approved Liquor Law Training?
    ☑ Yes ☐ No
11. What security precautions will be taken to prevent liquor violation s in the extended area? Gay 90's personnel
12. ***IMPORTANT:*** Attach the revised floor plan, clearly depicting your licensed premises along with the new extended area outlined in black marker or ink, ***if the extended area is not outlined and marked "extension" we cannot accept the application.***

RECEIVED
COCHISE COUNTY
BOARD OF SUPERVISORS
2018 MAR -9 PM 2:19


Individuals requiring ADA accommodations please call (602)542-9027

☐ Barrier Exemption: an exception to the requirement of barriers surrounding a patio/outdoor serving area may be requested. Barrier exemptions are granted based on public safety, pedestrian traffic, and other factors unique to a licensed premises. List specific reasons for exemption:

Road will be closed.

☐ Approval ☐ Disapproval by **DLLC**: _____ Date: ____/____/____

**Notary**

I, (Signature) _____, hereby declare that I am a **CONTROLLING PERSON/ AGENT** filing this notification. I have read this document and the contents and all statements are true, correct and complete.

State of Arizona )
County of Cochise )

On this 8 Day of March, 2019 Year before me personally appeared Leonel Urrea (Print Name of Document Signer)

Whose identity was proven to me on the basis of satisfactory evidence to be the person who he or she claims to be and acknowledged that he or she signed the above/attached document.

(Affix Seal Above)

OFFICIAL SEAL
LUZ MARIA F. VALDEZ
Notary Public - State of Arizona
COCHISE COUNTY
My Comm. Expires March 8, 2021

Luz Maria F Valdez
Signature of NOTARY PUBLIC

**GOVERNING BOARD**

After completion, and **BEFORE submitting to the Department of Liquor**, please take this application to your local Board of Supervisors, City Council or Designate for their recommendation. This recommendation is not binding on the Department of Liquor.

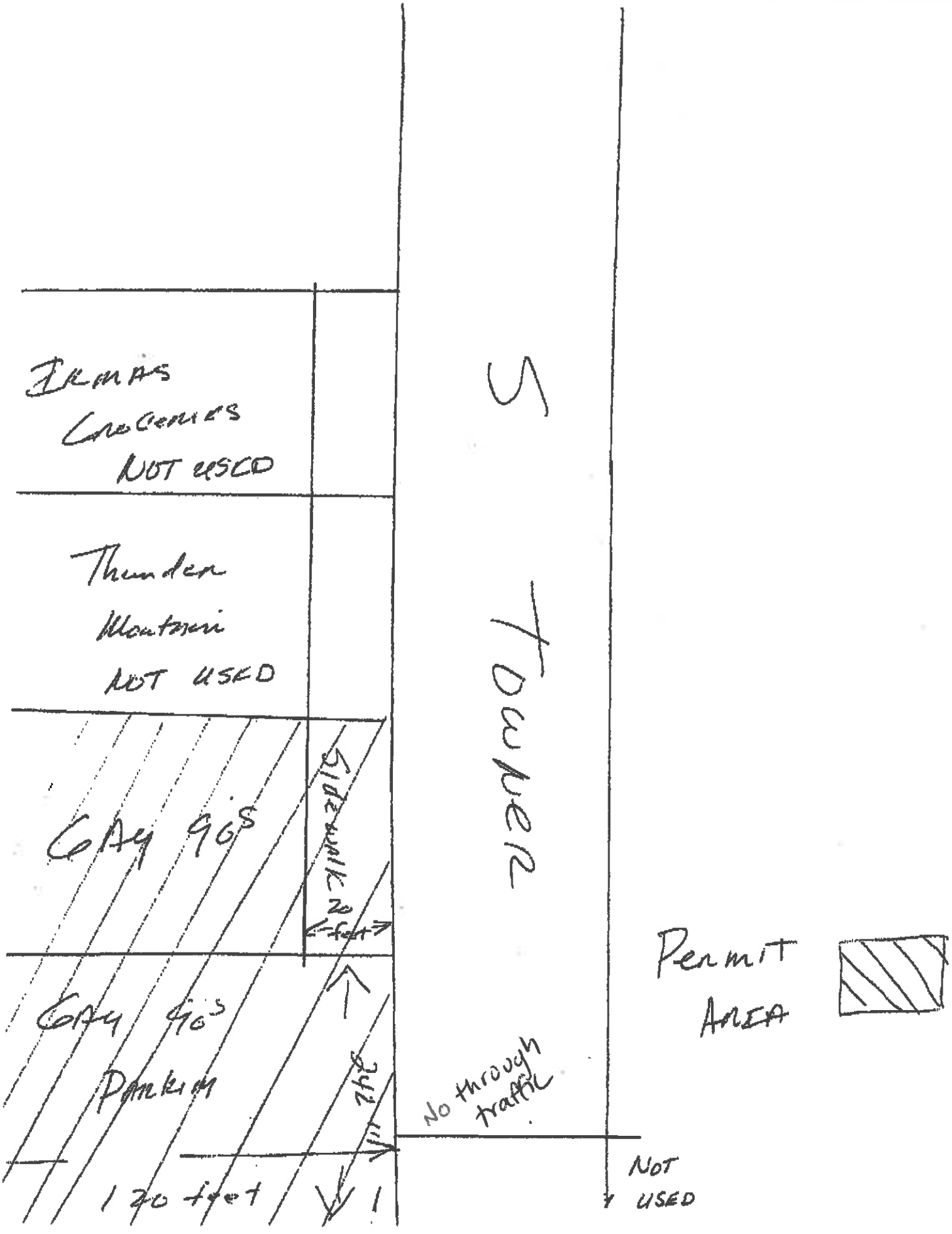
☐ **Approval** ☐ **Disapproval**

| Authorized Signature | Title | Agency | Date |
|---|---|---|---|
| | | | |

**DLLC USE ONLY**

Investigation Recommendation: ☐ **Approval** ☐ **Disapproval** by: _____ Date: ____/____/____

Director Signature required for Disapprovals: _____ Date: ____/____/____


Ramas
Creosotes
NOT USED
Thunder
Mountain
NOT USED
S Tower
Gray 90's
Sidewalk 20 feet
Gray 90's
Pankin
No through traffic
NOT USED
170 feet
Permit
AREA

# COCHISE COUNTY BOARD OF SUPERVISORS

Telephone (520) 432-9200
Fax (520) 432-5016

## APPLICANT INFORMATION

| | | | |
|---|---|---|---|
| Applicant Name: | Leonel Urcadez | Address: | 3856 S. Towner Avenue |
| Business Name: | Gay 90s | City/Zip: | Naco, 85620 |
| Liquor License #: | 06020071 | Parcel #: | 102-57-030 |
| Ownership Type: | Limited Liability Corporation | Liquor License ☐ | Temporary Extension of Premise Liquor License ☒ |
| Partner(s): | n/a | | |

## TO BE COMPLETED BY THE SHERIFF'S OFFICE

Please advise if:

1. There have been a significant number of incidents at the named location within five (5) years prior to the application.

If so, please attach pertinent documentation.

Comments: The Sheriff's Office has not responded to a significant number of incidents to the above location within the last 5-years.

| Based on the above information, the Sheriff's Office recommendation to the Board of Supervisors is: | Approval | Disapproval | No Recommendation |
|---|---|---|---|
| | ☐ | ☐ | ☒ |

| | | | |
|---|---|---|---|
| Name: | Rich Morales | Title: | Lieutenant |
| Signature: | | Date: | 03/22/18 |
| Contact phone: | (520)353-5087 | Email: | RDMorales@cochise.az.gov |

*Return completed form with any attachments by:* March 19, 2018

# COCHISE COUNTY BOARD OF SUPERVISORS

Telephone (520) 432-9200
Fax (520) 432-5016

**For internal use only:**
___ Restaurant/Hotel-Motel
___ Club/Government
___ Transfer of Premises

## APPLICANT INFORMATION

| | | | |
|---|---|---|---|
| **Applicant Name:** | Leonel Urcadez | **Address:** | 3856 S. Towner Avenue |
| **Business Name:** | Gay 90s | **City/Zip:** | 85620 |
| **Liquor License #:** | 06020071 | **Parcel #:** | 102-57-030 |
| **Ownership Type:** | Limited Liability Corporation | Liquor License ☐ | Temporary Extension of Premise Liquor License ☒ |
| **Partner(s):** | n/a | | |

## TO BE COMPLETED BY THE PLANNING & ZONING DEPARTMENT

Please advise if, at the time the application was filed:

1. The premises for which the license is being applied for is within 300 horizontal feet of a church; or
2. The premises for which the license is being applied for is within 300 horizontal feet of a public or private school, or a fenced recreation area adjacent to a school building.

If so, please attach pertinent documentation and drawings or maps.

Comments: N/A, this application is exempt from the 300-foot rule, Special Event, no posting required.

| Based on the above information, the Planning and Zoning Department's recommendation to the Board of Supervisors is: | Approval | Disapproval |
|---|---|---|
| | ☒ | ☐ |

## OTHER PERTINENT INFORMATION FOR THE BOARD'S CONSIDERATION:

| | | | |
|---|---|---|---|
| Proper Zoning? | Y ☒ N ☐ | Zoning: | GB - General Business |
| Use permitted by P&Z? | Y ☐ N ☒ | Permit#: | Pending Submittal for Temp Use |
| Date Permit Issued: | Pending | Use Permitted: | Temp Use--Event for Public Interest |
| If use not permitted, is it LNC? | Y ☒ N ☐ | Year LNC Established: | 1931 Bar/Tavern |

☐ The Planning Department will notify the applicant that if any construction is proposed, a Non-Residential Permit must first be submitted and approved by this Department, or if there is a lapse of 12 months of non-operation of the business, a Non-Residential Permit will be required to re-establish the use from this Department.

☐ The Planning Department will notify the applicant that he/she will be required to obtain the proper permits before operating the business.

☐ The Planning Department is currently working with the property owner on several zoning-related issues with the subject property.

☒ The Planning Department is currently working with the property owner on obtaining the proper permits for the Temporary Use.

| | | | |
|---|---|---|---|
| **Name:** | Dora V Flores | **Title:** | Zoning Administrator |
| **Signature:** | Dora V Flores | **Date:** | March 13, 2018 |
| **Contact phone:** | 520.803.3960 | **Email:** | dflores@cochise.az.gov |

***Return completed form with any attachments by:*** March 19, 2018

**Consent 4.**

**Regular Board of Supervisors Meeting** **Board of Supervisors**

**Meeting Date:** 03/27/2018

Sonoita Vineyards Wine Festival - April 2018

**Submitted By:** Melissa Belasco, Board of Supervisors

**Department:** Board of Supervisors

| | | | |
|---|---|---|---|
| **Presentation:** | No A/V Presentation | **Recommendation:** | |
| **Document Signatures:** | | **# of ORIGINALS Submitted for Signature:** | |
| **NAME of PRESENTER:** | Arlethe G. Rios | **TITLE of PRESENTER:** | Clerk of the Board |
| **Mandated Function?:** | | **Source of Mandate or Basis for Support?:** | |

---

**Information**

**Agenda Item Text:**

Approve a liquor license application for a series #16 (Wine Festival/Wine Fair) submitted by Ms. Lori Marie Reynolds for a Wine Festival to be held at 4023 E. Ramsey Road, Sierra Vista, AZ 85650 on April 20, 2018.

**Background:**

Ms. Lori Marie Reynolds has applied for a series 16 (Wine Festival/Wine Fair). The Wine Festival will be located at 4023 E. Ramsey Rd., Sierra Vista, AZ 85650 on April 20, 2018 for a wine festival. The Sheriff's Office has no recommendation and Planning and Zoning recommends approval of the application and the fee has been paid. Supporting documentation regarding this liquor license is on file with the Clerk of the Board of Supervisors.

**Department's Next Steps (if approved):**

Board staff will forward the Board's decision to the ADLLC.

**Impact of NOT Approving/Alternatives:**

The applicant will not be able to host the event.

**To BOS Staff: Document Disposition/Follow-Up:**

Email and mail completed, signed and approved application with check to ADLLC with decision.

---

**Budget Information**

*Information about available funds*

| | | |
|---|---|---|
| **Budgeted:** ◯ | **Funds Available:** ◯ | **Amount Available:** |
| **Unbudgeted:** ◯ | **Funds NOT Available:** ◯ | **Amendment:** ☐ |

**Account Code(s) for Available Funds**

**1:**

**Fund Transfers**

**Attachments**

Application
Departmental Forms

RECEIVED
COCHISE COUNTY
BOARD OF SUPERVISORS
2018 MAR 12 PM 12:12

Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

| FOR DLLC USE ONLY |
|---|
| License #: |
| Date: |
| Approved by: |

**FARM WINERY FAIR/FESTIVAL LICENSE APPLICATION**
A.R.S.§4-203.03 Farm Winery /A.R.S.§4-203.02 At Special Event
Fee: $15.00 Per Day

**A service fee of $25 will be charged for all dishonored checks (A.R.S.44-6852).**

**When the days of the fair/festival are not consecutive, a separate license for each uninterrupted period is needed.**

**SECTION 1** Application type:

☐ Wine Fair ☒ Wine Festival

1. Applicant's Name: Lori Marie Reynolds Daytime Phone#: 520-455-5893

2. Business name: Sonoita Vineyards Ltd. Liquor license #: 13120002
Farm Winery or Craft Distillery

3. Email: lori@sonoitavineyards.com

4. Mailing address: 290 Elgin Canelo Rd. Elgin AZ 85611
Street Address City State Zip Code

5. Location of fair/festival: 4023 E. Ramsey Rd. Sierra Vista Cochise 85650
Street address City County Zip Code

**This Notary to be completed only by the applicant named in section #1.**

**NOTARY**

I, (Print Full Name) Lori Marie Reynolds declare that I am the APPLICANT filing this application as listed in above. I have read the application and the contents and all statements are true, correct and complete.

x Lori Marie Reynolds Agent/Winemaker 3/8/18 520-455-5893
(Signature) Title/ Position Date Phone #

State of Arizona County of Santa Cruz
The foregoing instrument was acknowledged before me this 8 Day of March Month 2018 Year

My commission expires on: 12-29-2020

Signature of NOTARY PUBLIC

WHITNEY R. MARSHALL
Notary Public - State of Arizona
SANTA CRUZ COUNTY
My Commission Expires
December 29, 2020

**SECTION 2** Fees, Date & Hours: $15 per day
Winery festival days permitted: 50 licenses for a total of 150 days per winery per calendar year.

| | Date | Day of Week | Start Time AM/PM | End Time AM/PM |
|---|---|---|---|---|
| 1. | 4/20/2018 | Friday | 3pm | 6pm |
| 2. | | | | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |
| 7. | | | | |

**Please attach an additional sheet if necessary**

**SECTION 3** Site Owner Information:

1. Site owner name: Jessica (First) Sarinana (Last) Daytime Contact Phone #: 520-732-8886
2. Site owner mailing address: 4023 E. Ramsey Rd. (Street address) Sierra Vista (City) AZ (State) 85650 (Zip Code)
3. Email Address: info@brewsbrotherscoffee.com

---

**SECTION 4** To complete this application, all questions must be answered:

1. Have you received permission for use of the site for the sale/consumption of liquor from the site owner named in Section 3? ☒ Yes ☐ No
2. Will the liquor you sell/serve be products only manufacture/produced at your licensed premises named in Section One? ☒ Yes ☐ No
3. List the number of Fair/Festival licenses you have been issued in the current calendar year 6
4. List the number of days you have held a licensed Fair/Festival in the current calendar year 0
5. What security and control measures will you take to prevent violations of state liquor laws at this event?

| | |
|---|---|
| 0 # of Police Officers on Site | Fencing ☑ Yes ☐ No |
| 1 # of Security Personnel on Site | Barriers ☐ Yes ☒ No |

6. I am familiar with and have read statues for Arizona's fair/festival privileges, requirements and penalties. (Farm Winery A.R.S.§4-205.04, either being held at a Special Event A.R.S.§4-203.02) ☑ Yes ☐ No

7. I have taken responsible steps to ensure individuals operating the fair/festival licensed premises and employees who serve, sell or furnish liquor at this fair/festival have knowledge of Arizona liquor laws (R19-1-302) ☑ Yes ☐ No

8. I have verified that the outside boundaries of the fair/festival premises (diagrammed in Section 5 below) are more than 300 feet from a church or school as defined in (A.R.S.§4-207) ☑ Yes ☐ No

**SECTION 5** Licensed premises diagram. The licensed premises for your fair/festival is the area you are authorized to sell, dispense or serve alcoholic beverages under the provisions of your license identified in Section 1, line #2 of this application. Please attach a diagram of your special event licensed premise. Please include dimensions of the premises, serving areas, fencing, barricades, or other control measures and security positions.

# ATTACH DIAGRAM

The local governing body (city, town or municipality where the fair/festival will take place) may require additional applications to be completed and submitted. Please check with local government as to how far in advance they require these applications to be submitted. Additional licensing fees may also be required before approval may be granted.

**SECTION 6** Local Governing Body Approval Section

I, _____ (Government Official) _____ (Title) recommend ☐ APPROVAL ☐ DISAPPROVAL

on behalf of _____ (City, Town, County), _____ Signature, _____ Date, _____ Phone #

**FOR DEPARTMENT OF LIQUOR USE ONLY**

☐ APPROVAL ☐ DISAPPROVAL BY: _____ DATE: _____

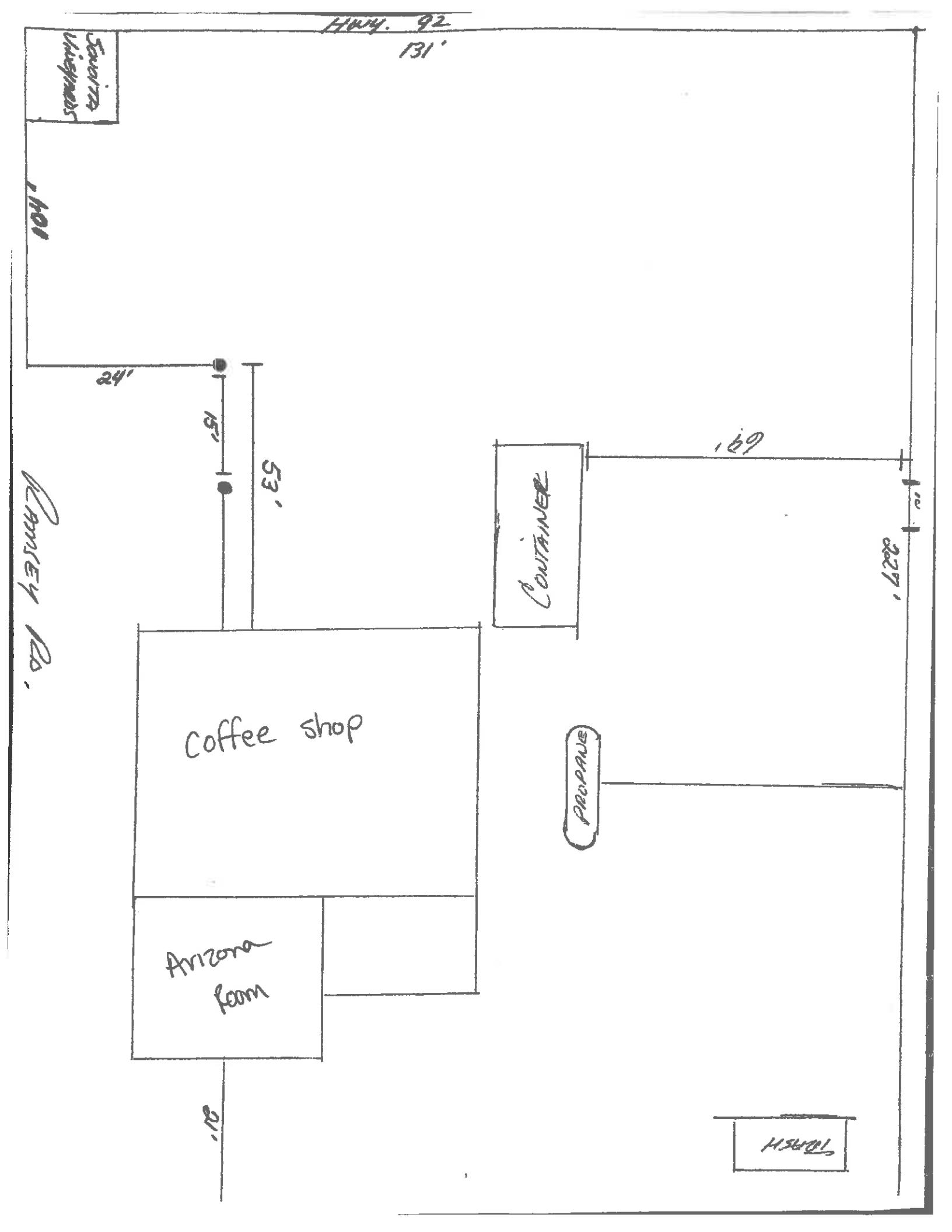
**A.R.S. § 41-1030. Invalidity of rules not made according to this chapter; prohibited agency action; prohibited acts by state employees; enforcement; notice**

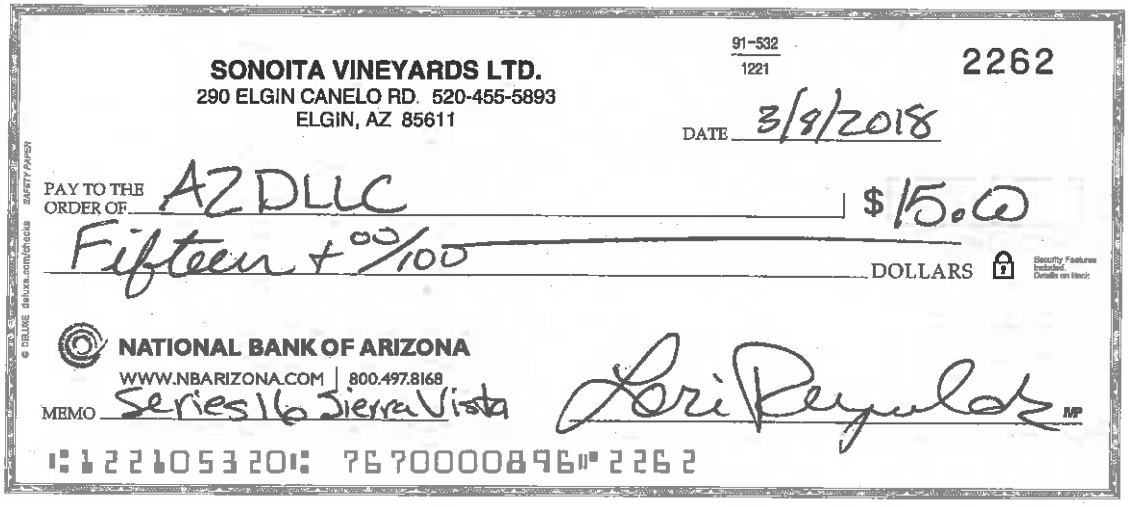
B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

D. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST THE STATE. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST THE STATE FOR A VIOLATION OF THIS SECTION.

E. A STATE EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE AGENCY'S ADOPTED PERSONNEL POLICY.

F. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.


HWY. 92
131'
Sonora Vista Estates
140'
24'
15'
53'
Ramsey Rd.
69'
CONTAINER
227'
Coffee shop
PROPANE
Arizona Room
10'
HOUSE



SONOITA VINEYARDS LTD.
290 ELGIN CANELO RD. 520-455-5893
ELGIN, AZ 85611

91-532
1221

2262

DATE 3/9/2018

PAY TO THE ORDER OF AZ DLLC $15.00

Fifteen + 00/100 DOLLARS

Security Features Included. Details on Back.

NATIONAL BANK OF ARIZONA
WWW.NBARIZONA.COM | 800.497.8168

MEMO Series 16 Sierra Vista

Lori Reynolds MP

⑆122105320⑆ 7670000896⑈2262

© DELUXE deluxe.com/checks SAFETY PAPER

# COCHISE COUNTY BOARD OF SUPERVISORS

Telephone (520) 432-9200
Fax (520) 432-5016

## APPLICANT INFORMATION

| | | | |
|---|---|---|---|
| Applicant Name: | Lori Marie Reynolds | Address: | 4023 E. Ramsey Road |
| Business Name: | Sonoita Vineyards Limited | City/Zip: | Sierra Vista, 85650 |
| Liquor License #: | 13120002 | Parcel #: | 107-67-001A |
| Ownership Type: | Limited | Liquor License ☐ | Farm Winery/Fair Festival ☒ |
| Partner(s): | N/a | | |

## TO BE COMPLETED BY THE SHERIFF'S OFFICE

Please advise if:

1. There have been a significant number of incidents at the named location within five (5) years prior to the application.

If so, please attach pertinent documentation.

Comments: The Sheriff's Office has not responded to a significant numbers of incidents at the above location within the last 5-years.

| Based on the above information, the Sheriff's Office recommendation to the Board of Supervisors is: | Approval | Disapproval | No Recommendation |
|---|---|---|---|
| | ☐ | ☐ | ☒ |

| | | | |
|---|---|---|---|
| Name: | Rich Morales | Title: | Lieutenant |
| Signature: | | Date: | 03/22/18 |
| Contact phone: | (520)353-5087 | Email: | RDMorales@cochise.az.gov |

*Return completed form with any attachments by:* 3/20/18

# COCHISE COUNTY BOARD OF SUPERVISORS

Telephone (520) 432-9200
Fax (520) 432-5016

**For internal use only:**
___ Restaurant/Hotel-Motel
___ Club/Government
___ Transfer of Premises

## APPLICANT INFORMATION

| | | | |
|---|---|---|---|
| Applicant Name: | Lori Marie Reynolds | Address: | 4023 E. Ramsey Road |
| Business Name: | Sonoita Vineyards Limited | City/Zip: | Sierra Vista, 85650 |
| Liquor License #: | 13120002 | Parcel #: | 107-67-001A |
| Ownership Type: | Limited | Liquor License ☐ | Farm Winery Fair/Festival ☒ |
| Partner(s): | | | |

## TO BE COMPLETED BY THE PLANNING & ZONING DEPARTMENT

Please advise if, at the time the application was filed:

1. The premises for which the license is being applied for is within 300 horizontal feet of a church; or
2. The premises for which the license is being applied for is within 300 horizontal feet of a public or private school, or a fenced recreation area adjacent to a school building.

If so, please attach pertinent documentation and drawings or maps.

Comments: N/A, this application is exempt from the 300-foot rule, Special Event, no posting required.

| Based on the above information, the Planning and Zoning Department's recommendation to the Board of Supervisors is: | Approval | Disapproval |
|---|---|---|
| | ☒ | ☐ |

## OTHER PERTINENT INFORMATION FOR THE BOARD'S CONSIDERATION:

| | | | |
|---|---|---|---|
| Proper Zoning? | Y ☒ N ☐ | Zoning: | GB – General Business |
| Use permitted by P&Z? | Y ☒ N ☐ | Permit#: | 16-0349 |
| Date Permit Issued: | May 3, 2016 | Use Per mitted: | Change of Use to Coffee/Restaurant |
| If use not permitted, is it LNC? | Y ☐ N ☒ | Year LNC Established: | N/A |

☐ The Planning Department will notify the applicant that if any construction is proposed, a Non-Residential Permit must first be submitted and approved by this Department, or if there is a lapse of 12 months of non-operation of the business, a Non-Residential Permit will be required to re-establish the use from this Department.

☐ The Planning Department will notify the applicant that he/she will be required to obtain the proper permits before operating the business.

☐ The Planning Department is currently working with the property owner on several zoning-related issues with the subject property.

☐ The Planning Department is currently working with the property owner on obtaining the proper permits to operate the business.

| | | | |
|---|---|---|---|
| Name: | Dora V Flores | Title: | Zoning Administrator |
| Signature: | Dora V Flores | Date: | March 14, 2018 |
| Contact phone: | 520.803.3960 | Email: | dflores@cochise.az.gov |

*Return completed form with any attachments by:* 3/20/18

**Consent 5.**

**Regular Board of Supervisors Meeting** **Board of Supervisors**

**Meeting Date:** 03/27/2018

Letter of Support for Ladd Ranch

**Submitted By:** Arlethe Rios, Board of Supervisors

**Department:** Board of Supervisors

**Presentation:** No A/V Presentation **Recommendation:**

**Document Signatures:** **# of ORIGINALS Submitted for Signature:**

**NAME of PRESENTER:** n/a **TITLE of PRESENTER:** n/a

**Mandated Function?:** **Source of Mandate or Basis for Support?:**

---

**Information**

**Agenda Item Text:**

Approve a letter of support for Ladd Family Ranches regarding the State Land Department and private land access to Border Patrol sites.

**Background:**

The Ladd Family Ranches have requested the Board send a letter to the State Land Department regarding decisions on how to access Border Patrol sites impacting private land owners along the border.

**Department's Next Steps (if approved):**

Send letter to Arizona State Land Department.

**Impact of NOT Approving/Alternatives:**

n/a

**To BOS Staff: Document Disposition/Follow-Up:**

Mail letter to:

Lisa A. Atkins
Commissioner
Arizona State Land Department
1616 W. Adams Street
Phoenix, AZ 85007

---

**Budget Information**

*Information about available funds*

**Budgeted:** ○ **Funds Available:** ○ **Amount Available:**

**Unbudgeted:** ○ **Funds NOT Available:** ○ **Amendment:** ☐

**Account Code(s) for Available Funds**

**1:**

**Fund Transfers**

## Attachments

Letter

# Cochise County
## Board of Supervisors

***Public Programs...Personal Service***
www.cochise.az.gov

**ANN ENGLISH**
Chairman
District 2

**PATRICK G. CALL**
Vice-Chairman
District 1

**PEGGY JUDD**
Supervisor
District 3

**EDWARD T. GILLIGAN**
County Administrator

**ARLETHE G. RIOS**
Clerk of the Board


March 27, 2018

Lisa A. Atkins
Commissioner
Arizona State Land Department
1616 W. Adams Street
Phoenix, AZ 85007

RE: Ladd Family Ranches and Army Corps of Engineers and use of private land to access Border Patrol sites

Ms. Atkins,

In Cochise County many of our citizens are property owners along our international border with Mexico. Throughout the years they have been supportive of the mission of the Department of Homeland Security, specifically the U.S. Customs and Border Protection Agency. Property owners have allowed continuous access to their private land for these types of missions and are grateful for the services provided to them to ensure their safety and security.

This working relationship has been beneficial to both these property owners and our federal agencies and we do not see a reason for the Army Corps of Engineers to change this relationship by formalizing the way that the federal agencies have access to their sites through private land.

At this time, we are requesting that no changes be made by any agency to formalize the access they currently have through private land to their sites.

We feel it is important to move forward with the current informal agreement for a positive relationship between federal agencies and private land owners in Cochise County.

Sincerely,

| | | |
|---|---|---|
| Ann English | Patrick G. Call | Peggy Judd |
| Chairman | Vice-Chairman | Member |
| District 2 | District 1 | District 3 |


1415 Melody Lane, Building G
Bisbee, Arizona 85603
520-432-9200
520-432-5016 fax
board@cochise.az.gov

**Consent 6.**

**Regular Board of Supervisors Meeting** **Elections**

| | | | |
|---|---|---|---|
| **Meeting Date:** | 03/27/2018 | | |
| Approve Appointment of Democratic Precinct Committee Members | | | |
| **Submitted By:** | Martha Rodriquez, Elections | | |
| **Department:** | Elections | | |
| **Presentation:** | No A/V Presentation | **Recommendation:** | Approve |
| **Document Signatures:** | BOS Signature Required | **# of ORIGINALS Submitted for Signature:** | 0 |
| **NAME of PRESENTER:** | N/A | **TITLE of PRESENTER:** | N/A |
| **Docket Number (If applicable):** | | | |
| **Mandated Function?:** | Federal or State Mandate | **Source of Mandate or Basis for Support?:** | §16-821 |

## Information

**Agenda Item Text:**

Approve the appointment of Precinct Committee Members for the Democratic Party upon the recommendation of the 2nd Vice Chair, Cynthia Aspengren - Precinct: 05 BI DON LUIS, Obholz, Mary Rose; Bever, Marilyn; Precinct: 28 SV BUSBY, Hodges, Erin M.

**Background:**

Requested by 2nd Vice Chair, Cynthia Aspengren and verified as eligible by Cochise County Elections Department. (see attached forms)

**Department's Next Steps (if approved):**

Elections Department will prepare a letter to approve Precinct Committee Members w/copy to Party Chair, Debbie Hickman. Elections Department will create a file for approved Precinct Committee Members and update list/post on website.

**Impact of NOT Approving/Alternatives:**

Vacancies will exist in these positions.

**To BOS Staff: Document Disposition/Follow-Up:**

BOS Staff to notify Elections of the outcome of BOS decision on this item.

## Attachments

Dem_PC

Cochise County Democratic Party
P.O. Box 3233
Sierra Vista, AZ 85636
March 5, 2018

Cochise County Board of Supervisors and Cochise County Elections
1415 Melody Lane, Building G
Bisbee, AZ 85603

Dear Supervisor Chair Ann English and Deputy Elections Director Martha Rodriguez,

Request you appoint the following qualified registered Democrats as Precinct Committee Members with the Cochise County Democratic Party at your earliest convenience:

| Last Name | First Name | Precinct | Address |
|---|---|---|---|
| Obholz ~~Obholtz~~ | Mary Rose | BI Don Luis | 510 Buena Vista Place, Bisbee, AZ 85603 ✓ |
| Bever | Marilyn | BI Don Luis | 510 Buena Vista Place, Bisbee, AZ 85603 ✓ |
| Hodges | Erin | SV Busby | 30 Hillman Aly, Sierra Vista AZ 85635 ✓ |

Thank you,

Cynthia Aspengren
2nd Vice Chair, Cochise County Democratic Committee 2017-2018
(520) 255-3116
Email: cochisecodems@gmail.com

Cc:
CCDP Chair, Debbie Hickman
ADP, Chair, Felecia Rotellini (statechair@azdem.org)
ADP, Data Director, Sam Almy (salmy@azdem.org)

# PRECINCT COMMITTEEPERSON VERIFICATION FORM

NAME: Mary Rose Obholz

ADDRESS: 510 Buena Vista Place

Bisbee AZ 85603

PARTY: Dem

PRECINCT: 05 B1 Don Luis

NUMBER OF PRECINCT COMMITTEE PERSONS NEEDED: 6

NUMBER OF CURRENT PRECINCT COMMITTEE PERSONS : 4

APPROVE APPOINTMENT: X

DO NOT APPROVE APPOINTMENT: _____

DATE: 3/9/2018

BY: Martha L. Rodriguez

**PRECINCT COMMITTEEPERSON VERIFICATION FORM**

NAME: Marilyn Bever

ADDRESS: 510 Buena Vista Place

Bisbee AZ 85603

PARTY: Dem

PRECINCT: 05 BI Don Luis

NUMBER OF PRECINCT COMMITTEE PERSONS NEEDED: 6

NUMBER OF CURRENT PRECINCT COMMITTEE PERSONS : 4

APPROVE APPOINTMENT: X

DO NOT APPROVE APPOINTMENT: _____

DATE: 3/9/2018

BY: Martha L. Rodriguez

**PRECINCT COMMITTEEPERSON VERIFICATION FORM**

NAME: Erin M. Hodges

ADDRESS: 30 Hillman Aly, Sierra Vista, AZ 85635-1746

P.O. Box 3981, Sierra Vista, AZ 85636-3981

PARTY: Dem

PRECINCT: 28 SV Busby

NUMBER OF PRECINCT COMMITTEE PERSONS NEEDED: 4

NUMBER OF CURRENT PRECINCT COMMITTEE PERSONS : 2

APPROVE APPOINTMENT: X

DO NOT APPROVE APPOINTMENT: _____

DATE: 3/9/2018

BY: Martha L. Rodriguez

**Consent 7.**

**Regular Board of Supervisors Meeting** **Finance**

| | | | |
|---|---|---|---|
| **Meeting Date:** | 03/27/2018 | | |
| Demands | | | |
| **Submitted By:** | Arlethe Rios, Board of Supervisors | | |
| **Department:** | Board of Supervisors | | |
| **Presentation:** | No A/V Presentation | **Recommendation:** | |
| **Document Signatures:** | | **# of ORIGINALS Submitted for Signature:** | |
| **NAME of PRESENTER:** | n/a | **TITLE of PRESENTER:** | n/a |
| **Mandated Function?:** | | **Source of Mandate or Basis for Support?:** | |

**Information**

**Agenda Item Text:**
Approve demands and budget amendments for operating transfers.

**Background:**
Auditor-General's requirement for Board of Supervisors to approve.

**Department's Next Steps (if approved):**
Return to Finance after BOS approval.

**Impact of NOT Approving/Alternatives:**
Board of Supervisors will not be in compliance with State law.

**To BOS Staff: Document Disposition/Follow-Up:**
Return to Finance after BOS approval.

**Budget Information**

*Information about available funds*

| | | |
|---|---|---|
| **Budgeted:** ◯ | **Funds Available:** ◯ | **Amount Available:** |
| **Unbudgeted:** ◯ | **Funds NOT Available:** ◯ | **Amendment:** ☐ |

**Account Code(s) for Available Funds**

**1:**

**Fund Transfers**

**Attachments**

*No file(s) attached.*

**Consent 8.**

**Regular Board of Supervisors Meeting** **Information Technologies**

| | | | |
|---|---|---|---|
| **Meeting Date:** | 03/27/2018 | | |
| License for Benson Hospital to Place Equipment on County Tower | | | |
| **Submitted By:** | Joe Casey, Information Technology | | |
| **Department:** | Information Technology | | |
| **Presentation:** | No A/V Presentation | **Recommendation:** | Approve |
| **Document Signatures:** | BOS Signature Required | **# of ORIGINALS Submitted for Signature:** | 2 |
| **NAME of PRESENTER:** | Joe E. Casey | **TITLE of PRESENTER:** | Chief Information Officer (CIO) |
| **Mandated Function?:** | Not Mandated | **Source of Mandate or Basis for Support?:** | |

**Docket Number (If applicable):**

---

**Information**

**Agenda Item Text:**

Approve license agreement for Benson Hospital to place communication equipment on Cochise County's microwave tower in Benson, for a one year period with automatic renewals for ten successive one year periods in the amount of $500 annually.

**Background:**

Benson Hospital has requested to install two antennas on the Cochise County tower located at 126 West 5th Street, Benson, Arizona. The antennas will provide connectivity between the Benson Hospital at 450 S. Ocotillo Ave, Benson, Arizona and the Benson Hospital Rehabilitation Clinic at 500 W. Highway 80, Benson, Arizona.

**Department's Next Steps (if approved):**

Support Benson Hospital to access shelter and tower to install their equipment.

**Impact of NOT Approving/Alternatives:**

Benson hospital does not have direct line of site between their two buildings and would not be able to connect the buildings directly. They would need to use the internet for this connection, which is not as secure.

**To BOS Staff: Document Disposition/Follow-Up:**

Provide signed copy to IT department.

---

**Budget Information**

*Information about available funds*

| | | |
|---|---|---|
| **Budgeted:** ☐ | **Funds Available:** ☐ | **Amount Available:** |
| **Unbudgeted:** ☐ | **Funds NOT Available:** ☐ | **Amendment:** ☐ |

**Account Code(s) for Available Funds**

**1:**

**Fund Transfers**

**Attachments**

Tower License Agreement - Benson Hospital

**LICENSE FOR BENSON HOSPITAL TO PLACE COMMUNICATION EQUIPMENT ON COCHISE COUNTY'S MICROWAVE TOWER IN BENSON**

This Agreement ("Agreement") is entered into between **Benson Hospital**, an Arizona nonprofit corporation, whose principal address is 450 S. Ocotillo Avenue, Benson, Arizona 85602, and **Cochise County**, a political subdivision of the State of Arizona, whose address is 1415 W. Melody Lane, Bisbee, Arizona 85603 ("**County**" or "**Licensor**").

**1. Recitals.**

A. The County owns and operates a communications tower located at, 126 West 5th Street, Benson, Arizona, and commonly known as the Benson Regional Service Center Tower (the "Tower").

B. The Hospital desires to license a portion of the Tower and the real property on which it stands (collectively the "Property") from the County for the purpose of installing, using and maintaining antennas and associated electronic equipment for two (2) Ubiquiti PBE-5AC-400-ISO antennas, one (1) Ubiquiti EP-R8 Router, and (1) Ubiquiti EP-54V Power Supply.

C. The County desires to license a portion of the Tower to Licensee on the terms and conditions set forth in this Agreement.

Now, therefor, in consideration of the mutual covenants hereinafter set forth, the parties hereby agree as follows:

**2. Agreement to License the Tower.**

A. Use of Tower. The County hereby grants the Licensee the right to install, maintain, and operate, at Licensee's sole cost and expense, two (2) Ubiquiti PBE-5AC-400-ISO antennas, one (1) Ubiquiti EP-R8 Router that will be mounted to the Tower, and one (1) Ubiquiti EP-54V Power Supply that will be located on the Property. Licensee must also install at Licensee's sole cost and expense, a separate electrical circuit to power its equipment.

B. Use of Other Space. The County will provide a location for Licensee's Ubiquiti EP-54V Power Supply that will be housed close to a power outlet, and will allow Licensee to run a line from the Ubiquiti EP-54V Power Supply to the Ubiquiti EP-R8 Router that will be mounted on the tower.

C. Licensee's Access to Tower. Licensee will have 24/7/365 access to the Tower. However, Licensee must provide notice of Tower entry/access to the County at least 24 hours before Licensee's entry/access to the Tower. Licensee's authorized technicians are the only persons allowed access to the Tower and equipment. Licensee's tower climbers will be properly certified and will utilize proper equipment and techniques when climbing and working upon the Tower.

D. Non-Exclusive Use. The rights granted to the Licensee for use of the Tower are not exclusive. The County reserves the right to license the Tower to others, or use the Tower itself, on the condition that any such additional use does not substantially interfere with the Licensee's use of the Tower.

**3. Consideration for License.** License Fee. Licensee will pay to the County an annual fee of FIVE HUNDRED DOLLARS ($500.00) per year. Payment will be made in advance with the first annual payment being made promptly after signing of this Agreement. Thereafter, at the time of yearly renewal, a single annual payment of FIVE HUNDRED DOLLARS ($500.00) will be made for the upcoming year.

**4. Term of Agreement.** This Agreement shall become effective when signed by all parties, unless terminated earlier as provided hereinbelow. The term of the Agreement shall be one (1) year and shall be automatically renewed for ten (10) successive one (1) year periods, unless either party gives written notice of its intention not to renew at least sixty (60) days before expiration of the current term.

**5. Condition of the Tower**

A. Current Condition of the Tower. The Licensee has inspected the Tower and related facilities and determined that they are suitable for its purposes. It is expressly understood that the County makes no warranty about the condition of the Tower or its suitability for Licensee's purposes. By entering into this Agreement, the County is not assuming any responsibility to Licensee for maintaining the Tower in any particular condition. The Licensee assumes all responsibility for its equipment, including any damage thereto.

B. Destruction of or Damage to the Tower. If any of the Tower is destroyed or damaged in whole or in part by fire, lightning, windstorm, flood, earthquake, explosion, collapse, aircraft or other casualty, i) the County shall have the right, but not the obligation to

repair or rebuild the Tower, and ii) the Licensee shall have the right to terminate this Agreement by written notice to the County within thirty (30) days of such destruction or damage.

**6. Equipment; Utilities.**

A. Title to Equipment; Removal. Title to the equipment that Licensee is installing shall remain Licensee's personal property and are not fixtures. Licensee has the right, and the obligation, to remove all such equipment at its sole expense before expiration or at earlier termination of the Agreement. Licensee shall repair any damage to the Tower (or any of the County's other property) caused by such removal, installation or maintenance.

B. Utilities. Licensee shall pay for electricity required to operate and maintain its equipment.

C. Elimination of Interference. Licensee agrees that it will eliminate, in a prompt and timely manner, any interference that its equipment causes with the operations of other users at the Tower, save and except, any users added to the Property after the dating of this Agreement.

D. No Additional Equipment without Consent. Following the initial installation, Licensee agrees not to install additional equipment on the Tower without obtaining the written consent of the County, except to replace faulty equipment with similar equipment.

**7. Termination.**

A. Termination for Default. If either party fails to perform any of its obligations hereunder, the other party shall provide written notice to the person indicated in Section Ten (10) specifying the failure claimed as a default. If the default is not cured within thirty (30) days after receipt of the notice, or in the case of failures not related to the payment of money, if the defaulting party has not within that time begun action to cure the default and does not thereafter diligently prosecute such action to completion, the other party may terminate this Agreement, as applied to the specific portion of this Agreement to which the failure applies or to the Agreement as a whole if the default applies to the entire Agreement, by delivering to the defaulting party written notice of such termination. If the defaulting party in good faith disputes the existence of a default, it shall initiate appropriate action in a court of competent jurisdiction within the 30-day period and the time to cure shall begin on the date that a final determination is made that a default exists. Notwithstanding the foregoing, in no event shall the time within which Licensee may cure a failure in the payment of money exceed a single, ten (10) day period.

**8. Insurance.** The Licensee shall carry during the term of this Agreement the following insurance: (i.) "All Risk" property insurance which insures the Licensee's property for its full replacement cost; and (ii.) comprehensive general liability of $1,000,000, with a combined limited for bodily injury and/or Property damage for any one occurrence. Proof of insurance is to be provided by Licensee in the form of an annual Accord Certificate for the Property.

**9. Indemnity.** Each party shall indemnify, defend and hold harmless the other party, its officers, departments, employees and agents from and against any and all suits actions, legal or administrative proceedings, claims, demands or damages of any kind or nature arising out of this Agreement which result from any act or omission of the indemnifying party, its agents, employees or anyone acting under its direction, control or on its behalf, whether intentional or negligent; provided, however, the extent of the foregoing indemnities shall be limited to and determined by the respective fault of each party, its agents, employees and anyone acting under its direction, control or on its behalf, in comparison with others (including but not limited to the other party) who may have contributed to or in part caused any such claim to arise.

**10. Notice.** All notices, requests, demands, rent payments and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, or sent by overnight carrier to the address for notification specified below. Either party may change its address or phone or fax numbers for purposes of this Section by giving notice of such change in the manner provided in this Section.

A. All communication from the County to Licensee concerning the use of the subject property shall be coordinated through John Roberts, 450 South Ocotillo, Benson AZ, 85602, rob@bensonhospital.org, (520) 720-6497. Alternate: Antonio Kornegay, 450 South Ocotillo, Benson AZ, 85602, akornegay@bensonhospital.org, (520) 720-6498, or such other individual as Licensee may designate in writing.

B. All communication from Licensee to County concerning the use of the subject property shall be coordinated through Joe Casey, Director/Chief Information Officer, Information Technology, Cochise County, 1415 Melody Lane, Building D, Bisbee, AZ 85603, jcasey@cochise.az.gov, (520) 432-8300, or such other individual as the County may designate in writing.

**11. Assignment and Subleasing.** Except as to any parent, subsidiary or affiliate of Licensee, the Licensee shall not assign or sublease all or any part of its interest in this Agreement without the prior written consent of the County, which consent shall not be unreasonably withheld or delayed.

**12. Choice of Law; Attorneys Fees.**

A. Choice of Law and Venue. 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.

B. Attorney's Fees. If either party commences an action against the other party arising out of or in connection with this Agreement, the prevailing party shall be entitled to have and recover from the losing party reasonable attorney's fees and costs of suit.

**13. General Provisions.**

A. Amendment. Any amendment or modifications of the term of this Agreement shall be in writing and shall be effective only after approval by both Licensee and County.

B. Notice Pursuant to A.R.S. § 38-511. Notice is given that this Agreement is subject to cancellation by the County pursuant to A.R.S. § 38-511. In such an event, any use of Licensee Facilities hereunder shall likewise be cancelled and the applicable provisions of Section 7 of this Agreement shall apply.

C. Severance. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable to the full extent permitted by law.

D. Relationship. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third person to create the relationship of principal and agent, partnership, joint venture or any association between the County and Licensee other than contracting parties.

E. Remedies. Either party may pursue any remedies provided by law for the breach of this Agreement. No right or remedies are intended to be exclusive with any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law, equity or by virtue of this Agreement.

**14. Miscellaneous.**

A. 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, 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.

B. Inspection and Audit. The parties agree to keep all books, accounts, reports, files and other records relating to this Contract 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.

C. Entire Agreement. This written Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and shall supersede all previous proposals, negotiations, representations, commitments, writings, and agreements. It may not be released, discharged, changed or modified, except by an instrument in writing, signed by a duly authorized representative of each of the parties except as expressly provided otherwise in this Agreement.

D. Rights of the Parties Only. The terms of this Agreement are intended only to define the respective rights and obligations of the parties. Nothing expressed herein shall break any rights or duties in favor of any potential third-party beneficiary or other person, agency or organization.

E. 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.

F. Approval of this Agreement. Before the Agreement shall become effective and binding upon the parties, it must be approved by the County Board of Supervisors and Benson Hospital's Chief Executive Officer, Rich Polheber. This Agreement may be executed in counterparts and with electronic signatures, which shall have the same effect as though signed in pen and ink.

DATED this _____ day of _____, 2017.

COCHISE COUNTY

By: _____
Ann English, Chairman
Board of Supervisors

BENSON HOSPITAL

By: _____
Rich Polheber
Chief Executive Officer

ATTEST:

Arlethe Rios, Clerk of the
Board of Supervisors

**ATTORNEY REVIEW**

The foregoing Agreement between Cochise County and Benson Hospital has been reviewed by the undersigned, who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

**COCHISE COUNTY:**

Christine J. Roberts,
Chief Civil Deputy County Attorney

**BENSON HOSPITAL:**

Samuel G. Coppersmith,
Attorney for Licensee

**Public Hearings 9.**

**Regular Board of Supervisors Meeting** **Community Development**

**Meeting Date:** 03/27/2018

Z 18-03 (Santa Lucia)- A request to amend the Zoning of Parcels 107-66-029, 029C, 029F and 029G from R-36 to R-18

| | | | |
|---|---|---|---|
| **Submitted By:** | Robert Kirschmann, Community Development | | |
| **Department:** | Community Development | **Division:** | Development Services |
| **Presentation:** | PowerPoint | **Recommendation:** | Approve |
| **Document Signatures:** | BOS Signature Required | **# of ORIGINALS Submitted for Signature:** | 2 |
| **NAME of PRESENTER:** | Robert Kirschmann | **TITLE of PRESENTER:** | Planner II |
| **Mandated Function?:** | Not Mandated | **Source of Mandate or Basis for Support?:** | |
| **Docket Number (If applicable):** | Z-18-03 | | |

**Information**

**Agenda Item Text:**

Adopt Zoning Ordinance 18-03 approving Docket Z-18-03 amending certain zoning district boundaries from R-36 (Residential, one dwelling per 36,000 square feet) to R-18 (Residential, one dwelling per 18,000 square feet), pursuant to the application of Cochise County.

**Background:**

Cochise County Development Services is requesting a rezoning from R-36 (Residential, one dwelling per 36,000 square feet) to R-18 (Residential, one dwelling per 18,000 square feet). The request is to make four existing sub-standard lots (three with single family residences) compliant, re-buildable, and the vacant lot buildable.

Earlier this year Mr. Willie Pigott foreclosed on a parcel of land purchased from the Cochise County Treasurer's Office (Tax Lien). Upon discussion with Planning and Zoning staff, it became clear that the lot (107-66-029F) was a non-compliant lot. The lot is zoned R-36, which requires a minimum of 36,000 square feet. The lot is not quite 22,000 square feet. Staff did some additional research and realized that the parcel to the south 107-66-029G also did not meet minimum lot size requirements. However, a permit was issued by staff in 1986, and again in 1989 in error.

Further research showed two additional adjacent lots 107-66-029 and 107-66-029C were also too small. However, these lots were created prior to 1975. To clean up the area and provide consistency, staff included these parcels into the rezoning request before the Commission. None of the parties responsible for the non-compliant lot splits retain ownership. Based on this fact, as well as that staff issued 2 permits in error and that no new additional residential lots will be created because of the rezoning request, staff recommends approval.

Other than maximum density, no other site development standards change from R-36 to R-18. This does pose a problem with setbacks, as several of these lots have homes, sheds and garages which project into required setbacks. Staff would request that the existing non-compliant structures be allowed to remain and deemed compliant.

**Department's Next Steps (if approved):**

The Ordinance will be recorded and the official zoning map updated.

**Impact of NOT Approving/Alternatives:**

The parcels will remain R-36. The vacant lot will not be buildable. The adjacent lots will not be able apply for permits (other than minor repairs and fencing) and they will not be able to be rebuilt if destroyed.

**To BOS Staff: Document Disposition/Follow-Up:**

Board Staff will have ordinance signed, recorded and a copy provided to Planning Staff.

**Budget Information**

*Information about available funds*

**Budgeted:** ◯ **Funds Available:** ◯ **Amount Available:**

**Unbudgeted:** ◯ **Funds NOT Available:** ◯ **Amendment:** ☐

**Account Code(s) for Available Funds**

**1:**

**Fund Transfers**

**Attachments**

Zoning Ordinance
Staff Report and attachments
Exhibit A
PowerPoint Presentation

**ZONING ORDINANCE 18-___**

**AMENDING CERTAIN ZONING DISTRICT BOUNDARIES FROM R-36 TO R-18, PURSUANT TO THE APPLICATION OF COCHISE COUNTY**

**WHEREAS**, A.R.S. § 11-814 allows property owners or their authorized agent to request amendments to the Zoning District boundaries through the Board of Supervisors in a public hearing; and

**WHEREAS**, the Cochise County Board of Supervisors recognizes that zoning amendments can affect land use patterns and therefore warrant careful consideration of local and regional impacts at a public hearing; and

**WHEREAS**, Tax Parcels 107-66-029, 107-66-029C, 107-66-029F, and 107-66-029G were zoned as R-36; and

**WHEREAS**, the parcels are located in an area designated as Neighborhood Conservation under the Comprehensive Plan; and

**WHEREAS**, the parcels are located in an area of the County primarily characterized by single family residential uses; and

**WHEREAS**, the parcels were not created by any of the current owners, and

**WHEREAS**, the parcels do not currently conform to the zoning regulations and the existing single-family homes could not be rebuilt under the current designation, and

**WHEREAS**, the requested zoning district is harmonious with the surrounding zoning districts; and

**WHEREAS**, the Cochise County Board of Supervisors promotes effective, early and continuous public participation by citizens; and

**WHEREAS**, the Board of Supervisors held a duly noticed public hearing on the amendments to the Zoning District boundaries proposed by Applicant Cochise County; and

**WHEREAS**, the Board of Supervisors conditionally approved the request for a change in the Zoning District boundaries,

**NOW, THEREFORE, BE IT RESOLVED** that the Cochise County Zoning District Boundaries shall be amended as follows:

The zoning classification for Tax Parcels 107-66-029, 107-66-029C, 107-66-029F, and 107-66-029G, as shown on the map attached to this Resolution as Exhibit A, is changed from R-36 to R-18. The property is located in the Sierra Vista Estates area, south of the City of Sierra Vista, AZ. The property is further described as being in Section 30 of Township 22 South, Range 21 East of the G&SRB&M in Cochise County, Arizona. The Board of Supervisors approves Docket Z-18-03.

**PASSED AND ADOPTED** by the Board of Supervisors of Cochise County, Arizona, this 27th day of March, 2018.

_____
Ann English, Chair
Board of Supervisors

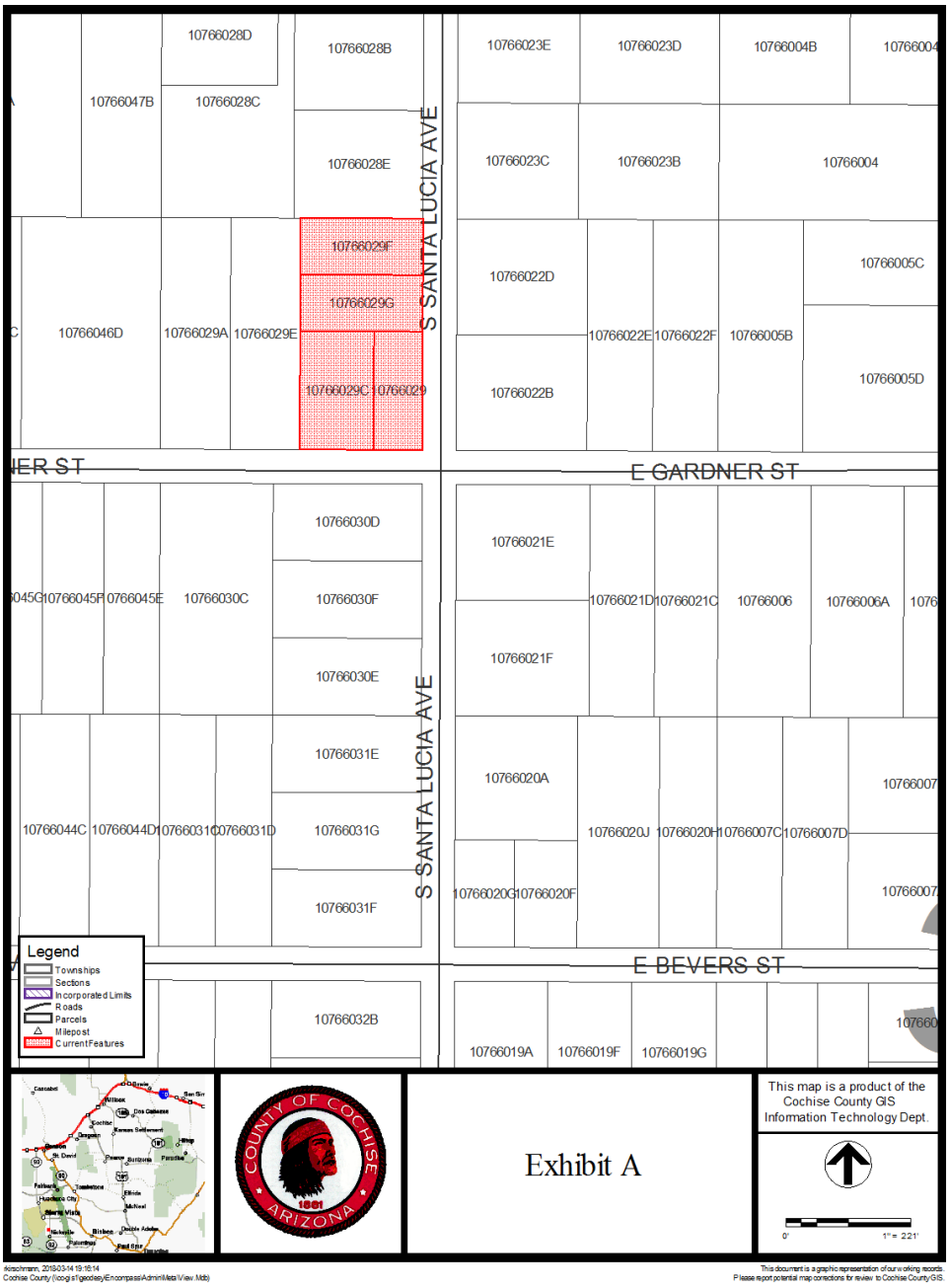
**ATTEST:**

_____
Arlethe Rios,
Clerk of the Board

**APPROVED AS TO FORM:**

Elda Orduno
_____
Elda Orduño
Attorney III

# EXHIBIT "A"


10766028D
10766028B
10766023E
10766023D
10766004B
10766047B
10766028C
10766028E
10766023C
10766023B
10766004
10766029F
10766029G
10766022D
10766005C
10766046D
10766029A
10766029E
10766022E
10766022F
10766005B
10766029C
10766029
10766022B
10766005D
S SANTA LUCIA AVE
E GARDNER ST
10766030D
10766021E
10766030F
10766021D
10766021C
10766006
10766006A
10766030E
10766021F
10766031E
10766020A
10766031G
10766020J
10766020H
10766007C
10766007D
10766031F
10766020G
10766020F
E BEVERS ST
10766032B
10766019A
10766019F
10766019G
Legend
Townships
Sections
Incorporated Limits
Roads
Parcels
Milepost
Current Features
COUNTY OF COCHISE
1881
ARIZONA
Exhibit A
This map is a product of the Cochise County GIS Information Technology Dept.

# Cochise County
## Community Development
### Planning, Zoning and Building Safety Division
*Public Programs...Personal Service*
www.cochise.az.gov


## MEMORANDUM

**TO:** Cochise County Board of Supervisors
**FROM:** Robert Kirschmann, Planner II
**FOR:** Daniel Coxworth, AICP, Development Services Director
**SUBJECT:** Docket Z-18-03 (Santa Lucia)
**DATE:** March 14, 2018 for the March 27, 2018 Meeting

## APPLICATION FOR A REZONING

Cochise County Development Services is requesting a rezoning from R-36 (Residential, one dwelling per 36,000 square feet) to R-18 (Residential, one dwelling per 18,000 square feet). The request is to make four existing sub-standard lots (three with single family residences) compliant, rebuildable, and the vacant lot buildable.

The subject parcels, APN 107-66-029F (4210 S Santa Lucia Ave), 107-66-029G (4226 S Santa Lucia Ave), 107-66-029C (4409 E Gardner St), and 107-66-029 (4421 E Gardner St) are on the northwest corner of S Santa Lucia Ave and E Gardner Street in Sierra Vista Estates. The parcels are further described as being situated in Section 30 of Township 22 South, Range21 East of the G&SRB&M, in Cochise County, Arizona. The Applicant is Cochise County.

## I. PLANNING AND ZONING COMMISSION RECOMMENDATION.

On Wednesday March 14, 2018, the Planning and Zoning Commission voted 8-0 to forward this Docket to the Board of Supervisors with a recommendation of approval. As this was a County initiated rezoning, there are no conditions of approval recommended for the request.

## II. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

| | |
|---|---|
| Parcel Sizes: | Varies from ~27,000 to ~18,000 square feet |
| Current Zoning: | R-36 (Residential; one dwelling per 36,000 square feet) |
| Proposed Zoning: | R-18 (Residential; one dwelling per 18,000 square feet) |
| Growth Area: | B – Neighborhood Conservation |
| Plan Designation: | Neighborhood Conservation |
| Area Plan: | None |
| Existing Uses: | Existing single family homes/vacant lot |
| Proposed Uses: | Legitimize the existing single family homes, and allow a replacement home on the vacant lot |

**Zoning/Use of Surrounding Properties**

| Relation to Subject Parcel | Zoning District | Use of Property |
|---|---|---|
| North | R-36 | Single family homes |
| South | R-36 | Single family homes |
| East | R-36 | Single family homes |
| West | R-36 | Single family homes |

## III. PARCEL HISTORY

Three of the four parcels currently have single family homes constructed on them. The fourth one had a manufactured home that was removed. The following is a breakdown of the individual lots:

**107-66-029:**

- 1983, Permit for manufactured home
- 1987, Permit for patios and porches (Note on permit that lot created prior to 1975)
- 2003, Permit heating and cooling upgrade

**107-66-029C:**

- 1978, Permit for 280 square foot addition
- 1988, Permit to enclose patio
- 1988, Permit for fence
- 2001, Permit for garage

**107-66-029G (D)**

- 1986, Permit for manufactured home **(in error)**
- 1989, Permit for 920 square foot addition **(in error)**

**107-66-029F**

- No permit history, however aerials and site visit clearly demonstrate a manufactured home was previously located on this lot.

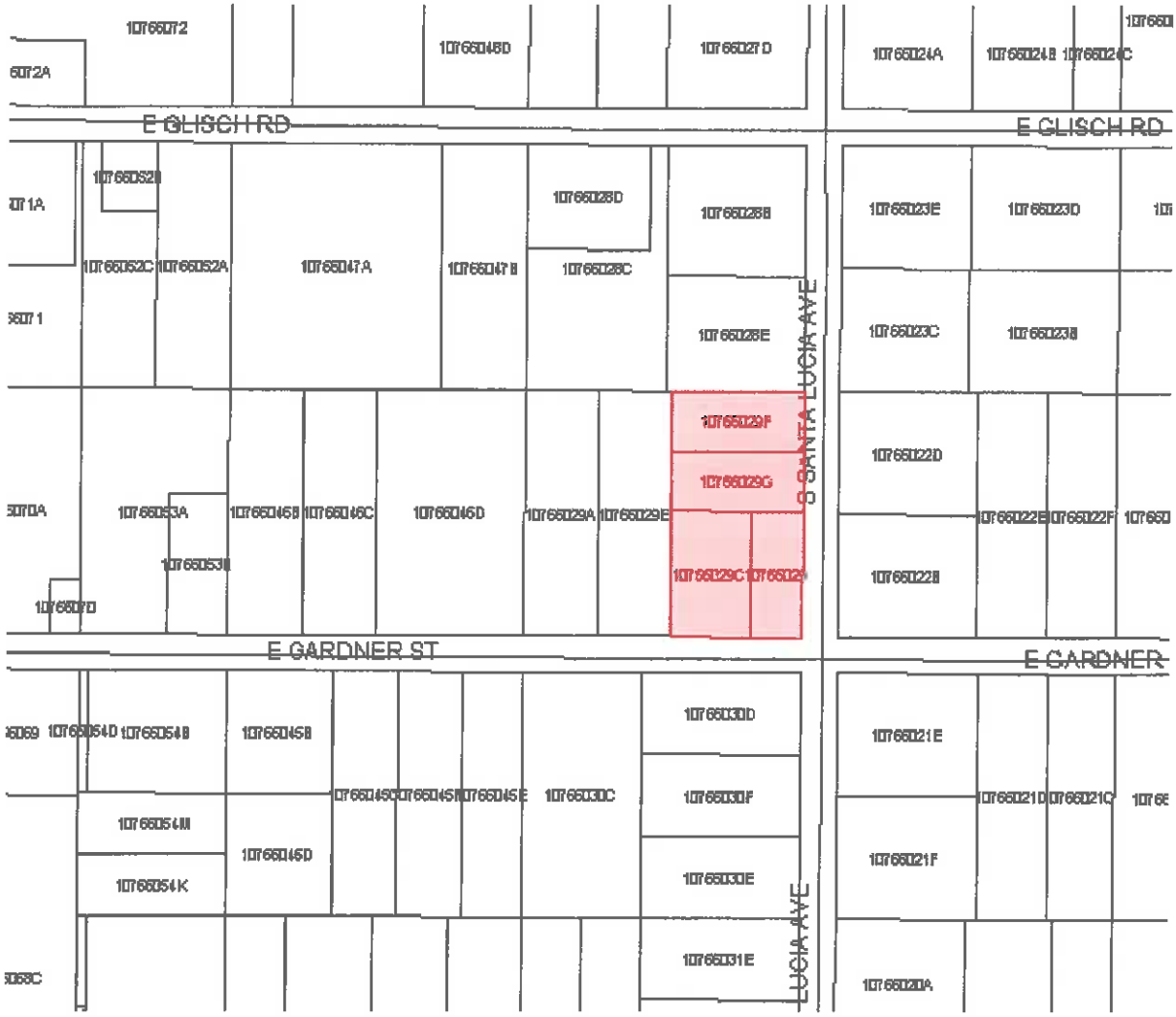
## IV. NATURE OF REQUEST

Cochise County Development Services is requesting a rezoning from R-36 (Residential, one dwelling per 36,000 square feet) to R-18 (Residential, one dwelling per 18,000 square feet). The request is to make four existing sub-standard lots (three with single family residences) complaint, rebuildable, and the vacant lot buildable.

Earlier this year Mr. Willie Pigott foreclosed on a parcel of land purchased from Cochise County Treasures office (Tax Lien). Upon discussion with Planning and Zoning staff it became clear that the lot (107-66-029F) was a non-compliant lot. The Zoning is R-36, which requires a minimum of 36,000 square feet. The lot is not quite 22,000 square feet. Staff did some additional research and realized that the parcel to the south 107-66-029G also did not meet minimum lot size requirements, however, a permit was issued by staff in 1986, and again in 1989 in error.

Further research showed two additional adjacent lots 107-66-029 and 107-66-029C were also too small. However, these lots were created prior to 1975. To clean up the area and provide consistency, staff included these parcels into the rezoning request before the Commission. None of the parties responsible for the non-compliant lot splits retain ownership. Due to this fact, staff issuing 2 permits in error and the fact that no new additional residential lots will be created because of the rezoning request, staff recommends approval.

Other than maximum density, no other site development standards change from R-36 to R-18. This does pose a problem with setbacks, as several of these lots have homes, sheds and garages which project into required setbacks. Staff would request that the existing non-compliant structures be allowed to remain and deemed compliant.




*Location Map*




*Aerial Photo*

## V. ANALYSIS OF IMPACTS

### Mandatory Compliance

Section 2208.03 of the Zoning Regulations requires that the amendment of Zoning District boundaries take place in compliance with the Comprehensive or Area Plan Designation assigned to the area in question. In this case, the subject property lies within a Category B–Community Growth Area. Section 402 of the Zoning Regulations allows owners of property lying within this Plan Designation to request a rezoning to R-18.

### Compliance with Rezoning Criteria

Section 2208.03 of the Zoning Regulations provides fifteen criteria used to evaluate rezoning requests. Nine of the criteria are applicable to this request. Eight of the criteria are met as is, and the remaining one is met with the recommended Conditions of approval.

**1. Provides an Adequate Land Use/Concept Plan: Not applicable**

Three of the four lots proposed to be rezoned have well established single family homes on them. The vacant lot will be required to meet the minimum setback requirements or request a lot modification/variance at time of development.




**2. Compliance with Applicable Site Development Standards: Complies with waiver**




As noted above, the vacant lot **will** be required to meet all current development standards, however, the existing homes are well established. Due to this, Staff would support approving a waiver for the required setbacks for the ***existing*** homes, garages, sheds, etc.

**3. Adjacent Districts Remain Capable of Development: Complies**

The proposed rezoning would not affect the development prospects of any neighboring property. All surrounding properties are currently developed.

**4. Limitation on Creation of Nonconforming Uses: Complies**

If approved, the rezoning would not create any non-conforming land uses. However, without approval of the waiver, several structures would not comply with setback regulations.

**5. Compatibility with Existing Development: Complies**

The area is characterized by dense residential development. There are several other similar parcels in the surrounding blocks that have been split and have single family homes on them. Some of these parcels were split prior to the adoption of zoning in 1975, and are therefore legal non-conforming. Staff issued permits for the other lots, and those owners no longer own the subject properties.

**6. Rezoning to More Intense Districts: Not Applicable**

While small, isolated rezonings to more intense districts are generally discouraged, the fact that three of the four parcels currently are developed, the fourth previously had a manufactured home on it and the surrounding area are completely developed precludes this rezoning from harming the neighboring properties. The current development is not proposed to be enlarged, which also will not cause harm to the adjoining parcels.

**7. Adequate Services and Infrastructure: Complies**

The site is currently developed and served by all necessary infrastructure.



**8. Traffic Circulation Criteria: Complies**

No additional trips will be generated by this request.

**9. Development Along Major Streets: Not Applicable**

Two of the parcels take access off of Gardner Road, the other two on Santa Lucia. All lots have been developed at some point and no new trips will be generated.

**10. Infill: Not Applicable**

This Factor applies only for rezoning requests to GB, LI or HI.

**11. Unique Topographic Features: Complies**

There are no exceptional topographic features warranting consideration on or near the site.

**12. Water Conservation: Complies**

The property is within the Sierra Vista Sub-watershed, but is mostly developed. If the rezoning is approved and a new home or any replacements are constructed in the future, all appropriate water conservation measures required by the zoning regulations will apply.

**13. Public Input: Complies**

The Applicant completed a Citizen Review, and Staff mailed notices to neighboring property owners within 1,000 feet of the subject property on February 14, 2018. Staff posted the property on February 15, 2018 and published a legal notice in the *San Pedro Valley Sun-News* on February 27, 2018.

In addition, staff went door to door and made contact with each property owner effected by this application. General support was received by all parties, but nothing was received in writing.

**14. Hazardous Materials: Not Applicable**

No hazardous materials are proposed.

**15. Compliance with Area Plan: Not Applicable**

The subject property does not lie within an adopted Area Plan.

## VI. PUBLIC COMMENT

In response to County mailings, the Planning Department has received no responses.

## VII. MODIFICATIONS TO DEVELOPMENT STANDARDS

Staff would request that the setbacks be modified to allow existing homes, garages, sheds, etc. which encroach into the required setbacks be allowed to continue.

## VIII. SUMMARY AND CONCLUSION

Cochise County Development Services is requesting a rezoning from R-36 (Residential, one dwelling per 36,000 square feet) to R-18 (Residential, one dwelling per 18,000 square feet). The request is to make four existing sub-standard lots (three with single family residences) complaint, rebuildable, and the vacant lot buildable. This request would make the existing homes comply with the zoning regulations. Today, permits other then minor repairs of fencing cannot be issued. This will help the existing property owners, that were not parties too the illegal splits.

**Factors in Favor of Approval**

1. Allowing the rezoning and subsequent residential use would not alter the overall character of development in the area; and
2. Existing property owners, which were not involved with the illegal lot splits will have compliant properties and be able to replace in the event of a fire, obtain permits, and construct a new home.
3. No opposition has been expressed.

**Factors Against Approval**

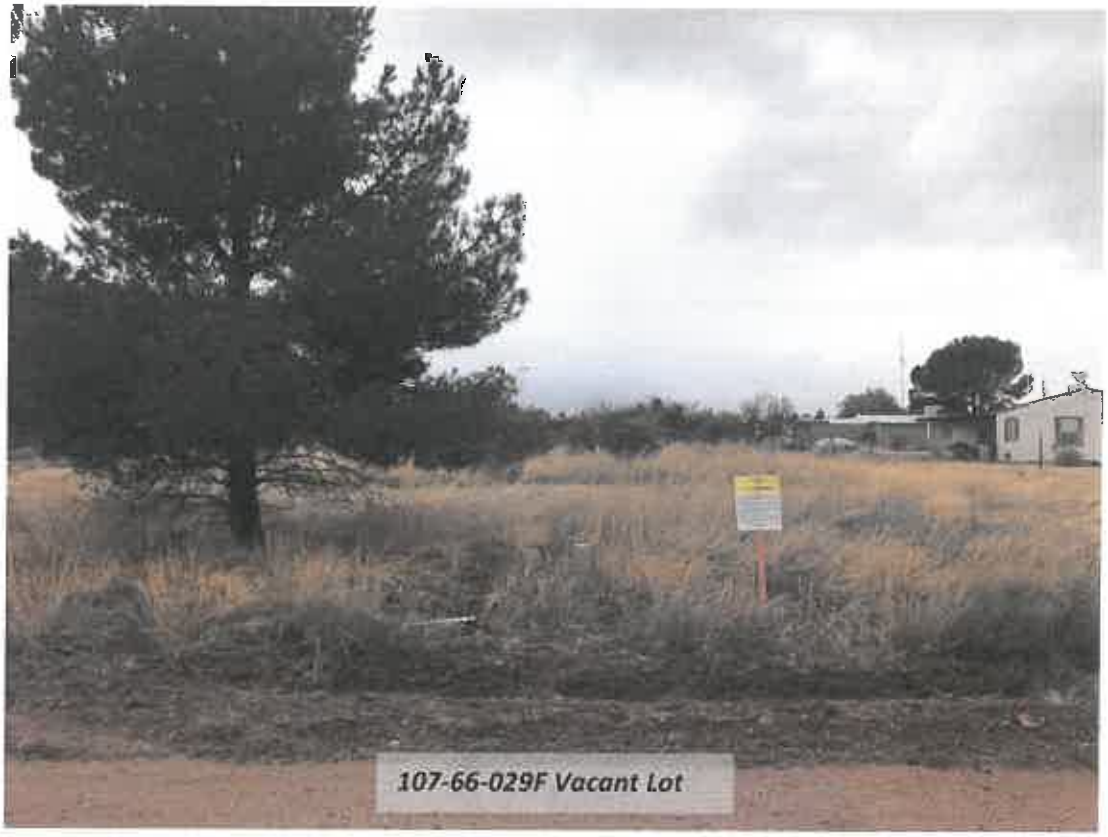
1. None

## IX. RECOMMENDATION

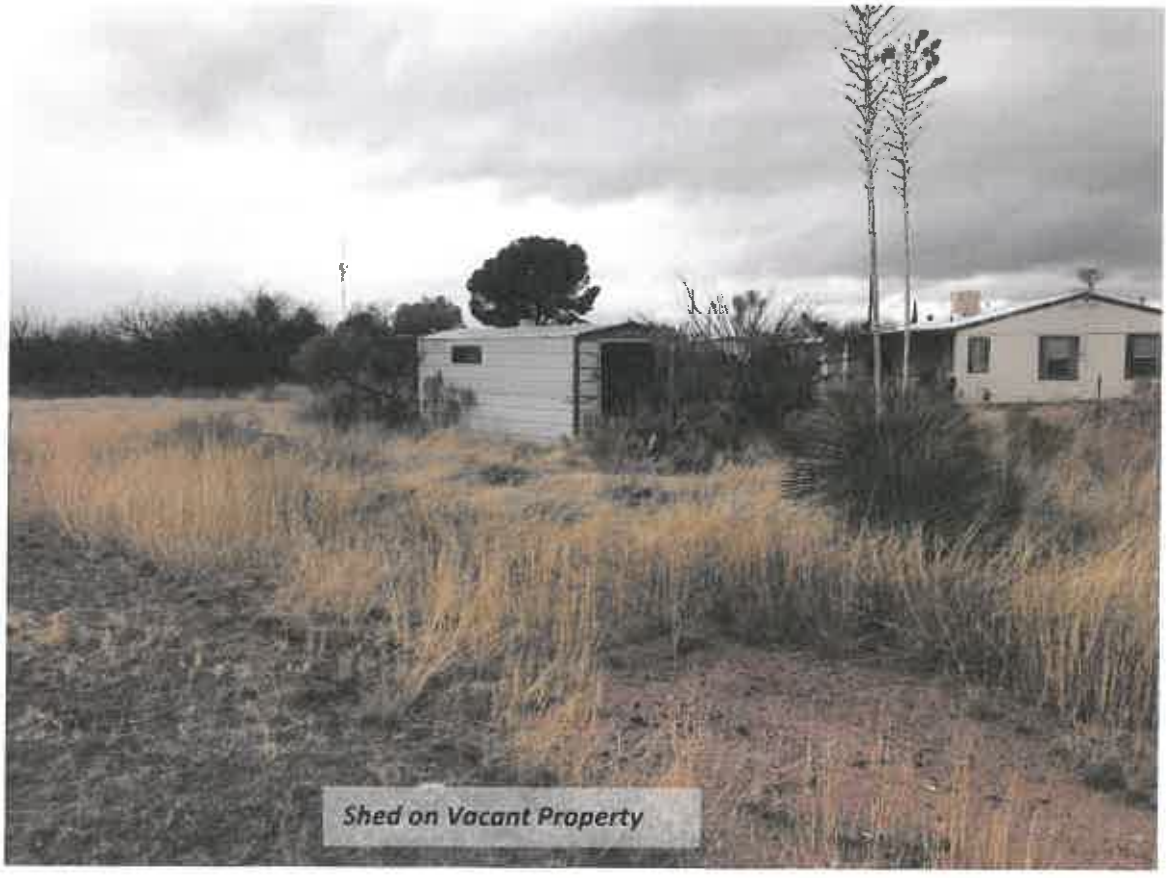
Based on the factors in favor of approval, the Planning Commission is forwarding the docket to the Board of Supervisors with a recommendation of approval.

## VIII. ATTACHMENTS

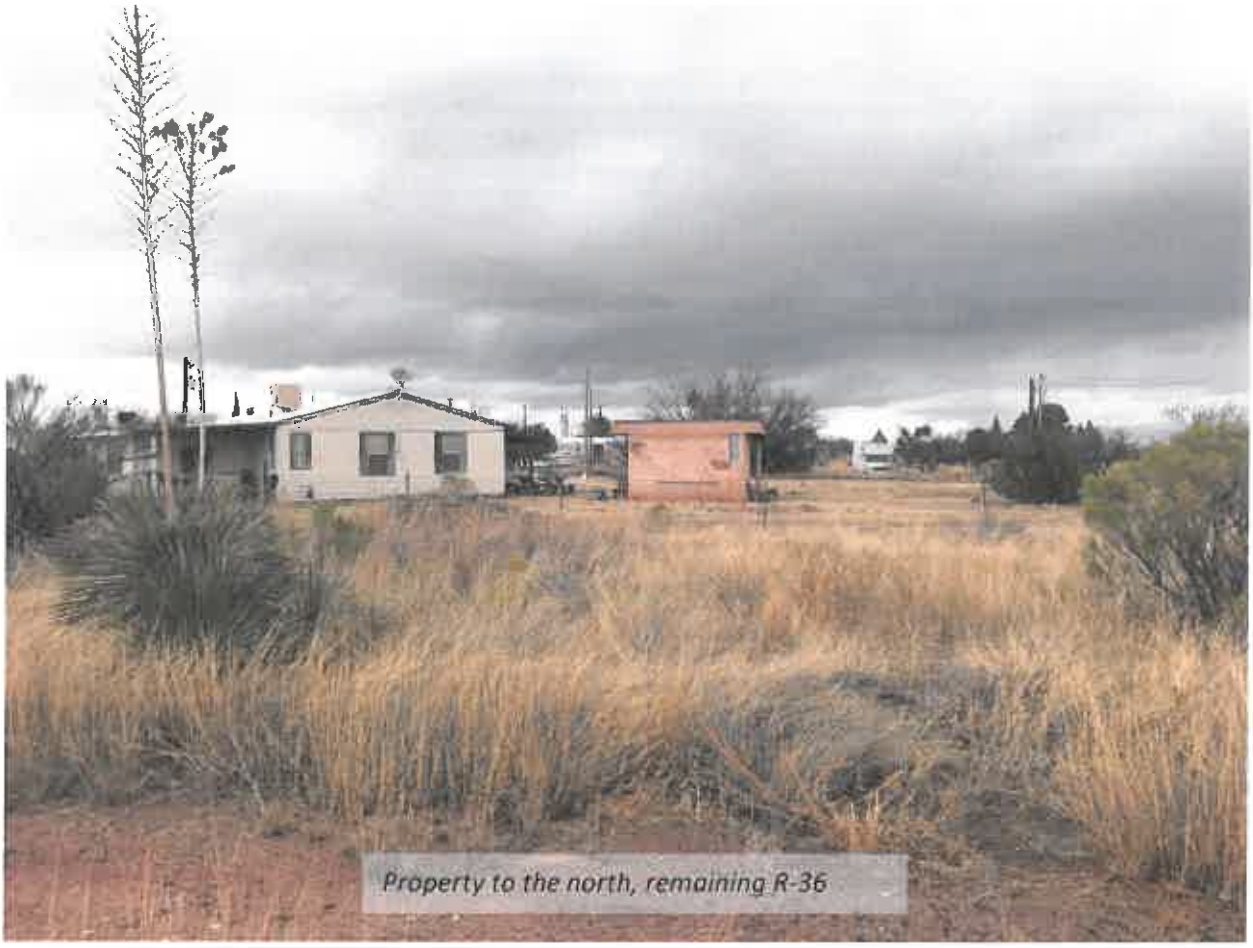
A. Agency Comment Memos
B. Photos



107-66-029F Vacant Lot



Shed on Vacant Property



*Property to the north, remaining R-36*



*Parcel 107-66-029G, Permits issued in error*



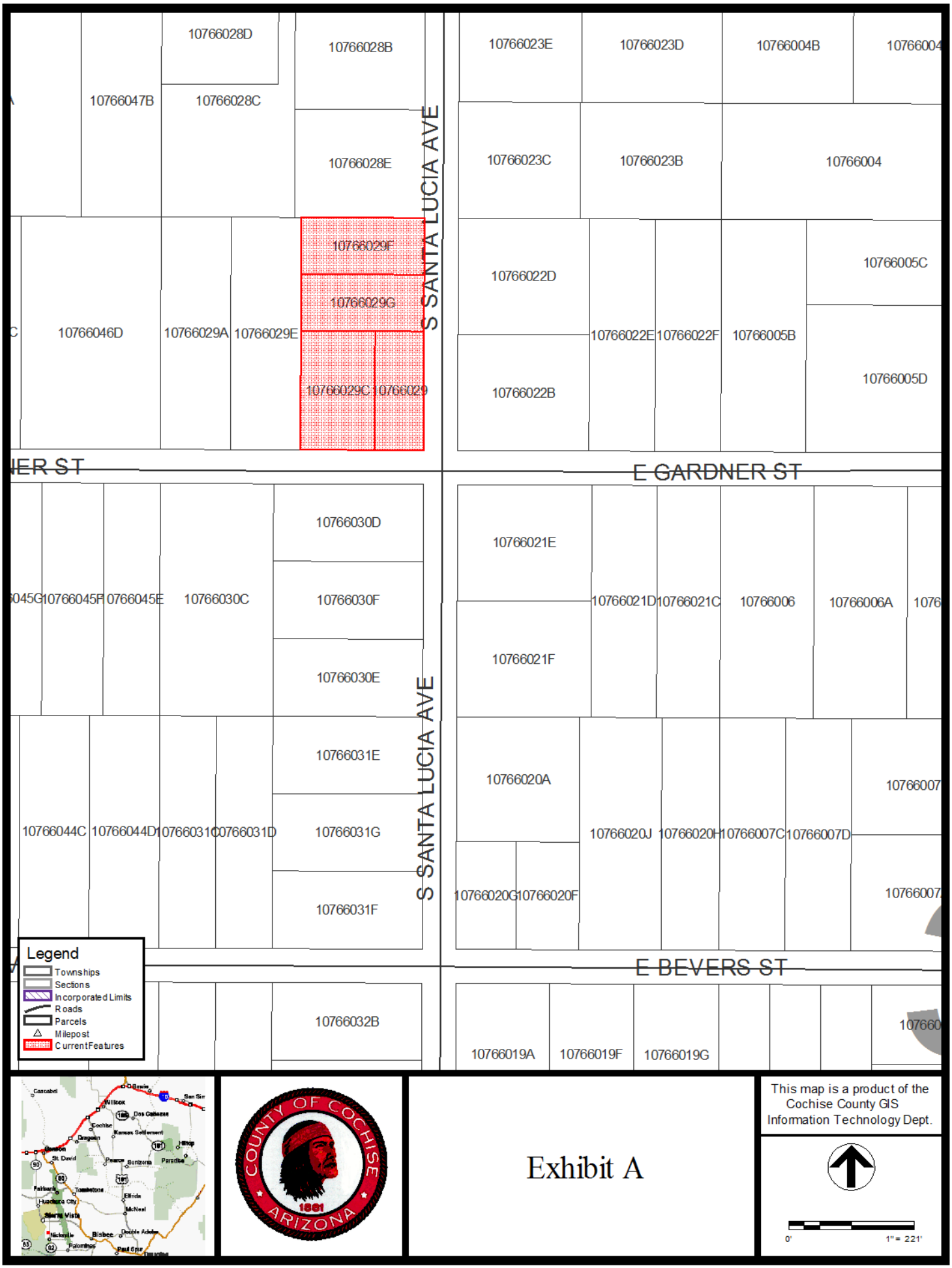
*107-66-029G, wavier requested for setbacks*



*Parcel 107-66-029*



Parcel 107-66-029C




rkirschmann, 2018-03-14 19:16:14
Cochise County (\\cogis\Tgeodesy\Encompass\Admin\Meta\View.Mdb)

This document is a graphic representation of our working records.
Please report potential map corrections for review to Cochise County GIS.

**COCHISE COUNTY**

# Z-18-03 (Santa Lucia)
# A request to rezone from R-36 to R-18

Board of Supervisors

March 27, 2018

***Public Programs…Personal Service***

# Docket Z-17-03 (Goethe)

- The County is requesting rezoning from R-36 (Residential, one dwelling per 36,000 square feet) to R-18 (Residential, one dwelling per 18,000 square feet).

- Four Parcels:
  - 107-66-029F (4210 S Santa Lucia Ave)
  - 107-66-029G (4226 S Santa Lucia Ave)
  - 107-66-029C (4409 E Gardner St)
  - 107-66-029 (4421 E Gardner St)

- Three of the four lots are currently developed with single family homes

- The fourth lot previously had a manufactured home on it

# COCHISE COUNTY

## Location Map:



## COCHISE COUNTY

Aerial Photo:



# COCHISE COUNTY



# COCHISE COUNTY

## Site Photos:



# COCHISE COUNTY

Site Photos:



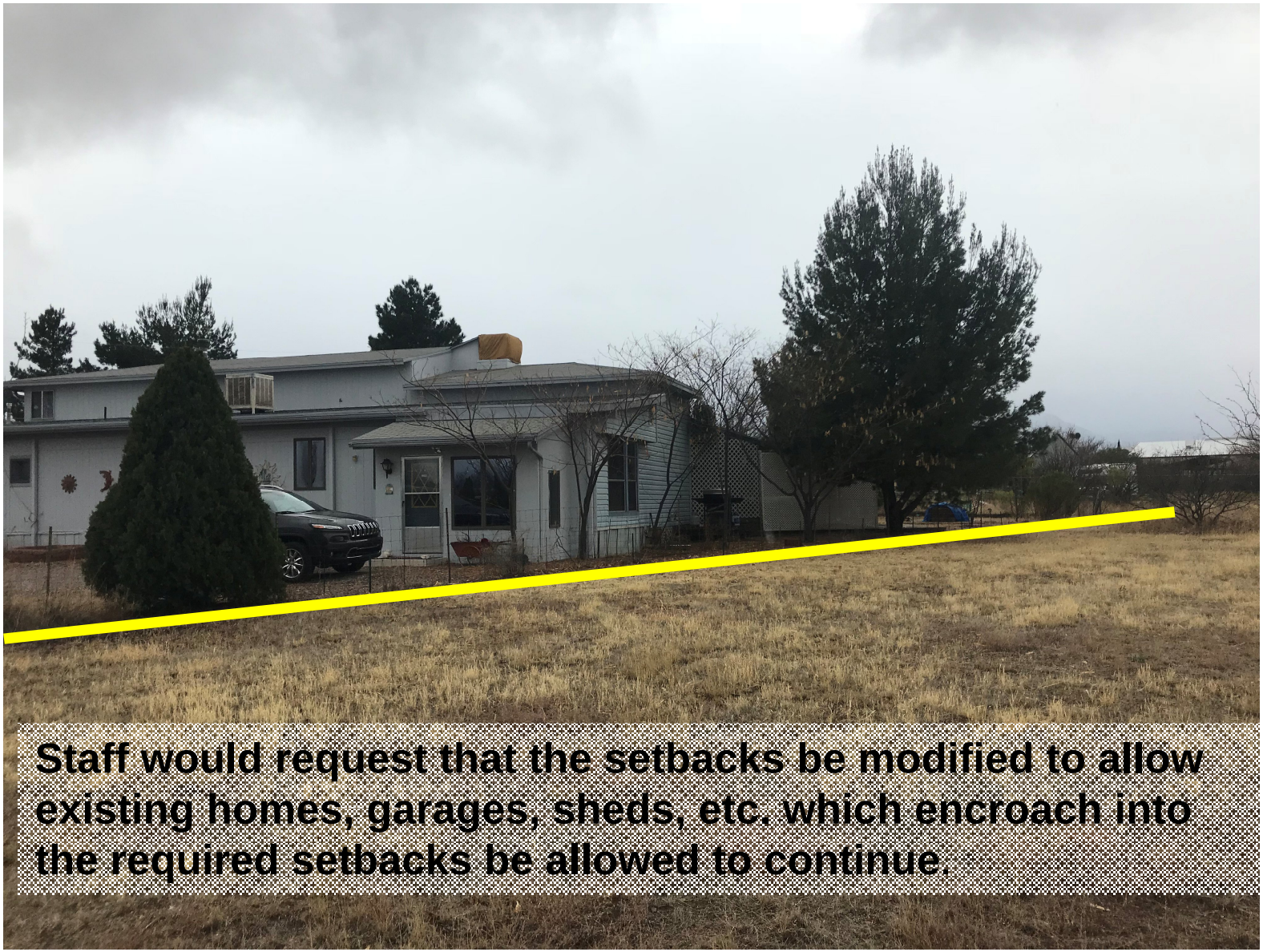
# COCHISE COUNTY



Site Photos:



Site Photos:


Staff would request that the setbacks be modified to allow existing homes, garages, sheds, etc. which encroach into the required setbacks be allowed to continue.

# COCHISE COUNTY



Site Photos:



# COCHISE COUNTY



Site Photos:



Factors in Favor and Against Approving the Rezoning:

**Factors in Favor of Approval**

1. Allowing the rezoning and subsequent residential use would not alter the overall character of development in the area; and
2. Existing property owners, which were not involved with the illegal lot splits will have compliant properties and be able to replace in the event of a fire, obtain permits, and construct a new home.
3. No opposition has been expressed.

**Factor Against Approval**

1. None

**Public Hearings 10.**

**Regular Board of Supervisors Meeting** **Community Development**

| | | | |
|---|---|---|---|
| **Meeting Date:** | 03/27/2018 | | |
| SUA-18-03 (Tim's Electric), an Appeal by Roy Clayton Markle | | | |
| **Submitted By:** | Peter Gardner, Community Development | | |
| **Department:** | Community Development | **Division:** | Development Services |
| **Presentation:** | PowerPoint | **Recommendation:** | Disapprove |
| **Document Signatures:** | BOS Signature NOT Required | **# of ORIGINALS Submitted for Signature:** | 0 |
| **NAME of PRESENTER:** | Peter Gardner | **TITLE of PRESENTER:** | Planner II |
| **Mandated Function?:** | Not Mandated | **Source of Mandate or Basis for Support?:** | |
| **Docket Number (If applicable):** | SU!-18-03 (Tim's Electric) | | |

**Information**

**Agenda Item Text:**

Deny the appeal of the decision to approve docket SU-18-03 (Tim's Electric), a request for a Special Use Authorization to allow Contract Construction Services on a 9.25 acre site zoned RU-4, located at 402 E. Papago Way, Cochise, thereby upholding the February 14, 2018 Planning and Zoning Commission decision.

**Background:**

Mr. Roy Clayton Markle is appealing the February 14, 2018, unanimous decision by the Planning and Zoning Commission approving docket SU-18-03 (Tim's Electric). The decision authorized a Contract Construction Services business on the property, which was used by a previous owner for a similar but un-permitted business.

**Department's Next Steps (if approved):**

If the Appeal is granted, overturning the Planning and Zoning Commission approval of docket SU-18-03, Staff will notify the property owner and appellant of the denial.

**Impact of NOT Approving/Alternatives:**

If the Appeal is denied, and the Planning and Zoning Commission decision is upheld, docket SU-18-03 will be approved and Staff will notify thew applicant and appellant of the decision.

**To BOS Staff: Document Disposition/Follow-Up:**

None required.

**Budget Information**

*Information about available funds*

**Budgeted:** ☐ **Funds Available:** ☐ **Amount Available:**

**Unbudgeted:** ☐ **Funds NOT Available:** ☐ **Amendment:** ☐

**Account Code(s) for Available Funds**

**1:**

**Fund Transfers**

**Attachments**

SUA-18-01 Memo
Memo Attachments
SUA-18-01 Appeal form
SUA-18-01 Presentation

# Cochise County
## Community Development
### Planning, Zoning and Building Safety Division
***Public Programs...Personal Service***
www.cochise.az.gov


## MEMORANDUM

**TO**: Cochise County Board of Supervisors
**THROUGH:** Edward T. Gilligan, County Administrator
**FROM**: Peter Gardner, Planner I
**FOR**: Daniel Coxworth, AICP, Development Director
**SUBJECT**: Docket SUA-18-01 (Tim's Electric) Appeal
**DATE**: March 14, 2018 for the March 27, 2018 Meeting

**APPEAL OF A SPECIAL USE AUTHORIZATION**

Roy Clayton Markle has filed an Appeal against a decision made by the Cochise County Planning and Zoning Commission on Wednesday, February 14, 2018. On a 6 – 0 vote, the Commission granted a request for Special Use authorization to legitimize an existing Contract Construction Services business in Richland Ranchettes. The subject Parcels (206-23-047/-048) are located at 402 E. Papago Way in Cochise. Section 1716.04 of the Zoning Regulations provides that Appeals of Special Use decisions shall be heard by the Board of Supervisors at a duly noticed public hearing.

**NATURE OF THE APPEAL/PLANNING AND ZONING COMMISSION MEETING**

In October of 2017 Mr. Tim Schmidt of Tim's Electric purchased the subject property and subsequently moved his existing Electric Contracting business onto the site. The previous owner operated an Irrigation Supply and Contracting Business without permits for approximately ten years prior to Mr. Schmidt's purchase of the property. The operation came to the attention of Staff when Mr. Schmidt began to install a driveway onto N. Arabian Way, a County maintained roadway. Upon discovering the lack of permits, Mr. Schmidt immediately moved to remedy the situation.

Per County Zoning Regulations, the business is considered Contract Construction Services, requiring Special Use authorization per Section 607.14. At the Commission hearing, the Commissioners noted that the previous business had been in operation for approximately ten years, without any complaint from neighboring property owners, which indicated that the operation was not producing negative impacts on the area. The Commission voted unanimously (6 – 0) to approve the request. As a result, the business was granted legitimacy.

Mr. Roy Clayton Markle has appealed the decision of the Planning and Zoning Commission to approve the request to legitimize the commercial operation. In the Appeal documents, he cites Constitutional and Civil Rights issues, and asserts that "there are more residents who oppose this docket than those who support this docket". Per Section 1716.02, Public Input is one of ten factors used to analyze Special Use Requests. Between written comments and speakers at the public hearing, the Commission received six responses in support and five in opposition.

**APPLICATION FOR A SPECIAL USE AUTHORIZATION**

The Applicant requests a Special Use Authorization to legitimize an existing Contract Construction Services business established by a previous owner in Richland Ranchettes, Cochise, per Section 607.14 of the Zoning Regulations. The property is zoned RU-4 (Rural; one dwelling unit per 4 acres) and accommodates an existing 4,000 sq.-ft. shop that is currently being used for an electrical contracting business. The previous owner built the structure as a residential accessory building, and used it for an irrigation business. The Applicants have requested a SUP in order to legitimize the use and apply for commercial access and expand existing structures. The 9.25-acre site, parcels 206-23-047 & 206-23-48, is located at 402 E. Papago Way in Cochise, AZ.

## I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

| | |
|---|---|
| Parcel Size: | 9.25 acres |
| Zoning: | RU-4 (Rural; one dwelling per four acres) |
| Growth Area: | Category D-Rural Area |
| Comprehensive Plan Designation: | Rural |
| Area Plan: | None |
| Existing Uses: | Rural Residential |
| Proposed Uses: | Same, with Contract Construction Services |

**Zoning/Use of Surrounding Properties**

| Relation to Subject Parcel | Zoning District | Use of Property |
|---|---|---|
| North | Non-Maintained Road/RU-4 | E. Papago Way/Scattered Rural Residential |
| South | RU-4 | Scattered Rural Residential |
| East | County Maintained Road/RU-4 | N. Arabian Lane/State Land |
| West | RU-4 | Scattered Rural Residential |

## II. PARCEL HISTORY

1967 – SFR Built
1978 – Second SFR, Attached Garage, Storage Building Built
2006 – Permit issued for 4,000 sqft building for "personal, private use"

## III. NATURE OF REQUEST

The Applicant requests Special Use approval to legitimize a Contract Construction Services business on the subject property. The site had previously been used as JV Irrigation Supply, using the existing structures. These structures had been permitted for personal, private use, and were built prior to the adoption of Building Code in the area. Full inspections which would have revealed the commercial nature of the building were therefore not done. The applicant purchased the property on October 6, 2017, with the understanding that the site was an existing commercial site based on the previous usage. It was brought to Staff's attention when the applicant began to cut a driveway onto N. Arabian Lane, a County Maintained roadway. As the driveway was required to be a commercial driveway, coupled with the Applicant's desire for possible future construction of a shelter for equipment, a Special Use Authorization was requested to legitimize the existing use.




*Location Map*

## IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH SPECIAL USE FACTORS

Section 1716.02 of the Zoning Regulations provides a list of ten factors with which to evaluate Special Use applications. Staff uses these factors to help determine the suitability of a given Special Use request, whether to recommend approval for a Special Use Authorization, as well as to determine what Conditions and/or Modifications may be needed.

With the information provided, nine of the ten factors apply to this request. The project, as submitted, complies with all of those nine factors.

### A. Compliance with Duly Adopted Plans: Complies

The project site is located in an area designated "Rural" on the Comprehensive Plan. The Economic Development supports local business, particularly those that create several jobs.

### B. Compliance with the Zoning District Purpose Statement: Complies

The purpose statement of the Residential Zoning District in Article 6 includes seven points, the last of which is met by this request. The proposal will be a "more intense non-residential use…inappropriate in a more densely populated urban/suburban area". The size of the parcel, coupled with the scattered development in the area, mitigates the impacts. The proposal also creates additional job opportunities in a Rural area.




*Aerial view of the site.*

**C. Development along Major Streets: Complies**

The proposed use would not result in the creation of any additional access points to an arterial road or major thoroughfare.

**D. Traffic Circulation Factors: Complies**

While non-residential traffic will travel on E. Papago Way and N. Arabian Drive, it will not be through traffic. The subject property is the first lot on each roadway, precluding commercial or heavy traffic passing by residential properties. A standard private road maintenance agreement for the section of E. Papago Way from the County maintained roadway to the Applicant's driveway will be required as a standard permit condition. That section of roadway is currently in good condition, better than most of the other roadway sections in the immediate area.

**E. Adequate Services and Infrastructure: Complies**

The site is accessed via E. Papago Way and N. Arabian Lane from Highway 191, with the road conditions described above. All utilities are currently in place, and have served the property during the previous unpermitted use.

**F. Significant Site Development Standards: Complies**

The site complies with all applicable site development standards.



*The primary building.*

**G. Public Input: Complies**

The Applicant mailed letters to property owners within 1,500-feet of the property prior to application submittal. The Planning Department mailed letters to neighboring property owners within 1,500-feet of the subject property, published a legal ad in the *San Pedro Valley News-Sun* and posted legal notices on the property. To date, staff has received three clear letters of support, one letter stating that the proposal was "fine" but voicing unrelated concerns, and five letters of opposition. At the public hearing, two additional individuals spoke in support of the request, and provided personal experience with the impacts. Concerns about opening the area to commercial activity, traffic, dust, and noise were raised. Traffic concerns have been addressed above. The site is located and oriented in a way that minimizes noise, and driving and parking surfaces are gravel or concrete. The site has been used for similar commercial purposes since 2006, and Staff has never received a complaint about the use.

**H. Hazardous Materials: Does Not Apply**

The Applicant states that no hazardous materials will be used or stored on site.

**I. Off-Site Impacts: Complies**

The primary concerns associated with the proposed legitimization pertain to traffic, dust, and noise. These are controlled under the current site setup.

**J. Water Conservation: Complies**

The project site is not located within the Sierra Vista Sub-Watershed. If approved, the Applicant would be required to demonstrate compliance with applicable water conservation policies at the commercial permit phase for any new construction.



*Access to the proposed driveway onto N. Arabian Lane.*

## V. PUBLIC COMMENT

Staff mailed notices to neighboring property owners within 1,500 feet of the subject property on January 4, posted the property on January 31, and published a legal notice in the *San Pedro Valley News-Sun* on January 23, 2018. In response to applicant and County mailings, the Planning Department received three clear letters of support, one letter stating that the proposal was "fine" but voicing unrelated concerns, and five letters of opposition. At the public hearing two additional members of the public spoke in support.



*The building and yard.*

## VI. SUMMARY AND CONCLUSION

The land use under consideration is one that is allowed by Special Use in the Rural Districts. Special Use Authorization requests are considered on a case-by-case basis, and if there is a reasonable presumption that off-site impacts can be effectively mitigated through Conditions of Approval, as is the case here, a recommendation of Conditional Approval is appropriate.
In the case of this particular land use, the previous owner established it without permits approximately ten years ago. In that time no complaints were received, indicating to Staff that there were no concerns about off-site impacts. At the public hearing, one neighbor indicated that the current owner produced even fewer impacts than the previous unpermitted business.

The Appellant has not demonstrated how the Commission's decision was "erroneous, arbitrary, capricious, or an abuse of discretion", nor has he provided additional testimony or evidence. The assertion that there were more residents in opposition than in support is factually incorrect, as noted above.

After questioning the applicant, the appellant, other public speakers, and staff, the Commission unanimously approved the original Special Use Authorization request.

**Factors in Favor of Denying the Appeal**

1. The use complies with the Comprehensive Plan and Zoning District purpose statement;
2. As presented, the request complies with each of the nine applicable Special Use factors;
3. The site has been in operation as Contract Construction Services since 2006, without incident;
4. Although commercial in nature, the use would be low-impact, and in overall harmony with surrounding residential development; and
5. Staff has received four letters of support of the request, along with two speakers at the public hearing; and
6. The Commission voted 6-0 to Conditionally Approve the Docket.

**Factors Against Allowing the Special Use**

1. The Planning Department has received five letters in opposition to the request.

## VII. RECOMMENDATION

Based on the factors in favor of denial, Staff recommends the Board of Supervisors **deny** the appeal, and uphold the February 14, 2018 decision of the Planning and Zoning Commission, granting Special Use approval for Docket SU-18-01.

Staff further recommends the Board subject the land use to the following Conditions of Approval, which were approved by the Commission on February 14, 2018.

1. The Applicant shall provide the County a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the subject properties within thirty (30) days of approval of the Special Use Permit. Prior to permit issuance, the Applicant shall submit and obtain building/use permits within 12 months of approval, including a completed joint permit application. The building/use permit(s) shall include a site plan in conformance with this approval and meeting all site development standards (except those specifically waived or modified by the Planning Commission as part of this approval), the completed Special Use Permit questionnaire, and appropriate fees. A permit must be issued within 18 months of approval, otherwise the approval may be deemed void upon 30-day notification to the Applicant;
2. It is the Applicant's responsibility to obtain any additional permits or meet additional conditions, if any, that may be applicable to the proposed activities pursuant to other federal, state, or local laws or regulations; and
3. Any changes to the approved Special Use shall be subject to review by the Planning Department and may require additional modification and approval by the Planning and Zoning Commission.

## VIII. ATTACHMENTS

A. Application
B. Parcel map, aerial, and site plan
C. Citizen and Agency comment memos

Docket No: SU-18-01
Date Received 12/29/18
Receipt No. _____

# Cochise County
## Community Development
### Planning, Zoning and Building Safety Division

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www.cochise.az.gov

## SPECIAL USE AUTHORIZATION QUESTIONNAIRE
## (TO BE PRINTED IN INK OR TYPED)

TAX PARCEL NUMBER/APN 206-23-048 / 206-23-047

APPLICANT Tim Schmidt

PHYSICAL ADDRESS OF THE PROPERTY 402 E. Papago Way
Cochise AZ 85606

CONTACT TELEPHONE NUMBER 520-507-1977

EMAIL ADDRESS: timselectric@vtc.net

PROPERTY OWNER (IF OTHER THAN APPLICANT) _____

PROPERTY OWNER'S MAILING ADDRESS PO Box 204 Pearce AZ 85625

---

**REQUIRED SUBMITTALS**

- ☐ Questionnaire with all questions completely answered (attached).
- ☐ A Concept Plan or Preliminary Site Plan in 8 1/2 " x 11"or 11" x 17" hard copy, or electronic in jpg or pdf format. Please note that if a Concept Plan is submitted for the Special Use Authorization, a complete Site Plan will be required when submitting the Non-Residential permit application.
- ☐ If the applicant is <u>not</u> the property owner, provide a notarized letter from the property owner granting permission to the applicant to apply for the Special Use Authorization and to act as the owner's representative.
- ☐ Any other Attachments or Information required to adequately analyze your request.
- ☐ Applicant's Certification and Acknowledgement

**Planning, Zoning and Building Safety**
1415 Melody Lane, Building E
Bisbee, Arizona 85603
520-432-9300
520-432-9278 fax
1-877-777-7958
planningandzoning@cochise.az.gov

**Highway and Floodplain**
1415 Melody Lane, Building F
Bisbee, Arizona 85603
520-432-9300
520-432-9337 fax
1-800-752-3745
highway@cochise.az.gov
floodplain@cochise.az.gov

- ☐ Fees ($300.00)

- ☐ Other Submittals as required based on the type, scope, and location of the proposed project

  - ☐ Hazardous or Polluting Materials Report
  - ☐ Off-site Improvement Plans
  - ☐ Soils Engineering Report
  - ☐ Landscape Plan
  - ☐ Hydrology/Hydraulic Report
  - ☐ Traffic Impact Analysis (TIA), Traffic Impact Statement (TIA), or Traffic Report (TR):
  - ☐ Outdoor Lighting Plan including lumen count

The Planner will advise you if and when any of the above attachments are required.

**Project Description**

In the following sections, thoroughly describe the proposed use that you are requesting. **Attach separate pages if the lines provided are not adequate for your response.** Answer each question as completely as possible to avoid delay in analyzing the request.

Describe the existing uses and structures on the property.

A 40X100 metal bldg - use, warehouse of Materials, repair and Maintenance of Vehicles & equipment, Assembly of Some electrical Cabinets etc.

No retail storefront or customer traffic

Describe the proposed uses, structures, and activities.

we don~~e~~ not Currently propose any changes to the use of the Property, Structures, or activities

Describe all the products and services that will be produced or sold.

AS Electrical Contractors we Service all Residential, Commercial, industrial and Agricultural within the nominal 0-600 Volt Range including Motors, Transformers, Generators etc,

What is the proposed time frame for construction and operation, including phasing if applicable?

no Construction is anticipated at this Time

Provide the following information (when applicable):

Days and hours of operation: Days: M-F Hours (from 6:00 AM to 5:00 PM)

Number of employees: Initially: 8-10 Future: 10-12

Number per shift Seasonal changes N A

Total truck traffic, including deliveries and shipment (e.g., by type, number of wheels, or weight)
Per week - 2, 18 wheelers, 3-4 delivery Van type
~~Per Day~~

At what time of day, day of week and season (if applicable) is traffic the heaviest?
~~N/A.~~ Normal business hours

Describe the physical access to your site.
Proposed; Confrete Aproach to Arabian Way, as Prescribed by Cochise County.
Connecting to Graded, Compacted AB driveway of 30' wide

Identify how the following services are or will be provided:

| | Existing Utility Company/Service Provider | Proposed provisions to be made if services are not currently on site |
|---|---|---|
| Water | Private well | |
| Sewer/Septic | Private Septic | |
| Electricity | SSVEC | |
| Natural Gas | NONE | |
| Fire Protection | volunteer | |

Describe all outdoor storage and activities.
we Strive to maintane a neat and orderly yard all Equipment is to be Parked on Straight rows and any material Stacked in an orderly fashon.

What noise, vibrations, dust, smoke, or odors will be produced that can be detected on neighboring properties? How will they be mitigated, controlled, or reduced?
the operation of Trucks & Tractors will Produce minimal Smoke and noise.
dust is controlled reduced by Graveling driveways and Parking / Storage lot.

If any activities will attract pests, what measures will be taken to control them?

N A.

What screening, if any is proposed?

NA

Describe all outdoor lighting, including lighted signs.

motion activated Security lighting on metal bldg.

Describe the locations and dimensions of all existing and proposed signs, including any attached to a building.

NA. existing

Proposed - Small 2'X3' direction Sign @ Arabian & driveway

Is there any regulated flood plain on the property?
Yes ___ No X

Are there any washes within 300 feet of the property?
Yes ___ No X

Show on-site drainage flow on the site plan. Will drainage patterns on site be changed?
Yes ___ No X

Will washes be improved with culverts, bank protection, crossings or other means?
Yes ___ No X

If yes to any of these questions, describe and/or show on the site plan.

Show dimensions, locations, and materials of parking areas (including ADA parking), loading areas, and driveways.

Will you be performing any off-site construction (e.g., access aprons, driveways, and culverts)?
Yes X No ___ If yes, show details on the site plan.

How many acres will be cleared? N A.
If more than one acre is to be cleared, describe the proposed dust and erosion control measures to be used.

What specific measures will be taken to conserve water on-site? Specifically, design features that will be incorporated into the development to reduce water use, provide for detention and conserve and enhance natural recharge areas must be described.

N A.

Describe proposed landscaping, including what plants and materials are proposed.

NA

Does the proposed use involve hazardous materials?
No X Yes ___ If yes, complete the attached Hazardous Materials attachment.

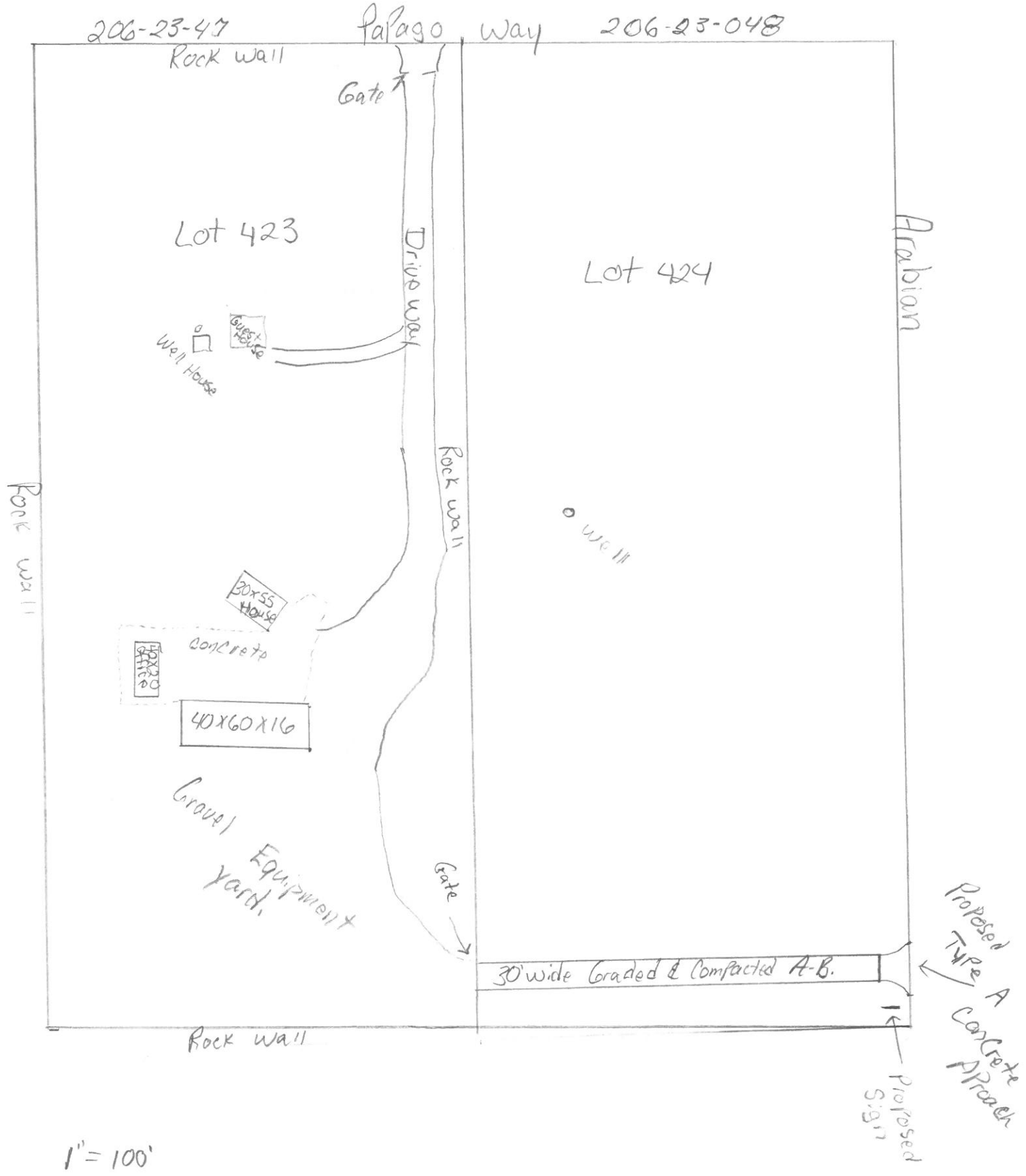
**Applicant's Statement**

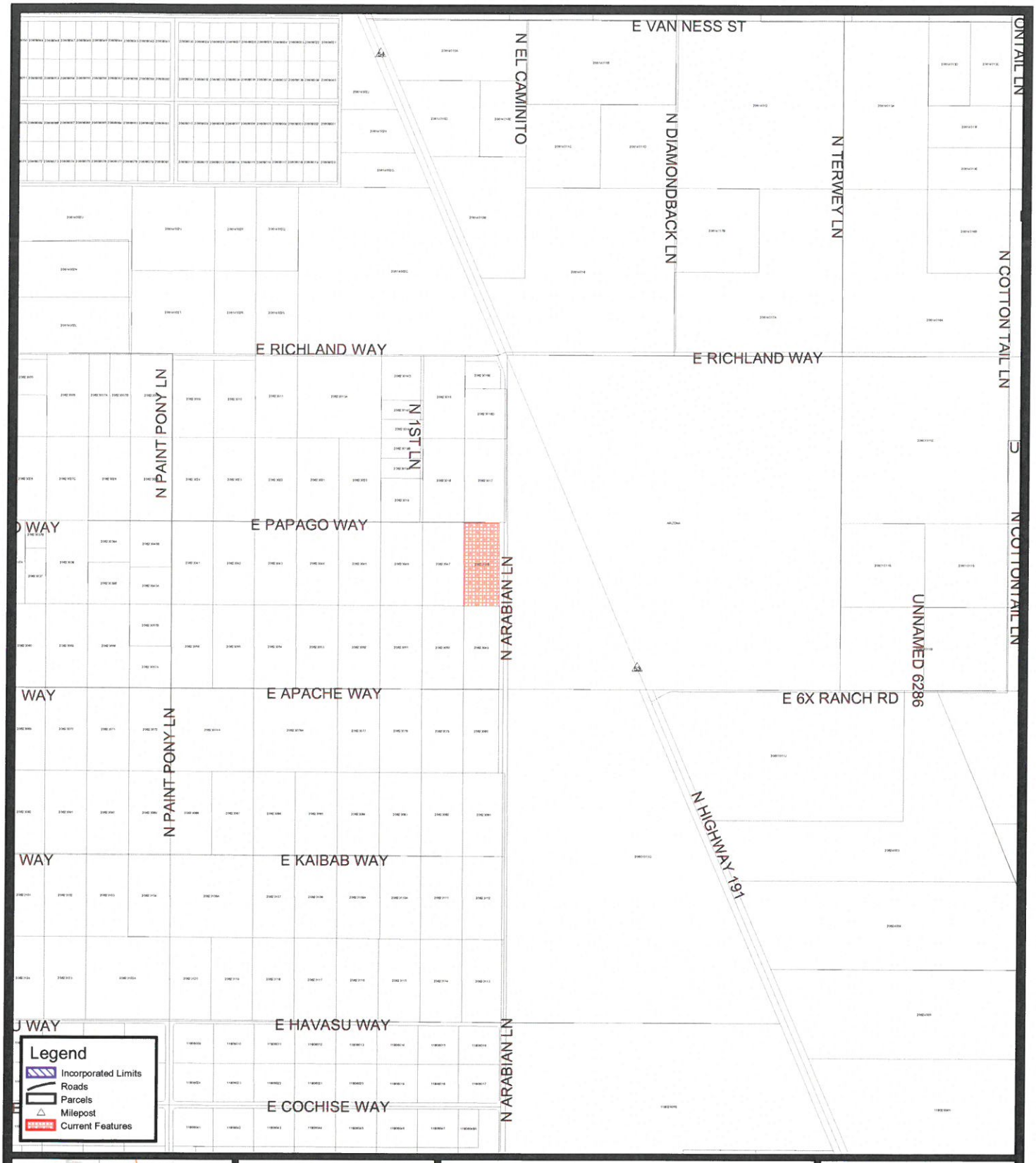
I hereby certify that I am the owner or duly authorized owner's agent and all information in this questionnaire, any required attachments, and on the concept plan is accurate. I understand that if any information is false, it may be grounds for revocation of the Special Use Authorization.

Applicant's Signature

Print Applicant's Name Tim Schmidt

Date signed 12-28-17


206-23-47
Palago Way
206-23-048
Rock wall
Gate
Lot 423
Drive way
Lot 424
Arabian
Guest House
Well House
Rock wall
Rock wall
well
30x55 House
concrete
12x20 office
40x60x16
Gravel Equipment yard.
Gate
30' wide Graded & Compacted A-B.
Proposed Type A Concrete Approach
Proposed Sign
Rock wall
1" = 100'




# SU-18-01 (Tim's Electric)

This map is a product of the Cochise County GIS Information Technology Dept.

0' 1" = 1068'

pgardner, 2018-01-04 11:32:34
Cochise County (\\cc-gis1\geodesy\Encompass\Admin\Meta\View.Mdb)

This document is a graphic representation of our working records.
Please report potential map corrections for review to Cochise County GIS.

# Special Use Docket SU-18-01 (Tim's Electric)

X **YES**, I SUPPORT THIS REQUEST
Please state your reasons:
think they will be good for the area.

_____ **NO**, I DO NOT SUPPORT THIS REQUEST:
Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S): Larry Godek

SIGNATURE(S): Larry Godek

YOUR TAX PARCEL NUMBER: 206-23-044-8 (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Planning Commission. Submission of this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. Written comments must be received no later than 4 PM on Wednesday, January 24, 2018 to be included in the staff report to the Commission in order for them to consider the comments before the meeting. We cannot make exceptions to this deadline; however, if you miss the written comment deadline you may still send email comments, or phone Peter Gardner at the contact information listed on page one by February 13, 2018 to have your support or non-support noted verbally noted at the meeting; or you may personally make a statement at the **public hearing on February 14, 2018**. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting; your cooperation is greatly appreciated.

RETURN TO: Peter Gardner, Planner I
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

# Special Use Docket SU-18-01 (Tim's Electric)

✓ **YES**, I SUPPORT THIS REQUEST
Please state your reasons:

The applicant owns the property. The property has been set up for the business. It does not cause any harm to the property owners near-by.

_____ **NO**, I DO NOT SUPPORT THIS REQUEST:
Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S): Mike A and Cornelia Forsyth

SIGNATURE(S): Mike A Forsyth

Cornelia Forsyth

YOUR TAX PARCEL NUMBER: 203 23 084 (the eight-digit identification number found on the tax statement from the Assessor's Office)

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RETURN TO: Peter Gardner, Planner I
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

COCHISE COUNTY
JAN 16 2018
PLANNING

# Special Use Docket SU-18-01 (Tim's Electric)

✓ **YES**, I SUPPORT THIS REQUEST
Please state your reasons:

The property is neat, clean and attractive - I see no reason to refuse this request. There is no disturbence from this business and I what this property as I would be one of the first to be affected. The truth be said - what Tim has done is an improvement - not a detraction!

_____ **NO**, I DO NOT SUPPORT THIS REQUEST:
Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S): Janice B. Rice

SIGNATURE(S): Janice B. Rice

YOUR TAX PARCEL NUMBER: 20623051 (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Planning Commission. Submission of this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. Written comments must be received no later than 4 PM on Wednesday, January 24, 2018 to be included in the staff report to the Commission in order for them to consider the comments before the meeting. We cannot make exceptions to this deadline; however, if you miss the written comment deadline you may still send email comments, or phone Peter Gardner at the contact information listed on page one by February 13, 2018 to have your support or non-support noted verbally noted at the meeting; or you may personally make a statement at the **public hearing on February 14, 2018**. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting; your cooperation is greatly appreciated.

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Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

COCHISE COUNTY
JAN 16 2018
PLANNING

# Special Use Docket SU-18-01 (Tim's Electric)

_____ **YES**, I SUPPORT THIS REQUEST
Please state your reasons:

_____

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_____

X **NO**, I DO NOT SUPPORT THIS REQUEST:
Please state your reasons:

THE Electric Business is Fine by me - "BUT" THE HOG Business in Front of this Property is A violation of the Covenants of All Surrounding AREA. WHAT's next??

(Attach additional sheets, if necessary) WHY don't yALL condem & clean up All the old trash Houses in this AREA??

PRINT NAME(S): CHUCK COCHRAN

SIGNATURE(S): Chuck Cochran

Protecting property values will sustain taxes on same!

YOUR TAX PARCEL NUMBER: 206-23-021 (the eight-digit identification number found on the tax statement from the Assessor's Office)

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RETURN TO: Peter Gardner, Planner I
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

COCHISE COUNTY
JAN 16 2018
PLANNING

# Special Use Docket SU-18-01 (Tim's Electric)

_____ **YES,** I SUPPORT THIS REQUEST
Please state your reasons:

_____

_____

_____

_____

_____

_____

_____

_____ X _____ **NO,** I DO NOT SUPPORT THIS REQUEST:
Please state your reasons:

I AM AGAINST DOCKET SU-18-01 (TIM'S ELECTRIC) REQUEST. TIM PUT THE CART BEFORE THE HORSE. HE IS LIKE THE DEER HUNTER WHO GOES HUNTING WITHOUT A HUNTING LICENSE AND SHOOTS AND KILLS A DEER AND THEN TRIES TO OBTAIN A VALID HUNTING LICENSE TO LEGITIMIZE HIS KILL. RICHLAND RANCHETTS WAS ESTABLISHED AS A RESIDENTIAL COMMUNITY AND NOT A COMMERCIAL COMMUNITY. IF ONE COMMERCIAL BUSINESS GETS IN HERE IT WILL SET A PRECEDENT FOR OTHERS TO FOLLOW.

(Attach additional sheets, if necessary)

**PRINT NAME(S):** ROY C. MARKLE

**SIGNATURE(S):** Roy C. Markle

**YOUR TAX PARCEL NUMBER:** 206-23-088 **(the eight-digit identification number found on the tax statement from the Assessor's Office)**

**Your comments will be made available to the Planning Commission. Submission of this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. Written comments must be received no later than 4 PM on Wednesday, January 24, 2018 to be included in the staff report to the Commission in order for them to consider the comments before the meeting. We cannot make exceptions to this deadline; however, if you miss the written comment deadline you may still send email comments, or phone Peter Gardner at the contact information listed on page one by February 13, 2018 to have your support or non-support noted verbally noted at the meeting; or you may personally make a statement at the public hearing on February 14, 2018. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting; your cooperation is greatly appreciated.**

RETURN TO: Peter Gardner, Planner I
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

## Special Use Docket SU-18-01 (Tim's Electric)

_____ **YES**, I SUPPORT THIS REQUEST
Please state your reasons:

X **NO**, I DO NOT SUPPORT THIS REQUEST:
Please state your reasons:
It is to close to my property. Noise Pollution, Exaust Pollution, excessive traffic, And this is not a business district and has not been one ever. Frankly he should move the business to a business district.

(Attach additional sheets, if necessary)

PRINT NAME(S): David Scott

SIGNATURE(S): David Scott

YOUR TAX PARCEL NUMBER: 206-23-042 2 (the eight-digit identification number found on the tax statement from the Assessor's Office)

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RETURN TO: Peter Gardner, Planner I
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

COCHISE COUNTY
JAN 18 2018
PLANNING

# Special Use Docket SU-18-01 (Tim's Electric)

_____ **YES**, I SUPPORT THIS REQUEST
Please state your reasons:

_____

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X **NO**, I DO NOT SUPPORT THIS REQUEST:
Please state your reasons:

RICHLAND RANCHETTES area was established as a residential entity and is ZONED as such. That is the reason we bought and built a custom home in the area. The county's legal responsibility is to protect our interest and enforce the existing zoning laws.

(Attach additional sheets, if necessary)

PRINT NAME(S): FRANKLIN L & SALLY A GORDON

SIGNATURE(S): F L Gordon
Sally A. Gordon

YOUR TAX PARCEL NUMBER: 206-23-076AD (the eight-digit identification number found on the tax statement from the Assessor's Office)

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RETURN TO: Peter Gardner, Planner I
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

# Special Use Docket SU-18-01 (Tim's Electric)

_____ **YES**, I SUPPORT THIS REQUEST
Please state your reasons:

_____

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_____

✓ **NO**, I DO NOT SUPPORT THIS REQUEST:
Please state your reasons:

My father purchased the parcel my siblings and I now own in 1967 and was planning to build a house as it is zoned for single dwelling use. A house was never built and my siblings and I inherited the property in 1990. We put the lot up for sale in Oct. 2017. My concern is that our property will lose value and become unsaleable as it is zoned RU-4. We think that no one will want to purchase our lot next to a business that allows commercial freight deliveries several times a week.

(Attach additional sheets, if necessary)

PRINT NAME(S): James Wright

SIGNATURE(S): J James Wright

YOUR TAX PARCEL NUMBER: 206-23-050 (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Planning Commission. Submission of this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. Written comments must be received no later than 4 PM on Wednesday, January 24, 2018 to be included in the staff report to the Commission in order for them to consider the comments before the meeting. We cannot make exceptions to this deadline; however, if you miss the written comment deadline you may still send email comments, or phone Peter Gardner at the contact information listed on page one by February 13, 2018 to have your support or non-support noted verbally noted at the meeting; or you may personally make a statement at the **public hearing on February 14, 2018**. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting; your cooperation is greatly appreciated.

RETURN TO: Peter Gardner, Planner I
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

## Gardner, Peter B

**From:** Nancy Hone <nancy@cowboytom.com>
**Sent:** Monday, January 22, 2018 1:44 PM
**To:** Gardner, Peter B
**Cc:** Tom Hone
**Subject:** Docket su-18-1 (Tim; Electric)

We are residents of Richland Ranchettes and writing in regards to the expansion of a commercial business known as Tim's Electric. We are against the expansion. We would hope the county will be attentive to the present residents that a commercial business could effect the value of our homes. It seems there is not any rules out here and the residents that take care and have pride in their homes will be losing more value in our area. We would also be against any expansion of raising hogs we feel there should be a cap on the head count. We would like to see more attention from the county in terms of upkeep in roads and other residents turning their property into junk yards. Our name is Tom and Nancy Hone. 297 E. Apache Way. Parcel number 206-23054 and 206-23043. Sincerely yours Nancy Hone

# Cochise County
## Community Development
### Highway and Floodplain Division

*Public Programs...Personal Service*
www.cochise.az.gov

# INTEROFFICE MEMO

**Date:** January 24, 2018

**To:** Peter Gardner, Planner I

**From:** Teresa Murphy, Right-of-Way Agent

**Subject:** **SU-18-01 (Tim's Electric)**

**Background:** The applicant requests a Special Use Permit to legitimize an existing Contract Construction Services business established by a previous owner in Richland Ranchettes, Cochise, per Section 607.14 of the Zoning Regulations. The property is zoned RU-4 (Rural; one dwelling per 4 acres and accommodates an existing 4,000 sq.-ft. shop that is currently being used for an electrical contracting business. The previous owner built the structure as a residential accessory building, and used it for an irrigation business. The Applicants have requested a SUP in order to legitimize the use and apply for commercial access and expanded the existing structures. The 9.25 acre site, parcels 206-23-047 and 206-23-048, are located at 402 E. Papago Way in Cochise, Arizona and are more particularly described as lying within Section 35 Township 16 South Range 24 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona.

Right-of-Way Staff was contacted by Planning and Zoning to review the permit and provide comments regarding right-of-way dedication needs for county maintained roads.

**Analysis:**

- Access via Highway 191, west on North Arabian Land, west on E. Papago Way
- Papago Way is not a County Maintained Road. Arabian Lane is a County Maintained Road (MI # 27) and is classified as Rural Minor Access, with a 60' to 80' minimum right-of-way width.
- 30' wide public easements for Papago Way and Arabian Lane established on the plat for Richland Ranchettes Unit No. 4, Book 5, page 9A.

**Recommendation:**

- Further right-of-way dedication for Arabian Lane is requested at this time. Minimum right-of-way is 60 feet. County staff is able to prepare dedication documents for the right-of-way along the east boundary of the subject parcel.

**Highway and Floodplain**
1415 Melody Lane, Building F
Bisbee, Arizona 85603
520-432-9300
520-432-9337 fax
1-800-752-3745
highway@cochise.az.gov
floodplain@cochise.az.gov

**Planning, Zoning and Building Safety**
1415 Melody Lane, Building E
Bisbee, Arizona 85603
520-432-9300
520-432-9278 fax
1-877-777-7958
planningandzoning@cochise.az.gov

# Cochise County
## Community Development
### Highway and Floodplain Division
*Public Programs...Personal Service*
www.cochise.az.gov


# MEMORANDUM

**Date:** January 24, 2018

**To:** Peter Gardner, Planner I

**From:** Dennis L. Donovan, P.E., Civil Engineer III, for Karen L. Lamberton, AICP, County Transportation Planner

**Subject:** Tim's Electric (SU- 18-01)/Richland Ranchettes, Cochise/Parcel #'s 206-23-047 and 206-23-048/392 E. & 402 E. Papago Way

The Applicant, Tim Schmidt, is requesting a Special Use authorization to legitimize an existing electrical contracting business. The Applicant owns two parcels zoned RU-4 and totaling 9.25 acres in size at the southwest corner of E. Papago Way and Arabian Lane, about one-half mile south of the store at Richland Way and US Highway 191.

The westerly of the two parcels contains a 4,000 square foot building that is presently being used for the electrical contracting business. The previous owner built the structure as a residential accessory building and used it for an irrigation business. The Applicant has requested a Special Use Authorization in order to accomplish the following: legitimize the use; apply for commercial access; and to expand existing structures (although the SPECIAL USE AUTHORIZATION QUESTIONAIRE indicates no new construction at this time.)

The electrical business consists of 8 to 10 employees, with future employees in the 10 to 12 range. The operation is active Monday thru Friday from 6AM to 5PM and the Applicant indicates about 2-18 wheeler semi-tractor/trailers and 3 to 4 delivery vans come and go each week. The owner proposes modifying access to the business by creating a driveway crossing the easterly parcel to Arabian Ln. Specifically, the Applicant proposes a Type A "concrete approach", or apron at Arabian Ln. as prescribed by Cochise County and a 30 feet wide compacted AB driveway connecting from Arabian Ln. to the business along the south side of the easterly parcel.

**Special Use Authorization Conditions**


**Highway and Floodplain**
1415 Melody Lane, Building F
Bisbee, Arizona 85603
520-432-9300
520-432-9337 fax
1-800-752-3745
highway@cochise.az.gov
floodplain@cochise.az.gov

**Planning, Zoning and Building Safety**
1415 Melody Lane, Building E
Bisbee, Arizona 85603
520-432-9300
520-432-9278 fax
1-877-777-7958
planningandzoning@cochise.az.gov

We have no objection to issuing the requested Special Use Authorization with the following conditions and advisory notes to the applicant:

1. In advance or concurrent with their first Commercial Permit application the applicant is required to provide a accurate site plan that clearly defines the measurements and construction materials for the driveway. If the driveway from Papago Way is to be also used for the business, we strongly urge that driveway to be covered with AB as well.
2. If Papago Way is to be used as part of the transportation circulation for the business, a Private Road Maintenance Agreement for Papago Way along the entire frontage of the two parcels will need to be provided.

**Driveway Access**

Primary Access will be taken from Arabian Lane, a County-maintained, chipped-sealed rural minor access roadway. Technically, the road way surface is DBST, or Double Bituminous Surface Treatment, and County records show there are 4 inches of Aggregate Base under the DBST surface. If the existing driveway and Papago Way from the business driveway to Arabian Lane is used in the business traffic circulation, we suggest an aggregate base course of 4 inches depth for road bearing and dust abatement.

**Traffic Analysis**

The electrical contracting business is expected to generate a fairly significant amount of vehicular traffic associated with the coming and going of employees and suppliers during the typical business day operation. Under existing zoning of one residence per 4 acres and using the ITE Trip Generation 9th Edition Manual, the estimated average traffic generated by two single family detached residences is 19.0 vehicle trips per day.

The electrical contracting business is generally regarded as Land Use Code 110, General Light Industrial. For estimates with a 4,000 square foot building and up to 12 employees, the average daily vehicle trips increases to as many as 36.2 vehicle trips per day. The range of rates and Peak AM and PM one-hour rates are similarly increased. Peak hour AM and PM estimates are as much as three times the number of vehicle trips for the business versus two residences in that busiest one-hour timeframe.

**Private Maintenance Agreement**

The applicant's existing and alternative access is off of a non-county maintained roadway, Papago Way. The applicant will be required, in keeping with the requirements of Zoning Regulation 1807.02 A., to provide a Private Maintenance Agreement at the Commercial Permit stage. This agreement will require the applicant to keep this segment of roadway in "passable" condition which means in a condition on which the average vehicle can travel on the roadway. A draft of the PRIVATE MAINTANENCE AGREEMENT, PAPAGO WAY, SU-18-01 (TIM'S ELECTRIC) is included with this MEMORANDUM.

This agreement does not require that the roadway be maintained to a county-maintained standard or to an all-weather condition. Like all other native surfaced roadways in the County the access roads to this site are subject to changing conditions which include sudden and severe flooding, ruts, erosion and blowing dust. There is no expectation that the applicant will maintain the private segment of the roadway in any better condition than the County can manage to do in severe weather conditions.

The Applicant will however, likely have a higher motivation to bring the roadway back into passable condition than other property owners in order to ensure adequate access to their employees as they arrive and leave for work and for job appointments. We understand that few customers will be accessing the business location, as It does not have a retail component. The Private Maintenance Agreement formalizes the higher degree of obligation that they would have as a business owner along this residential roadway.

**Advisory Note for the Applicant**

The conceptual plan is adequate for this Special Use application but will not be adequate at the Commercial Permitting stage. At the commercial permit stage additional details, including a sight distance triangle, per Zoning Regulation 1807.06 and/or Roadway Design Standards D-300, will be needed on the site plan or as a separate illustration. Details on the driveway width, driveway access radii will also be needed: design should comply with the County's Roadway Design Standards.

We also note that the new driveway, the 4,000 sf building, and a large portion of the 9-plus acre site falls within a designated floodplain. The question on Page 4 asking if there is any regulated flood plain on the property was incorrectly answered as no.

Print Form

# COCHISE COUNTY
# COMMUNITY DEVELOPMENT

*"Public Programs...Personal Service"*

## SPECIAL USE APPLICATION FOR APPEAL

NAME OF APPELLANT: ROY CLAYTON MARKLE

ADDRESS: 1842 N. PAINT PONY LANE, COCHISE, ARIZONA 85606

PHONE NUMBER: (520) 826-3707

EMAIL ADDRESS: NONE

NUMBER OF DOCKET APPEALED: SU- 18-01

DATE OF COMMISSION DECISION: FEBRUARY 14, 2018

DATE OF APPEAL SUBMITTAL: 2-20-18 FEE PAID: $ 300 (CHECK # 227)

In addition to the $300 fee, the following information shall be provided before an appeal can be accepted. If more room is needed please attach additional pages.

1. Description of the decision being appealed. An appellant can appeal the Commission's decision for approval or disapproval or any conditions stipulated as part of docket approval.

THE REASON FOR THIS APPEAL REQUEST BEFORE THE COCHISE COUNTY BOARD OF SUPERVISORS IS THAT THE COCHISE COUNTY PLANNING AND ZONING COMMISSION APPROVED DOCKET SU-18-01 (TIM'S ELECTRIC) INSPITE OF THE FACT THAT THERE ARE MORE RESIDENTS WHO OPPOSE THIS DOCKET THAN THOSE WHO SUPPORT THIS DOCKET. I AM ONE OF THOSE RESIDENTS WHO OPPOSE THIS DOCKET. (SEE ATTACHED PAGE)

COCHISE COUNTY

FEB 2 2 2018

PLANNING

**Special Use Appeal Application**
Page Two

2. A complete statement of all reasons why the appellant believes that the decision, or any part of the decision was erroneous, arbitrary, capricious, or any abuse of discretion.

THE DECISION BY THE COCHISE COUNTY PLANNING AND ZONING COMMISSION IGNORES THE BASIC PRINCIPAL THAT IN A DEMOCRACY THE MAJORITY SHALL PREVAIL AS STATED IN THE UNITED STATES CONSTITUTION. UNDER THE MAJORITY RULE IN THE UNITED STATES CONSTITUTION, THE CIVIL RIGHTS OF THE MAJORITY AS WELL AS MY OWN CIVIL RIGHTS HAVE BEEN VIOLATED BY THIS DECISION.

3. Written presentation of additional testimony & evidence. A full explanation of the additional testimony & evidence that will be submitted with explanation of why this was not presented to the Planning Commission.

NONE

SIGNATURE Roy C. Markle

# Special Use Docket SU-18-01 (Tim's Electric)

_____ **YES**, I SUPPORT THIS REQUEST
Please state your reasons:

_____

_____

_____

_____

_____

_____

_____

_____ **NO**, I DO NOT SUPPORT THIS REQUEST:
Please state your reasons:

I AM AGAINST DOCKET SU-18-01 (TIM'S ELECTRIC) REQUEST. TIM GOT THE CART BEFORE THE HORSE. HE IS LIKE THE DEER HUNTER WHO GOES HUNTING WITHOUT A HUNTING LICENSE AND SHOOTS AND KILLS A DEER AND THEN TRIES TO OBTAIN A VALID HUNTING LICENSE TO LEGITIMIZE HIS KILL. RICHLAND RANCHETTS WAS ESTABLISHED AS A RESIDENTIAL COMMUNITY AND NOT A COMMERCIAL COMMUNITY. IF ONE COMMERCIAL BUSINESS GETS IN HERE IT WILL SET A PRECEDENT FOR OTHERS TO FOLLOW.

(Attach additional sheets, if necessary)

PRINT NAME(S): ROY C. MARKLE

SIGNATURE(S): Roy C. Markle

YOUR TAX PARCEL NUMBER: 206-23-088 (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Planning Commission. Submission of this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. Written comments must be received no later than 4 PM on Wednesday, January 24, 2018 to be included in the staff report to the Commission in order for them to consider the comments before the meeting. We cannot make exceptions to this deadline; however, if you miss the written comment deadline you may still send email comments, or phone Peter Gardner at the contact information listed on page one by February 13, 2018 to have your support or non-support noted verbally noted at the meeting; or you may personally make a statement at the **public hearing on February 14, 2018**. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting; your cooperation is greatly appreciated.

RETURN TO: Peter Gardner, Planner I
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

# Cochise County
## Community Development
### Planning, Zoning and Building Safety Division
***Public Programs...Personal Service***
www.cochise.az.gov


## MEMORANDUM

**TO**: Cochise County Board of Supervisors
**THROUGH:** Edward T. Gilligan, County Administrator
**FROM**: Peter Gardner, Planner I
**FOR**: Daniel Coxworth, AICP, Development Director
**SUBJECT**: Docket SUA-18-01 (Tim's Electric) Appeal
**DATE**: March 14, 2018 for the March 27, 2018 Meeting

**APPEAL OF A SPECIAL USE AUTHORIZATION**

Roy Clayton Markle has filed an Appeal against a decision made by the Cochise County Planning and Zoning Commission on Wednesday, February 14, 2018. On a 6 – 0 vote, the Commission granted a request for Special Use authorization to legitimize an existing Contract Construction Services business in Richland Ranchettes. The subject Parcels (206-23-047/-048) are located at 402 E. Papago Way in Cochise. Section 1716.04 of the Zoning Regulations provides that Appeals of Special Use decisions shall be heard by the Board of Supervisors at a duly noticed public hearing.

**NATURE OF THE APPEAL/PLANNING AND ZONING COMMISSION MEETING**

In October of 2017 Mr. Tim Schmidt of Tim's Electric purchased the subject property and subsequently moved his existing Electric Contracting business onto the site. The previous owner operated an Irrigation Supply and Contracting Business without permits for approximately ten years prior to Mr. Schmidt's purchase of the property. The operation came to the attention of Staff when Mr. Schmidt began to install a driveway onto N. Arabian Way, a County maintained roadway. Upon discovering the lack of permits, Mr. Schmidt immediately moved to remedy the situation.

Per County Zoning Regulations, the business is considered Contract Construction Services, requiring Special Use authorization per Section 607.14. At the Commission hearing, the Commissioners noted that the previous business had been in operation for approximately ten years, without any complaint from neighboring property owners, which indicated that the operation was not producing negative impacts on the area. The Commission voted unanimously (6 – 0) to approve the request. As a result, the business was granted legitimacy.

Mr. Roy Clayton Markle has appealed the decision of the Planning and Zoning Commission to approve the request to legitimize the commercial operation. In the Appeal documents, he cites Constitutional and Civil Rights issues, and asserts that "there are more residents who oppose this docket than those who support this docket". Per Section 1716.02, Public Input is one of ten factors used to analyze Special Use Requests. Between written comments and speakers at the public hearing, the Commission received six responses in support and five in opposition.

**APPLICATION FOR A SPECIAL USE AUTHORIZATION**

The Applicant requests a Special Use Authorization to legitimize an existing Contract Construction Services business established by a previous owner in Richland Ranchettes, Cochise, per Section 607.14 of the Zoning Regulations. The property is zoned RU-4 (Rural; one dwelling unit per 4 acres) and accommodates an existing 4,000 sq.-ft. shop that is currently being used for an electrical contracting business. The previous owner built the structure as a residential accessory building, and used it for an irrigation business. The Applicants have requested a SUP in order to legitimize the use and apply for commercial access and expand existing structures. The 9.25-acre site, parcels 206-23-047 & 206-23-48, is located at 402 E. Papago Way in Cochise, AZ.

## I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

| | |
|---|---|
| Parcel Size: | 9.25 acres |
| Zoning: | RU-4 (Rural; one dwelling per four acres) |
| Growth Area: | Category D-Rural Area |
| Comprehensive Plan Designation: | Rural |
| Area Plan: | None |
| Existing Uses: | Rural Residential |
| Proposed Uses: | Same, with Contract Construction Services |

**Zoning/Use of Surrounding Properties**

| Relation to Subject Parcel | Zoning District | Use of Property |
|---|---|---|
| North | Non-Maintained Road/RU-4 | E. Papago Way/Scattered Rural Residential |
| South | RU-4 | Scattered Rural Residential |
| East | County Maintained Road/RU-4 | N. Arabian Lane/State Land |
| West | RU-4 | Scattered Rural Residential |

## II. PARCEL HISTORY

1967 – SFR Built
1978 – Second SFR, Attached Garage, Storage Building Built
2006 – Permit issued for 4,000 sqft building for "personal, private use"

## III. NATURE OF REQUEST

The Applicant requests Special Use approval to legitimize a Contract Construction Services business on the subject property. The site had previously been used as JV Irrigation Supply, using the existing structures. These structures had been permitted for personal, private use, and were built prior to the adoption of Building Code in the area. Full inspections which would have revealed the commercial nature of the building were therefore not done. The applicant purchased the property on October 6, 2017, with the understanding that the site was an existing commercial site based on the previous usage. It was brought to Staff's attention when the applicant began to cut a driveway onto N. Arabian Lane, a County Maintained roadway. As the driveway was required to be a commercial driveway, coupled with the Applicant's desire for possible future construction of a shelter for equipment, a Special Use Authorization was requested to legitimize the existing use.




*Location Map*

## IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH SPECIAL USE FACTORS

Section 1716.02 of the Zoning Regulations provides a list of ten factors with which to evaluate Special Use applications. Staff uses these factors to help determine the suitability of a given Special Use request, whether to recommend approval for a Special Use Authorization, as well as to determine what Conditions and/or Modifications may be needed.

With the information provided, nine of the ten factors apply to this request. The project, as submitted, complies with all of those nine factors.

### A. Compliance with Duly Adopted Plans: Complies

The project site is located in an area designated "Rural" on the Comprehensive Plan. The Economic Development supports local business, particularly those that create several jobs.

### B. Compliance with the Zoning District Purpose Statement: Complies

The purpose statement of the Residential Zoning District in Article 6 includes seven points, the last of which is met by this request. The proposal will be a "more intense non-residential use…inappropriate in a more densely populated urban/suburban area". The size of the parcel, coupled with the scattered development in the area, mitigates the impacts. The proposal also creates additional job opportunities in a Rural area.




*Aerial view of the site.*

**C. Development along Major Streets: Complies**

The proposed use would not result in the creation of any additional access points to an arterial road or major thoroughfare.

**D. Traffic Circulation Factors: Complies**

While non-residential traffic will travel on E. Papago Way and N. Arabian Drive, it will not be through traffic. The subject property is the first lot on each roadway, precluding commercial or heavy traffic passing by residential properties. A standard private road maintenance agreement for the section of E. Papago Way from the County maintained roadway to the Applicant's driveway will be required as a standard permit condition. That section of roadway is currently in good condition, better than most of the other roadway sections in the immediate area.

**E. Adequate Services and Infrastructure: Complies**

The site is accessed via E. Papago Way and N. Arabian Lane from Highway 191, with the road conditions described above. All utilities are currently in place, and have served the property during the previous unpermitted use.

**F. Significant Site Development Standards: Complies**

The site complies with all applicable site development standards.



*The primary building.*

**G. Public Input: Complies**

The Applicant mailed letters to property owners within 1,500-feet of the property prior to application submittal. The Planning Department mailed letters to neighboring property owners within 1,500-feet of the subject property, published a legal ad in the *San Pedro Valley News-Sun* and posted legal notices on the property. To date, staff has received three clear letters of support, one letter stating that the proposal was "fine" but voicing unrelated concerns, and five letters of opposition. At the public hearing, two additional individuals spoke in support of the request, and provided personal experience with the impacts. Concerns about opening the area to commercial activity, traffic, dust, and noise were raised. Traffic concerns have been addressed above. The site is located and oriented in a way that minimizes noise, and driving and parking surfaces are gravel or concrete. The site has been used for similar commercial purposes since 2006, and Staff has never received a complaint about the use.

**H. Hazardous Materials: Does Not Apply**

The Applicant states that no hazardous materials will be used or stored on site.

**I. Off-Site Impacts: Complies**

The primary concerns associated with the proposed legitimization pertain to traffic, dust, and noise. These are controlled under the current site setup.

**J. Water Conservation: Complies**

The project site is not located within the Sierra Vista Sub-Watershed. If approved, the Applicant would be required to demonstrate compliance with applicable water conservation policies at the commercial permit phase for any new construction.



*Access to the proposed driveway onto N. Arabian Lane.*

## V. PUBLIC COMMENT

Staff mailed notices to neighboring property owners within 1,500 feet of the subject property on January 4, posted the property on January 31, and published a legal notice in the *San Pedro Valley News-Sun* on January 23, 2018. In response to applicant and County mailings, the Planning Department received three clear letters of support, one letter stating that the proposal was "fine" but voicing unrelated concerns, and five letters of opposition. At the public hearing two additional members of the public spoke in support.



*The building and yard.*

## VI. SUMMARY AND CONCLUSION

The land use under consideration is one that is allowed by Special Use in the Rural Districts. Special Use Authorization requests are considered on a case-by-case basis, and if there is a reasonable presumption that off-site impacts can be effectively mitigated through Conditions of Approval, as is the case here, a recommendation of Conditional Approval is appropriate.
In the case of this particular land use, the previous owner established it without permits approximately ten years ago. In that time no complaints were received, indicating to Staff that there were no concerns about off-site impacts. At the public hearing, one neighbor indicated that the current owner produced even fewer impacts than the previous unpermitted business.

The Appellant has not demonstrated how the Commission's decision was "erroneous, arbitrary, capricious, or an abuse of discretion", nor has he provided additional testimony or evidence. The assertion that there were more residents in opposition than in support is factually incorrect, as noted above.

After questioning the applicant, the appellant, other public speakers, and staff, the Commission unanimously approved the original Special Use Authorization request.

**Factors in Favor of Denying the Appeal**

1. The use complies with the Comprehensive Plan and Zoning District purpose statement;
2. As presented, the request complies with each of the nine applicable Special Use factors;
3. The site has been in operation as Contract Construction Services since 2006, without incident;
4. Although commercial in nature, the use would be low-impact, and in overall harmony with surrounding residential development; and
5. Staff has received four letters of support of the request, along with two speakers at the public hearing; and
6. The Commission voted 6-0 to Conditionally Approve the Docket.

**Factors Against Allowing the Special Use**

1. The Planning Department has received five letters in opposition to the request.

## VII. RECOMMENDATION

Based on the factors in favor of denial, Staff recommends the Board of Supervisors **deny** the appeal, and uphold the February 14, 2018 decision of the Planning and Zoning Commission, granting Special Use approval for Docket SU-18-01.

Staff further recommends the Board subject the land use to the following Conditions of Approval, which were approved by the Commission on February 14, 2018.

1. The Applicant shall provide the County a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the subject properties within thirty (30) days of approval of the Special Use Permit. Prior to permit issuance, the Applicant shall submit and obtain building/use permits within 12 months of approval, including a completed joint permit application. The building/use permit(s) shall include a site plan in conformance with this approval and meeting all site development standards (except those specifically waived or modified by the Planning Commission as part of this approval), the completed Special Use Permit questionnaire, and appropriate fees. A permit must be issued within 18 months of approval, otherwise the approval may be deemed void upon 30-day notification to the Applicant;
2. It is the Applicant's responsibility to obtain any additional permits or meet additional conditions, if any, that may be applicable to the proposed activities pursuant to other federal, state, or local laws or regulations; and
3. Any changes to the approved Special Use shall be subject to review by the Planning Department and may require additional modification and approval by the Planning and Zoning Commission.

## VIII. ATTACHMENTS

A. Application
B. Parcel map, aerial, and site plan
C. Citizen and Agency comment memos

**Action 11.**

| | | | |
|---|---|---|---|
| **Regular Board of Supervisors Meeting** | | **Board of Supervisors** | |
| **Meeting Date:** | 03/27/2018 | | |
| Amendment to the Contract with County Administrator | | | |
| **Submitted By:** | Britt Hanson, County Attorney | | |
| **Department:** | County Attorney | | |
| **Presentation:** | No A/V Presentation | **Recommendation:** | Approve |
| **Document Signatures:** | BOS Signature Required | **# of ORIGINALS Submitted for Signature:** | 0 |
| **NAME of PRESENTER:** | Ann English | **TITLE of PRESENTER:** | Supervisor |
| **Docket Number (If applicable):** | | | |
| **Mandated Function?:** | Local Mandate or Policy | **Source of Mandate or Basis for Support?:** | |

**Information**

**Agenda Item Text:**

Approve Amendment to Contract with County Administrator Edward Gilligan.

**Background:**

On February 28, 2017, the Board approved a contract with Edward Gilligan as County Administrator. The term of the contract was for two years but provided as follows: "On or before March 1, 2018, the Board of Supervisors, following an evaluation of Administrator, shall determine whether to extend this Agreement by one year, which determination shall be acknowledged in writing by the Board and Administrator."

The contract further provides: "The Administrator shall be paid a gross annual salary of $145,000 per year. The Board of Supervisors may determine that a higher amount is appropriate based on the Administrator's annual evaluation and performance."

Now that the Board has completed Mr. Gilligan's evaluation, the Board must determine whether to extend the contract for one year and whether it is appropriate to pay him a higher amount.

The draft First Amendment to the Agreement with Mr. Gilligan, if approved, would extend the contract for an additional year and provide for an increase in salary to $165,000.

**Department's Next Steps (if approved):**

N/A

**Impact of NOT Approving/Alternatives:**

Mr. Gilligan's contract would terminate on March 1, 2019.

**To BOS Staff: Document Disposition/Follow-Up:**

Have the Board Chair, Mr. Gilligan and Mr. Hanson sign the Amendment to the Agreement.
Fill out a PAF and turn it into Finance.

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**Attachments**

Agreement with Gilligan

Amendment 1

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2017-03975
Page 1 of 6
Requested By: Board Of Supervisors
David W. Stevens - Recorder
Cochise County , AZ
03-01-2017 10:21 AM Recording Fee $0.00

# AGREEMENT FOR EMPLOYMENT OF COUNTY ADMINISTRATOR FOR COCHISE COUNTY, ARIZONA

This Agreement is made and entered into this 28th day of February, 2017, between COCHISE COUNTY, an Arizona Political Subdivision, acting by and through its duly authorized officers, hereinafter referred to as the "County", and EDWARD GILLIGAN, hereinafter referred to as the "Administrator."

## SECTION 1.
## NATURE OF EMPLOYMENT

The County hereby retains and employs the Administrator to serve as County Administrator in accordance with the provisions set forth in Cochise County Resolution No. 03-15 as adopted or as it may hereafter be amended.

## SECTION 2.
## ACCEPTANCE OF EMPLOYMENT

The Administrator hereby accepts the employment as County Administrator, effective February 28, 2017 and will, to the best of his ability, perform the services and duties of a County Administrator.

## SECTION 3.
## COMPENSATION

In consideration of the services rendered as County Administrator, Administrator shall receive the following compensation and other consideration:

The Administrator shall be paid a gross annual salary of $145,000 per year. The Board of Supervisors may determine that a higher amount is appropriate based on the Administrator's annual evaluation and performance.

## SECTION 4.
## OTHER BENEFITS

In addition to the compensation set out in the prior Section, the Administrator shall receive the following additional benefits as consideration for the services performed as County Administrator:

a. The Administrator shall accrue vacation leave at the same rate as Department Directors each year as defined by County policy and practice and in all other respects the Administrator's leave shall be governed by County policy and practice.

b. The Administrator shall be granted sick leave each year as defined by County

policy and practice in the manner provided for all other County employees.

c. County shall provide at County's cost, health benefits, including medical, dental, and vision insurance, and such other benefits, as are provided to other employees of the County.

d. The Administrator will be allocated a car allowance of $500 per month for in-county travel and will be reimbursed at the County personal convenience rate for out-of-county travel.

e. The Administrator will be provided a laptop computer, printer, modem, and internet access for use at home for County business. In addition, the Administrator will be given a smart phone or equivalent device supported by the County Information Technology Department.

f. County shall reimburse Administrator for all reasonable expenses and expenditures made or incurred by him directly in connection with his employment, provided that such expenses and reimbursements shall at all times be subject to Arizona law and the rules and regulations established by the County.

g. In addition to the benefits set out in this Section, the Board of Supervisors may provide additional benefits to the Administrator if such benefits are deemed appropriate as a result of its annual evaluation and review of the Administrator's performance.

**SECTION 5.**
**TERM OF AGREEMENT**

This Agreement shall begin on March 1, 2017 and terminate on March 1, 2019. On or before March 1, 2018, the Board of Supervisors, following an evaluation of Administrator, shall determine whether to extend this Agreement by one year, which determination shall be acknowledged in writing by the Board and Administrator. If there is no such acknowledgment in writing this Agreement will terminate on February 28, 2019 with no further action of the parties. If the Agreement is extended for one year, the Board and Administrator shall repeat this process of evaluation and determination of a one year extension each year on or before the anniversary of this Agreement.

**SECTION 6.**
**Termination of Services**

The Administrator shall be an "at-will" employee of Cochise County in its unclassified service and shall serve at the pleasure of the Board of Supervisors. No other provision in this contract either expressed or implied shall be construed in opposition to this at-will status. Administrator shall be exempt from the Cochise County Merit System. The appointment, removal, suspension or request for resignation, or

modification of this Agreement, shall require the affirmative vote of a majority of all members of the Board of Supervisors.

Nothing herein shall prevent, limit or otherwise interfere with the right of the County to terminate the services of the County Administrator at any time, or legally bind a new Board of Supervisors, to retain the services of the Administrator. Administrator expressly acknowledges that he may be removed with or without cause.

Should the Administrator be terminated without cause at any time during the Agreement by either the existing Board or a future Board, the Administrator shall be compensated one year at the base salary at the time of termination. For purposes of this Agreement, the term "cause" shall mean any one of the following:

a. Material neglect by Administrator of his duties such as abandonment of his duties and/or his responsibilities as Administrator;
b. Conviction of any felony, or acknowledgment of guilt of a felony;
c. A determination by a majority of the Board of Supervisors that Administrator has committed acts which would constitute a crime which may materially affect the suitability for continued employment as Administrator, provided, however, that if subsequent criminal or civil proceedings fail to establish that Administrator committed such acts, or that such acts constituted a crime that materially affect Administrator's suitability for continued employment as County Administrator, then removal shall be deemed to be without cause.
d. Due to physical or mental health, the Administrator becomes unable to discharge his duties for a substantial portion of the period then remaining under this Agreement.
e. Acts of moral turpitude or other conduct which impugns, discredits or adversely affects the County and/or the Administrator's ability to provide effective leadership within the organization.
f. Misdemeanor conviction involving veracity or lack thereof.

Should the Administrator be terminated for cause, he shall not receive further compensation after the effective date of termination with the exception of the vacation and sick leave payout previously noted.

Notwithstanding any other provisions herein, the Board of Supervisors upon a majority vote may, at any time, reassign the Administrator to alternative duties or place the Administrator on administrative leave with pay for up to the remainder of the contract term, if the Board of Supervisors deems such action to be in the best interest of the County.

## SECTION 7.
## SURETY BOND

The Administrator warrants that, to the best of his knowledge, he is eligible for corporate surety bonding as may be required by County Resolution 03-15 and he affirmatively agrees to remain eligible for bonding in a reasonable sum, as required by the Resolution, during the tenure of his appointment as County Administrator.

**SECTION 8.**
**INDEMNIFICATION**

County shall defend, save harmless, and indemnify Administrator against any tort, professional liability claim or demand, or other legal action, groundless or otherwise, arising out of an alleged act or omission occurring during the performance of his duties, and will pay the amount of any settlement or judgment arising therefrom; provided, however, that this indemnification clause shall not apply to any tort, liability, claim, demand or legal action brought on behalf of the County against the Administrator. Acts of criminal conduct made intentionally, negligently, or recklessly will be considered to fall outside the "performance of duties" of the Administrator.

**SECTION 9.**
**POLITICAL SUBDIVISIONS AND STATE CONTRACTS**

This Agreement is subject to the provisions of ARS § 38-511.

**SECTION 10.**
**ARIZONA LAW; SEVERABILITY**

This Agreement shall be construed and enforced in accordance with the laws of the State of Arizona. If a court of competent jurisdiction determines that any provision of this Agreement is invalid or unenforceable, then the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this Agreement and all other provisions shall remain in full force and effect.

**SECTION 11.**
**EVALUATION**

The Board shall review and evaluate the performance of the County Administrator at least once annually. Said review and evaluation shall be in accordance with specific criteria developed jointly by the Board and the County Administrator. Said criteria may be added to or deleted from as the Board may from time to time determine in consultation with the County Administrator.

Annually, or at any other time the Board deems necessary, the Board and the County Administrator shall review and define such goals and objectives as they determine necessary for the proper operation of the County, which achieve the Board's

policy objectives and further establish a relative priority among those various goals and objectives. Said goals and objectives shall be reduced to writing and shall be reasonably attainable within the time limits as specified and the annual operating and capital budgets and appropriations provided.

## SECTION 12.
## CONFLICT OF INTEREST

This agreement is made subject to the provisions of A.R.S. 13-501 et. seq.

## SECTION 13.
## OUTSIDE ACTIVITIES

The employment provided for by this Agreement shall be the Administrator's sole employment. Recognizing that certain outside teaching or consulting opportunities may provide indirect benefits to the Employer and the community, the Administrator may accept such opportunities upon approval by the Board of Supervisors, provided that such arrangements shall not constitute interference with nor a conflict of interest with his responsibilities under this agreement.

## SECTION 14.
## DEFAULT/ARBITRATION

In the event of any default or other non-performance of any term or provision of this Agreement or in the event of any claim arising hereunder, including any dispute as to whether termination for just cause exists, the parties hereto shall resolve any such claim through binding arbitration. Requests for arbitration shall be handled in accordance with the Employment Arbitration Rules of the American Arbitration Association (AAA). The County and the Administrator shall request a list of five possible AAA members and within five working days of their receipt of such list select an arbitrator. The County and the Administrator will each strike one arbitrator's name from the list of five and both parties will then repeat the procedure. A coin toss shall determine which party strikes the first name. Each party shall bear the expenses of witnesses, attorneys and other costs of preparing and presenting its own case as well as the incidental expenses incurred as a result of the hearing and all fees and expenses of the arbitrator shall be divided equally between the parties provided however that the prevailing party may be reimbursed all such costs and fees in the sole judgment of the arbitrator.

**IN WITNESS WHEREOF,** the parties have executed this Agreement as of the day and year first written above.

**COCHISE COUNTY:**

By: Ann English 2-28-17
Ann English, Chair
Cochise County Board of Supervisors
Date

Attest:
Arlethe Rios, Clerk of the Board

Approved as to form:
Britt Hanson
Chief Civil Deputy County Attorney
2/28/17
Date

**COUNTY ADMINISTRATOR**

By: Edward Gilligan
Edward Gilligan
2/28/17
Date

**FIRST AMENDMENT TO**
**AGREEMENT FOR EMPLOYMENT OF COUNTY ADMINISTRATOR**
**FOR COCHISE COUNTY, ARIZONA**

This First Amendment to the Agreement is made and entered into this 27th day of March 2018, between COCHISE COUNTY, a subdivision of the State of Arizona, hereinafter referred to as the "County", and EDWARD GILLIGAN, hereinafter referred to as the "Administrator."

A. Section 3 of the Agreement is hereby amended to read as follows, and shall become effective as of the pay period immediately following the execution of this Amendment:

**SECTION 3.**
**COMPENSATION**

In consideration of the services rendered as County Administrator, Administrator shall receive the following compensation and other consideration:

The Administrator shall be paid a gross annual salary of $159,500 per year. The Board of Supervisors may determine that a higher amount is appropriate based on the Administrator's annual evaluation and performance.

B. Section 5 of the Agreement is hereby amended to read as follows:

**SECTION 5.**
**TERM OF AGREEMENT**

This Amendment shall become effective on the date of execution by the parties, and the Agreement shall continue through March 31, 2020. On or before April 1, 2019, the Board of Supervisors, following an evaluation of Administrator, shall determine whether to extend this Agreement by one-year, which determination shall be acknowledged in writing by the Board and Administrator. If there is no such acknowledgment in writing this Agreement will terminate on March 31, 2020 with no further action of the parties.

If the Agreement is extended for one year, the Board and Administrator shall repeat this process of evaluation and determination of a one-year extension each year on or before the anniversary of this Agreement.

C. All other terms of the Agreement shall remain the same.

**IN WITNESS WHEREOF,** the parties have executed this Agreement as of the day and year first written above.

**COCHISE COUNTY:**

By: _____ _____
Ann English, Chair Date
Cochise County Board of Supervisors

**ATTEST:**

_____ _____
Arlethe Rios, Clerk of the Board Date

**APPROVED AS TO FORM**:

_____ _____
Britt Hanson Date
Chief Civil Deputy County Attorney

**COUNTY ADMINISTRATOR**

By: _____ _____
Edward Gilligan Date

| | | | |
|---|---|---|---|
| | | | **Action 12.** |
| **Regular Board of Supervisors Meeting** | | **Community Development** | |
| **Meeting Date:** | 03/27/2018 | | |
| Extension request of the Assurance Agreement for Kings Ranch at Coronado Subdivision | | | |
| **Submitted By:** | Paul Esparza, Community Development | | |
| **Department:** | Community Development | **Division:** | Development Services |
| **Presentation:** | PowerPoint | **Recommendation:** | Approve |
| **Document Signatures:** | BOS Signature Required | **# of ORIGINALS Submitted for Signature:** | 1 |
| **NAME of PRESENTER:** | Paul Esparza | **TITLE of PRESENTER:** | Planning Manager |
| **Docket Number (If applicable):** | S-11-01 | | |
| **Mandated Function?:** | Not Mandated | **Source of Mandate or Basis for Support?:** | |

**Information**

**Agenda Item Text:**

Approve an extension request of the Assurance Agreement for Kings Ranch at Coronado Subdivision with Pioneer Title Agency, Inc, as Trustee under Trust No. 321365 for K Ranch, LLC as Beneficiary of Trust No. 321365 to February 14, 2021.

**Background:**

This request is from K Ranch, LLC for an extension of the Assurance Agreement for completion of subdivision improvements for the Kings Ranch at Coronado Subdivision, Phases 3 thru 6.

The Kings Ranch at Coronado Subdivision consists of 303 lots on 840 acres located along SR 92. The subdivision is zoned RU-4, located within the Southern San Pedro Valley Area Plan and Sierra Vista Sub-Watershed. This is a residential conservation subdivision with 426 acres or 50.7% of the total land designated as a conservation easement.

The Amended Final Plat for Kings Ranch at Coronado and Assurance Agreement were approved by the BOS on February 14, 2012. The Assurance agreement lapsed in February 2015. This extension request if approved will cover the lapse and extend the agreement for three additional years to February 14, 2021.

The BOS approved amendments to Section 501.01 Assurance Agreements in the Subdivision Regulations which includes five factors that the Board may consider in their decision to grant an Assurance Agreement extension. The following responses are provided in bold italics for this request:

1. Whether the property taxes on the subject parcel(s) are current. ***Yes, verified by staff***.

2. If the subdivision is phased, whether the subdivision infrastructure improvements for at least 20% of the proposed phases have been completed. If it is not phased, whether at least 25% of the subdivision infrastructure improvements have been completed. ***There are 6 phases in this project. Two phases have been completed and 118 lots have been released. This represents 33% completion of the subdivision improvements.***

3. The number of extensions previously granted. A maximum of three extensions, not exceeding a total of ten (10) years since either the original approval of the assurance agreement or the most recent release of a lot, whichever has occurred later. ***No previous extensions have been granted.***

4. The economic conditions or other circumstances that are affecting the developer's ability to complete subdivision improvements. ***The original Kinjockity Ranch subdivision was approved in 2006 and then sold in 2008. In 2010, a foreclosure notice was recorded and the property was sold to K Ranch LLC. The subdivision was***

***replatted to Kings Ranch at Coronado in 2012. While the slow economy has been a factor in past years, more recently lot sales have improved and there are currently 5 new homes under construction in the subdivision.***

5. Has the character of the area or physical factors such as drainage, floodplain, water issues or circulation patterns changed significantly since plat approval that compliance with current County Subdivision and/or Zoning Regulations is necessary. ***No***

**Department's Next Steps (if approved):**

If approved, the Chairwoman will sign the Assurance Agreement and it will be recorded with a new expiration date of February 14, 2021.

**Impact of NOT Approving/Alternatives:**

The completion of subdivision improvements for Phases 3 thru 6 of Kings Ranch at Coronado would remain unsecured by a Assurance Agreement.

**To BOS Staff: Document Disposition/Follow-Up:**

Please secure the necessary signatures on the original Assurance Agreement document and send to Planning staff for recording of the document.

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**Attachments**

ext request letter

Kings Ranch AA ext

Kings Ranch AA ext PPT

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February 15, 2018

Cochise County Board of Supervisors

Re: Extension of Assurance Agreement – Kings Ranch at Coronado Subdivision

To whom it may concern:

Will you please process our request for an extension of the Assurance Agreement for Kings Ranch at Coronado Subdivision. We understand that there was lapse of the extension, and request the Assurance Agreement be extended to February 14, 2021.

Thank you for your assistance in this matter.

Sincerely,

K Ranch LLC

Karol E. George, Manager

**EXTENSION OF ASSURANCE AGREEMENT**
**FOR COMPLETION OF KINGS RANCH AT CORONADO SUBDIVISION**
**IMPROVEMENTS**

EXTENSION AGREEMENT made and entered as of the 16th day of February, 20 18, between Pioneer Title Agency, Inc., as Trustee under Trust 321365, hereinafter referred to as "Trustee", K Ranch, LLC, as Beneficiary of Trust 321365, hereinafter referred to as "Beneficiary", and COCHISE COUNTY, Arizona, hereafter referred to as "County."

WHEREAS, an assurance agreement between Cochise County and Pioneer Title Agency, Inc., as Trustee under Trust 321365, was entered on February 14, 2012, for the completion of subdivision improvements for Kings Ranch at Coronado Subdivision, with an expiration date of February 14, 2015, as recorded in Book 16, pg.19-19K of maps and plats, in the Office of the Cochise County Recorder. Said agreement was recorded on June 13, 2012; Fee # 201213110, Office of the Cochise County Recorder; and,

WHEREAS, a final plat has been recorded for the Kings Ranch at Coronado Subdivision; and,

WHEREAS, the above-referenced assurance agreement was previously extended to February 14, 2015; and,

WHEREAS, the above-referenced assurance agreement provides that the agreement may be extended at the discretion of the County; and,

WHEREAS, good progress has been made towards approval of the improvement plans for completion of improvements of the above project; and,

WHEREAS, Pioneer Title Agency, Inc., as Trustee under Trust 321365, and Beneficiaries, K Ranch LLC, have requested a further extension of time for completion of improvements; and,

WHEREAS, Cochise County believes that such an extension is justified,

NOW, THEREFORE IT IS HEREBY AGREED THAT:

The Assurance Agreement for Completion of Subdivision Improvements recorded on February 16, 2012, Fee # 201203318, is extended with a new expiration date of February 14, 2021, and the parties hereto agree to abide by the terms of such Assurance Agreement.

IN WITNESS WHEREOF, the parties have executed this extension of Assurance Agreement this 16th day of February, 20 18.

**COCHISE COUNTY:**

_____
Chairman, Cochise County Board of Supervisors

**ATTEST:**

_____
Clerk of the Board

**APPROVED AS TO FORM:**

_____
Deputy County Attorney

**TRUSTEE:**

Pioneer Title Agency, Inc.
(Title Company)
An Arizona corporation, as Trustee under
Trust no. 321365 only and not in its
capacity

By: _____
Trust Officer

STATE OF ARIZONA )
) ss.
COUNTY OF COCHISE )

On this the 20TH day of FEBRUARY, 2018, before me, the undersigned officer, personally appeared R. KEITH NEWLON, who acknowledged himself/herself to be the TRUST OFFICER of PIONEER TITLE AGENCY, INC., an Arizona corporation, and that he/she as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as such officer.

In witness whereof, I have hereunto set my hand and official seal.

Maegan Acosta
Notary Public

My Commission Expires: 05/13/2021

NOTARY PUBLIC
STATE OF ARIZONA
Cochise County
MAEGAN ACOSTA
My Commission Expires May 13, 2021

**OWNER/BENEFICIARY:**

Owner/Beneficiary

STATE OF ARIZONA )
) ss.
COUNTY OF Cochise )

The foregoing instrument was acknowledged before me this 16th day of February, 2018, by Karol George as Manager of K Ranch LLC

Notary Public

My Commission Expires: 1-1-22

APRIL LEISTIKOW
Notary Public - State of Arizona
COCHISE COUNTY
My Commission Expires
January 1, 2022

**COCHISE COUNTY**

# Kings Ranch at Coronado Subdivision (S-11-01) Assurance Agreement Extension Request

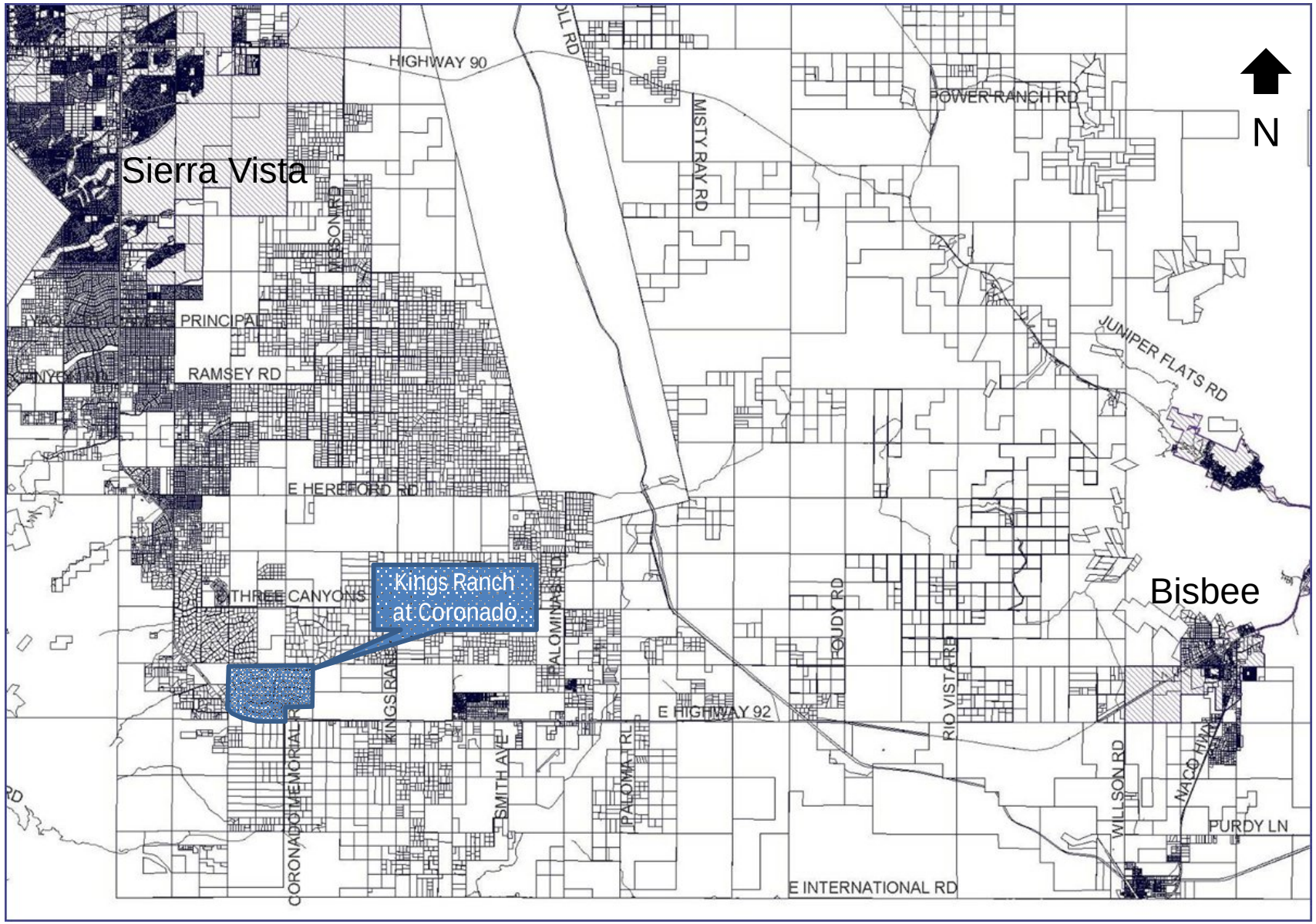
March 27, 2018

Board of Supervisors

***Public Programs…Personal Service***

# COCHISE COUNTY

## Location Map




*Public Programs…Personal Service*

**COCHISE COUNTY**

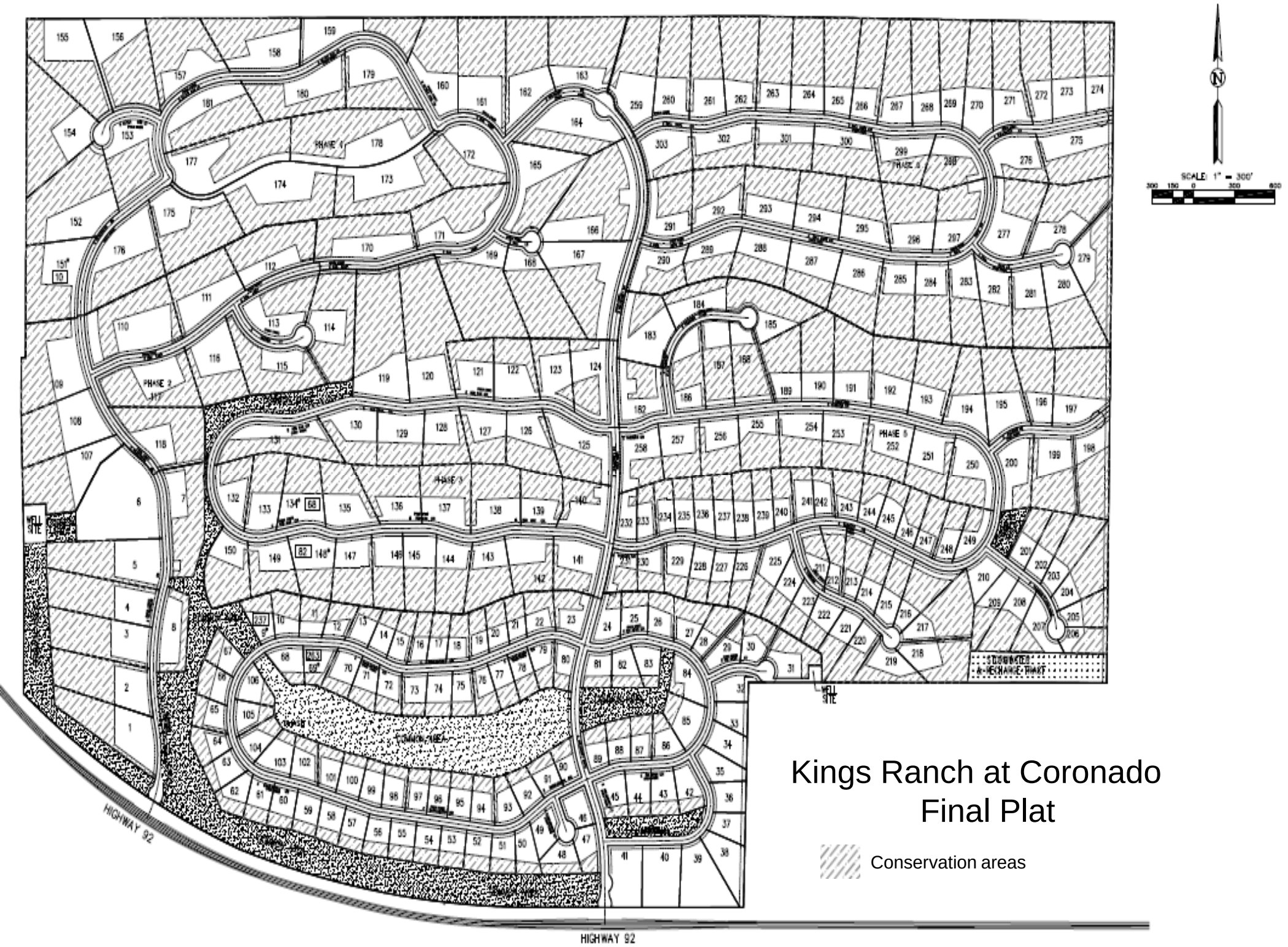
- 303 lots on 840 acres, zoned RU-4, a residential conservation subdivision with 426 acres or 50.7% of the total land designated as a conservation easement.

- Development density is 0.36 RAC. 303 lots/ 840 acres = 0.36

- Final Plat and Assurance Agreement approved on February 14, 2012. Agreement lapsed in Feb. 2015.

- Phase 1 and 2 improvements completed in 2012-13. 118 lots released; 185 remain secured under agreement.

- If approved, the Assurance Agreement would expire on February 14, 2021.




# Kings Ranch at Coronado
# Final Plat

Conservation areas


N
SR 92
Aerial photo of
Kings Ranch
at Coronado

## Staff Recommendation:

Staff recommends approval of the request to extend the Assurance Agreement to February 14, 2021.

**Action 13.**

**Regular Board of Supervisors Meeting** **Housing Authority**

| | | | |
|---|---|---|---|
| **Meeting Date:** | 03/27/2018 | | |
| Housing Authority Fiscal Year 2018-2019 Annual and Administrative Plans | | | |
| **Submitted By:** | Anita Baca, Housing Authority | | |
| **Department:** | Housing Authority | | |
| **Presentation:** | PowerPoint | **Recommendation:** | Approve |
| **Document Signatures:** | BOS Signature Required | **# of ORIGINALS Submitted for Signature:** | 3 |
| **NAME of PRESENTER:** | Anita Baca | **TITLE of PRESENTER:** | Executive Director |
| **Docket Number (If applicable):** | | | |
| **Mandated Function?:** | Not Mandated | **Source of Mandate or Basis for Support?:** | The Housing Choice Voucher Programs provide housing vouchers for 614 Cochise and Graham County residents. |

## Information

**Agenda Item Text:**

Approve the Fiscal Year 2018-19 Administrative and Annual Plan submission for the Housing Authority of Cochise County.

**Background:**

Each year, the Housing Authority submits Plans to HUD as policies and guides for the Housing Choice Voucher Program.

**Department's Next Steps (if approved):**

If approved, the Housing Authority will submit the Plans by the due date of April 2018 to HUD.

**Impact of NOT Approving/Alternatives:**

If the Plans are not approved, the Housing Authority risks being delinquent on a HUD requirement.

**To BOS Staff: Document Disposition/Follow-Up:**

Three documents require a signature from the Board of Supervisors that I will obtain after the Plans are approved and the forms are signed.

## Attachments

2018 HCV Administrative Plan
HUD-50075-HCV
HUD-50077-SL
2018 Annual/Admin Plans PPT
HUD 50077-ST-HCV-HP

# HOUSING AUTHORITY
# OF
# COCHISE COUNTY




# SECTION 8 HOUSING CHOICE VOUCHER PROGRAM ADMINISTRATIVE PLAN

**2018**

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## INTRODUCTION

The PHA receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development. The PHA is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The PHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The PHA must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the PHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:
Part I: The Public Housing Agency (PHA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

## PART I: THE PHA

### 1-I.A. OVERVIEW

This part explains the origin of the PHA's creation and authorization, the general structure of the organization, and the relationship between the PHA Board and staff.

### 1-I.B. ORGANIZATION AND STRUCTURE OF THE PHA

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the Housing Authority of Cochise County for the jurisdiction of Cochise County.

The officials of the Housing Authority of Cochise County are the Cochise County Board of Supervisors., ensuring that policies are followed by PHA staff and that the PHA is successful in its mission. The board is responsible for approving efforts in preserving and expanding the agency's resources and assuring the agency's continued viability.

Formal actions of the PHA are taken through written resolutions, adopted by the Board of Supervisors and entered into the official records of the PHA and Cochise County.

The principal staff member of the PHA is the executive director (ED), hired and appointed by the Cochise County Administration. The executive director is directly responsible for carrying out the policies established by the commissioners and is delegated the responsibility for hiring, training and supervising the remainder of the PHA's staff in order to manage the day-to-day operations of the PHA to ensure compliance with federal and state laws and directives for the programs managed. In addition, the executive director's duties include budgeting and financial planning for the agency.

**1-I.C. PHA MISSION**

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

PHA Policy

The PHA's mission is to provide safe, decent and sanitary housing conditions for very low-income families and to manage resources efficiently. The PHA is to promote personal, economic and social upward mobility to provide families the opportunity to make the transition from subsidized to non-subsidized housing.

**1-I.D. THE PHA'S PROGRAMS**

The following programs are included under this administrative plan:

PHA Policy

The PHA's administrative plan is applicable to the operation of the Housing Choice Voucher program.

**1-I.E. THE PHA'S COMMITMENT TO ETHICS AND SERVICE**

As a public service agency, the PHA is committed to providing excellent service to HCV program participants – families and owners – in the community. The PHA's standards include:

 Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.

 Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low income families while ensuring that family rents are fair, reasonable, and affordable.

 Encourage self sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human

services needs.

 Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.

 Promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.

 Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.

 Create positive public awareness and expand the level of family, owner, and community support in accomplishing the PHA's mission.

 Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.

 Administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and commitment to our employees and their development. The PHA will make every effort to keep program participants informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.

# 1.0 FAIR HOUSING & EQUAL OPPORTUNITY

## *1.1 FAIR HOUSING*

It is the policy of HACC to comply fully with all Federal, State, and local nondiscrimination laws; the Americans With Disabilities Act; and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity.

No person shall, on the ground of race, color, sex, religion, national or ethnic origin, familial status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the HACC housing programs.

To further its commitment to full compliance with applicable Civil Rights laws, HACC will provide Federal/State/local information to applicants for and participants in the Section 8 Housing Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made available at the HACC office. In addition, all written information and advertisements will contain the appropriate Equal Opportunity language and logo.

HACC will assist any family that believes they have suffered illegal discrimination by providing copies of the housing discrimination form. HACC will also assist them in completing the form, if requested, and will provide them with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.

## *1.2 REASONABLE ACCOMMODATION*

Sometimes people with disabilities may need a reasonable accommodation in order to take full advantage of the HACC housing programs and related services. When such accommodations are granted they do not confer special treatment or advantage for the person with a disability; rather, they make the program fully accessible to them in a way that would otherwise not be possible due to their disability. Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA, or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider’s operations.

This policy clarifies how people can request accommodations and the guidelines HACC will follow in determining whether it is reasonable to provide a requested accommodation. Because disabilities are not always apparent, HACC will ensure that all applicants/participants are aware of the opportunity to request reasonable accommodations.

**Types of Reasonable Accommodations**

When needed, the PHA must modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff
- Displaying posters and other housing information in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair

The PHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the PHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

### *1.3 COMMUNICATION*

Anyone requesting an application will also receive a Request for Reasonable Accommodation Form.

Notifications of reexamination, inspection, appointment, or eviction will include information about requesting a reasonable accommodation. Any notification requesting action by the participant will include information about requesting a reasonable accommodation.

All decisions granting or denying requests will be in writing.

### *1.4 QUESTIONS TO ASK IN GRANTING THE ACCOMMODATION*

A. Is the requestor a person with disabilities? For this purpose, the definition of disabilities is different than the definition used for admission. The Fair Housing definition used for this purpose is:

> A person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. (The disability may not be apparent to others, i.e., a heart condition).

If the disability is apparent or already documented, the answer to this question is yes. It is possible that the disability for which the accommodation is being requested is a disability other than the apparent disability. If the disability is not apparent or documented, HACC will obtain verification that the person is a person with a disability.

B. Is the requested accommodation related to the disability? If it is apparent that the request is related to the apparent or documented disability, the answer to this question is yes. If it is not apparent, HACC will obtain documentation that the requested accommodation is needed due to the disability. HACC will not inquire as to the nature of the disability.

C. Is the requested accommodation reasonable? In order to be determined reasonable, the accommodation must meet two criteria:

1. Would the accommodation constitute a fundamental alteration? HACC business is housing. If the request would alter the fundamental business that HACC conducts, that would not be reasonable. For instance, HACC would deny a request to have HACC do grocery shopping for the person with disabilities.

2. Would the requested accommodation create an undue financial

hardship or administrative burden? Frequently the requested accommodation costs little or nothing. If the cost would be an undue burden, HACC may request a meeting with the individual to investigate and consider equally effective alternatives.

Generally the individual knows best what they need; however, HACC retains the right to be shown how the requested accommodation enables the individual to access or use the HACC programs or services.

If more than one accommodation is equally effective in providing access to the HACC programs and services, HACC retains the right to select the most efficient or economic choice.

If the participant requests, as a reasonable accommodation, that he or she be permitted to make physical modifications to their dwelling unit, at their own expense, the request should be made to the property owner/manager. HACC does not have responsibility for the owner's unit and does not have responsibility to make the unit accessible.

Any request for an accommodation that would enable a participant to materially violate family obligations will not be approved.

## *1.5 SERVICES FOR NON-ENGLISH SPEAKING PERSONS AND PARTICIPANTS*

The PHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

HACC will endeavor to have bilingual staff or access to people who speak languages other than English

## *1.6 FAMILY/OWNER OUTREACH*

HACC will publicize the availability and nature of the Section 8 Program for extremely low-income, very low and low-income families in a newspaper of general circulation, minority media, and by other suitable means.

To reach persons, who cannot or do not read newspapers, HACC will distribute fact sheets to the broadcasting media, community service agencies, and library and school bulletin boards and at City Hall. HACC will also try to utilize public service announcements.

HACC will communicate the status of program availability to other service providers in the community and advise them of housing eligibility factors and guidelines so that they can make proper referral of their clients to the program.

HACC will hold briefings for owners who participate in or who are seeking information about the Section 8 Program. Owners and managers participating in the Section 8 Program may participate in making this presentation. The briefing is intended to:

A. Explain how the program works;

B. Explain how the program benefits owners;

C. Explain owners' responsibilities under the program. Emphasis is placed on quality screening and ways HACC helps owners do better screening; and

D. Provide an opportunity for owners to ask questions, obtain written materials, and meet HACC staff.

HACC will particularly encourage owners of suitable units located outside of low-income or minority concentration to attend. Targeted mailing lists will be developed and announcements mailed.

## *1.7 RIGHT TO PRIVACY*

All adult members of both applicant and participant households are required to sign HUD Form 9886, *Authorization for Release of Information and Privacy Act Notice*. The *Authorization for Release of Information and Privacy Act Notice* states how family information will be released and includes the *Federal Privacy Act Statement*.

Any request for applicant or participant information will not be released unless there is a signed release of information request from the applicant or participant.

## *1.8 REQUIRED POSTINGS*

HACC will post, at its office, in a conspicuous place and at a height easily read by all persons including persons with mobility disabilities, the following information:

A. The Section 8 Administrative Plan

B. Notice of the status of the waiting list (opened or closed)

C. The office hours, telephone numbers, TDD numbers, and hours of operation

D. Income Limits for Admission

E. Informal Review and Informal Hearing Procedures

F. Fair Housing Poster

G. Equal Opportunity in Employment Poster

### *1.9 FSS AFFIRMATIVELY FURTHERING FAIR HOUSING ADDENDUM*

It is an objective of the Housing Authority of Cochise County (HACC) to promote fair housing and the opportunity for all individuals and families to experience freedom of housing choice. We will continue to ensure equal opportunity and affirmatively further fair housing through the following actions:

- Annually review and revise information that is distributed to applicants, tenants and program participants who contact this office wanting tenant/landlord and fair housing assistance;
- Ensure that HACC staff attends Fair Housing training to better understand the law so that accurate technical assistance can be provided;
- Advertise widely in the community for all positions including that of the FSS program coordinator;
- Market all programs to all eligible persons including persons with disabilities and persons with limited English proficiency;
- Make buildings and communications that facilitate applications and service delivery accessible to persons with disabilities;
- Provide fair housing counseling referrals to fair housing agencies;
- Inform participants how to file a fair housing complaint, including providing the toll-free number for the Housing Discrimination Hotline: 1-800-669-9777;
- Recruit service providers in areas that expand housing choice to program participants seeking homeownership.

Program record keeping will include the race, ethnicity, familial status, and disability status of program participants.

## 2.0 COCHISE COUNTY HA/OWNER RESPONSIBILITY/ OBLIGATION OF THE FAMILY

This Section outlines the responsibilities and obligations of HACC, the Section 8 Owners/Landlords, and the participating families.

## *2.1 COCHISE COUNTY HA RESPONSIBILITIES*

A. HACC will comply with the consolidated ACC, the application, HUD regulations and other requirements, and the HACC Section 8 Administrative Plan.

B. In administering the program, HACC must:

1. Publish and disseminate information about the availability and nature of housing assistance under the program;

2. Explain the program to owners and families;

3. Seek expanded opportunities for assisted families to locate housing outside areas of poverty or racial concentration;

4. Encourage owners to make units available for leasing in the program, including owners of suitable units located outside areas of poverty or racial concentration;

5. Affirmatively further fair housing goals and comply with equal opportunity requirements;

6. Make efforts to help disabled persons find satisfactory housing;

7. Receive applications from families, determine eligibility, maintain the waiting list, select applicants, issue a voucher to each selected family, and provide housing information to families selected;

8. Determine who can live in the assisted unit at admission and during the family's participation in the program;

9. Obtain and verify evidence of citizenship and eligible immigration status in accordance with 24 CFR part 5;

10. Review the family's request for approval of the tenancy and the owner/landlord lease, including the HUD prescribed tenancy addendum;

11. Inspect the unit before the assisted occupancy begins and at least annually during the assisted tenancy;

12. Determine the amount of the housing assistance payment for a family;

13. Determine the maximum rent to the owner and whether the rent is reasonable;

14. Make timely housing assistance payments to an owner in accordance with the HAP contract;

15. Examine family income, size and composition at admission and during the family's participation in the program. The examination includes verification of income and other family information;

16. Establish and adjust HACC utility allowance;

17. Administer and enforce the housing assistance payments contract with an owner, including taking appropriate action as determined by HACC, if the owner defaults (e.g., HQS violation);

18. Determine whether to terminate assistance to a participant family for violation of family obligations;

19. Conduct informal reviews of certain HACC decisions concerning applicants for participation in the program;

20. Conduct informal hearings on certain HACC decisions concerning participant families;

21. Provide sound financial management of the program, including engaging an independent public accountant to conduct audits.

## *2.2 OWNER RESPONSIBILITY*

A. The owner is responsible for performing all of the owner's obligations under the HAP contract and the lease.

B. The owner is responsible for:

1. Performing all management and rental functions for the assisted unit, including selecting a voucher holder to lease the unit, and deciding if the family is suitable for tenancy of the unit.

2. Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance.

3. Complying with equal opportunity requirements.

4. Preparing and furnishing to HACC information required under the HAP contract.

5. Collecting from the family:

a. Any security deposit required under the lease.

b. The tenant contribution (the part of rent to owner not covered by the housing assistance payment.

c. Any charges for unit damage by the family.

6. Enforcing tenant obligations under the lease.

7. Paying for utilities and services (unless paid by the family under the lease.)

8. Including in the lease a clause stating that engaging in drug-related criminal activity on or near the premises by the tenant, household member, guest, or any other person under the tenant's control is grounds for the owner to terminate tenancy. In addition, the lease must also provide that the owner may evict a family when the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

C. For provisions on modifications to a dwelling unit occupied or to be occupied by a person with disabilities see 24 CFR 100.203.
D. The owner is responsible for notifying HACC sixty (60) days prior to any rent increase.
E. The owner must show justification for any rental increase.
F. If a stop payment is required on checks issues by HACC, the bank charge of $50.00 will be passed along to the payee.

## *2.3 OBLIGATIONS OF THE PARTICIPANT*

This Section states the obligations of a participant family under the program.

A. Supplying required information.

1. The family must supply any information that HACC or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status. Information includes any requested certification, release or other documentation.

2. The family must supply any information requested by HACC or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.

3. The family must disclose and verify Social Security Numbers and must sign and submit consent forms for obtaining information.

4. Any information supplied by the family must be true and complete.

B. HQS breach caused by the Family

The family is responsible for any HQS breach caused by the family or its guests.

C. Allowing HACC Inspection

The family must allow HACC to inspect the unit at reasonable times and after at least two (2) days notice.

D. Violation of Lease

The family may not commit any serious or repeated violations of the lease.

E. Family Notice of Move or Lease Termination

The family must notify HACC and the owner before the family moves out of the unit or terminates the lease by a notice to the owner.

F. Owner Eviction Notice

The family must promptly give HACC a copy of any owner eviction notice it receives.

G. Use and Occupancy of the Unit

1. The family must use the assisted unit for a residence by the family. The unit must be the family's only residence.

2. HACC must approve the composition of the assisted family residing in the unit. The family must promptly inform HACC of the birth, adoption or court-awarded custody of a child. The family must request approval from HACC to add any other family member as an occupant of the unit. No other person (i.e., no one but members of the assisted family) may reside in the unit (except for a foster child/foster adult or live-in aide as provided in paragraph (4) of this Section).

3. The family must promptly notify HACC if any family member no longer sides in the unit.

4. If HACC has given approval, a foster child/foster adult or a live-in aide may reside in the unit. HACC has the discretion to adopt reasonable policies concerning residence by a foster child/foster adult or a live-in aide and defining when HACC consent may be given or denied.

5. Members of the household may engage in legal profit making activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family. Any business uses of the unit must comply with zoning requirements and the affected household member must obtain all appropriate licenses.

6. The family must not sublease or let the unit.

7. The family must not assign the lease or transfer the unit.

8. The family must agree to receive all mail from HACC at the assisted unit, or at a Post Office Box registered in the family's name.

H. Absence from the Unit

The family must supply any information or certification requested by HACC to verify that the family is living in the unit, or relating to family absence from the unit, including any HACC requested information or certification on the purposes of family absences. The family must cooperate with HACC for this purpose. The family must promptly notify HACC of its absence from the unit.

Absence means that no member of the family is residing in the unit. The family may be absent from the unit for up to 30 calendar days. The family must request permission, in writing before the absence, from the or absences exceeding 30 calendar days. HACC will make a determination within 5 business days of the request. An authorized absence may not exceed 180 calendar days. Any family absent for more than 30 calendar days without authorization will be terminated from the program.

Authorized absences may include, but are not limited to:

1. Prolonged hospitalization

2. Absences beyond the control of the family (i.e., death in the family, other family member illness)

3. Other absences that are deemed necessary by HACC

I. Interest in the Unit

The family may not own or have any interest in the unit (except for owners of manufactured housing renting the manufactured home space).

J. Fraud and Other Program Violation

The members of the family must not commit fraud, bribery, or any other corrupt or criminal act in connection with the programs.

K. Crime by Family Members

The members of the family may not engage in drug-related criminal activity or other violent criminal activity.

L. Other Housing Assistance

An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) Federal, State or local housing assistance program.

# 3.0 ELIGIBILITY FOR ADMISSION

## *3.1 INTRODUCTION*

HACC accepts applications only from families whose head or spouse is at least 18 years of age. To be eligible for participation, an applicant must meet HUD's criteria, as well any permissible additional criteria established by the PHA. HUD's eligibility criteria are:

A. An applicant must be a family

B. An applicant must be within the appropriate income limits

C. An applicant must provide Social Security Numbers for all family members age six and older, and

D. An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required.

E. Consent to the PHA's collection and use of family information as provided for in PHA provided consent forms.

At least one member of the applicant family must either be a U.S. Citizen or have eligible immigration status before HACC may provide any financial assistance.

## *3.2 ELIGIBILITY CRITERIA*

A. Family Status.

1. A **family with or without children**. Such a family is defined as a group of people related by blood, marriage, adoption or affinity that

lives together in a stable family relationship.

a. Children temporarily absent from the home due to placement in foster care are considered family members. This provision only pertains to the foster child's temporary absence from the home and is not intended to artificially enlarge the space available for other family members.

b. Unborn children and children in the process of being adopted are considered family members for purposes of determining bedroom size, but are not considered family members for determining income limit.

2. An **elderly family**, which is:

a. A family whose head, spouse, or sole member is a person who is at least 62 years of age;

b. Two or more persons who are at least 62 years of age living together; or

c. One or more persons who are at least 62 years of age living with one or more live in aides.

3. A **disabled family**, which is:

a. A family whose head, spouse, or sole member is a person with disabilities;

b. Two or more persons with disabilities living together; or

c. One or more persons with disabilities living with one or more live-in aides.

d. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence.

4. A **remaining member of a tenant family**. The HUD definition of family includes the *remaining member of a tenant family*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

5. A **single person** who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Guests

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has express or implied authority to so consent.

A guest can remain in the assisted unit no longer than 30 consecutive days or a total of 90 cumulative calendar days during any 12-month period.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that is not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

**Absent Family Members**

Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

**Absent Students**

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the PHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

**Absences due to placement in foster care**

If a child has been placed in foster care, the PHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

**Absent Head, Spouse, or Co head**

An employed head, spouse, or co head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member

**LIVE-IN AIDE**

*Live-in aide* means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request-subject to PHA verification-at each annual reexamination. In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The PHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The person commits drug-related criminal activity or violent criminal activity; or

The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the PHA will notify the family of its decision in writing.

B. Income eligibility

1. To be eligible to receive assistance a family shall, at the time the family initially receives assistance under the Section 8 program shall be a low-income family that is:

   a. An extremely low-income (30% of median income), a very low-income (50% of median income); or low-income family (80% of median income).

   b. A low-income family continuously assisted for 90 calendar days under the 1937 Housing Act;

   c. A low-income family that meets additional eligibility criteria specified by the Housing Authority;

   d. A low-income family that is a no purchasing tenant in a HOPE 1 or

HOPE 2 project or a property subject to a resident homeownership program under 24 CFR 248.173;

e. A low-income family or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing.

f. A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a HOPE 1 (HOPE for public housing homeownership) or HOPE 2 (HOPE for homeownership of multifamily units) project.

2. Income limits apply only at admission and are not applicable for continued occupancy; however, as income rises the assistance will decrease.

3. The applicable income limit for issuance of a voucher is the highest income limit for the family size for areas within the housing authority's jurisdiction. The applicable income limit for admission to the program is the income limit for the area in which the family is initially assisted in the program. The family may only use the voucher to rent a unit in an area where the family is income eligible at admission to the program.

4. Families who are moving into the HACC jurisdiction under portability do not have to meet the income eligibility requirement for the HACC program.

5. Income limit restrictions do not apply to families transferring units within the HACC Section 8 Program.

C. Citizenship or Eligible Immigration Status

In order to receive assistance, one family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed". Such applicant families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination.

Non eligible members Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students Defined by HUD in the noncitizen regulations are not eligible for assistance.

Appeals For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

D. Social Security Number Documentation

To be eligible, all family members 6 years of age and older must provide a Social Security Number or certify that they do not have one.

E. Signing Consent Forms

1. In order to be eligible each member of the family who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms.

2. The consent form must contain, at a minimum, the following:

a. A provision authorizing HUD and HACC to obtain from State Wage Information Collection Agencies (SWICAs) any information or materials necessary to complete or verify the application for participation or for eligibility for continued occupancy;

b. A provision authorizing HUD or HACC to verify with previous or current employers income information pertinent to the family's eligibility for or level of assistance;

c. A provision authorizing HUD to request income information from the IRS and the SSA for the sole purpose of verifying income information pertinent to the family's eligibility or level of benefits; and

d. A statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed.

F. Suitability for tenancy. HACC determines eligibility for participation and will also conduct criminal background checks on all adult household members, including live-in aides. HACC will deny assistance to a family because of drug-related criminal activity, registered sex offenders or violent

criminal activity by family members within the three previous years from the date of the record search. This check will be made through local law enforcement. If the individual has lived outside the local area, HACC may contact law enforcement agencies where the individual had lived

HACC will check with the State sex offender registration program *via the Internet at www.azsexoffender.org* and will ban for life any individual who is registered as a lifetime sex offender.

Additional screening is the responsibility of the owner. Upon the written request of a prospective owner, the HACC will provide any factual information or third party written information they have relevant to a voucher holder's history of, or ability to, comply with material standard lease terms or any history of drug trafficking.

# 4.0 MANAGING THE WAITING LIST

## *4.1 OPENING AND CLOSING THE WAITING LIST*

Opening of the waiting list will be announced via public notice that applications for Section 8 will again be accepted. The public notice will state where, when, and how to apply. The notice will be published in a local newspaper of general circulation, and also by any available minority media. The public notice will state any limitations to who may apply.

The notice will state that applicants already on waiting lists for other housing programs must apply separately for this program, and that such applicants will not lose their place on other waiting lists when they apply for Section 8. The notice will include the Fair Housing logo.

Closing of the waiting list will be announced via public notice. The public notice will state the date the waiting list will be closed. The public notice will be published in a local newspaper of general circulation, distributed to community agencies, posted at City Hall, the City Library and also made available through minority media.

## *4.2 TAKING APPLICATIONS*

Families wishing to apply for the Section 8 Program will be required to complete a pre-application ("application") for housing assistance. Applications are available at the counter during regular business hours at: HACC, 1415 Melody Lane, Building A, Bisbee, AZ 85603. Applications will also be mailed upon request of the applicant.

Applications are taken to compile a waiting list. Due to the demand for Section 8 assistance, applications may be taken on an open enrollment basis, depending on the length of the waiting list.

When the waiting list is open, completed pre-applications will be accepted from all applicants at any time and will be dated and time stamped upon its return to HACC. Pre-Applications will be added to the waiting list by local preference, date and time that it was received. HACC will at a later date request a full application in order to determine applicant's eligibility, admission, and level of benefit.

Persons needing assistance with the application process may receive help in person at the HACC, 1415 Melody Lane, Building A, Bisbee, AZ 85603 during normal office hours, Monday – Friday, 8:00 AM – 5:00 PM.

Persons with disabilities who require a reasonable accommodation in completing an application may call HACC to make special arrangements to complete their application. A Telecommunication Device for the Deaf (TDD) is available for the deaf. The TDD telephone number is **520.432.8360**.

The application process involves two phases. Phase 1 is the pre-application. The pre-application requires the family to provide limited basic information including name, address, phone number, family composition and family unit size, racial or ethnic designation of the head of household, income information, birth certificates, Social Security Cards, Immigration Status as required by HUD's Non-Citizen Rule, and information establishing any preferences to which they may be entitled. Phase 1 may result in the family's placement on the waiting list.

Upon receipt of the families pre-application, HACC will make a preliminary determination of eligibility. HACC will notify the family in writing that their name has been placed on the waiting list according to local preference and date and time. If HACC determines the family to be ineligible, the notice will state the reasons therefore and offer the family the opportunity of an informal review of this determination.

Applicants must report changes to their application including changes in family composition, income, or preference factors. Changes must be reported in writing by the Head of Household. The applicant's file will be annotated and their place on the waiting list will be updated should that become necessary.

Phase 2 is the final determination of eligibility, referred to as the full application. The full application takes place when the family nears the top of the waiting list. Verification of all preferences and eligibility will be done in Phase 2 of the application process. The family's final eligibility for admission into the Section 8 Program is determined during Phase 2.

## *4.3 ORGANIZATION OF THE WAITING LIST*

The waiting list(s) will be maintained in accordance with the following guidelines:

A. The application will be a permanent file;

B. All applications will be maintained in order of local preference and then in order of date and time of application;

C. Any contact between HACC and the applicant will be documented in the applicant file.

Note: The tenant-based waiting list cannot be maintained by bedroom size under current HUD regulations.

### *4.4 FAMILIES NEARING THE TOP OF THE WAITING LIST*

When a family appears to be within two (2) months of being offered assistance, the family will be asked to complete a full application and present Social Security Number information, citizenship/eligible immigrant information, and sign the Consent for Release of Information forms and all other required information. These applicant files will be pulled from the waiting list for eligibility certification and will be placed in a Pre-Participation Status. HACC must notify the family in writing of its determination, and give the family the opportunity for an informal review.

### *4.5 MISSED APPOINTMENTS*

All applicants who fail to keep a scheduled appointment in accordance with the paragraph below will be sent a notice of denial.

HACC will allow the family to reschedule an appointment for good cause but no more than twice. When a good cause exists, HACC will work closely with the family to find a more suitable time. Applicants will be offered the right to an informal review before being removed from the waiting list. Examples of good cause include but are not limited to the following: 1) documentation of hospitalization 2) documentation of family illness 3) death in the immediate family that requires out of town travel.

### *4.6 PURGING THE WAITING LIST*

HACC will update and purge its waiting list at least annually to ensure that the pool of applicants reasonably represents interested families. Purging also enables the Housing Authority to update the information regarding address, family composition, income category and preferences.

### *4.7 REMOVAL OF APPLICANTS FROM THE WAITING LIST*

HACC will not remove an applicant's name from the waiting list unless:

A. The applicant requests, in writing, that the name be removed;

B. The applicant fails to respond to a written request for information or a request to declare their continued interest in the program or misses scheduled appointments or refuses offered housing; or

C. The applicant does not meet either the eligibility or screening criteria for the program.

## *4.8 GROUNDS FOR DENIAL*

HACC will deny assistance to applicants who:

A. Do not meet any one or more of the eligibility criteria;

B. Do not supply information or documentation required by the application process;

C. Fail to respond to a written request for information or a request to declare continued interest in the program;

D. Fail to complete any aspect of the application or lease-up process;

E. Have a history of criminal activity (a three year period) by any household member involving crimes of physical violence against persons or property, and drug-related criminal activity that would adversely affect the health, safety, or well being of other tenants or staff, or cause damage to the property.

F. Currently owes rent or other amounts to any housing authority in connection with the public housing or Section 8 Programs.

G. Have committed fraud, bribery, or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from;

H. Have a family member who was evicted or terminated from assisted housing within the past three years;

I. Have a family member who was evicted from assisted housing within five years of the projected date of admission because of drug-related criminal activity involving the illegal manufacture, sale, distribution, or possession with the intent to manufacture, sell, distribute a controlled substance as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802;

J. Have a family member who is illegally using a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. The HACC may

waive this requirement with documentation or statement from a third party if:

1. The person has successfully completed a supervised drug or alcohol rehabilitation program; or

2. The person is participating in a supervised drug or alcohol rehabilitation program.

K. Have engaged in or threatened abusive or violent behavior towards any HACC staff or residents;

L. Have a family household member who has been terminated under the Section 8 Program during the last three years;

M. Have a family member who has been convicted of manufacturing or producing methamphetamine (speed) (Denied for life);

N. Have a family member with a lifetime registration under a State sex offender registration program (Denied for life).

***NO APPLICANT FOR THE HCV PROGRAM WHO HAS BEEN A VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING SHALL BE DENIED ADMISSION INTO THE PROGRAM IF THEY ARE OTHERWISE QUALIFIED.***

## *4.9 NOTIFICATION OF NEGATIVE ACTIONS*

Any applicant whose name is being removed from the waiting list will be notified by HACC, in writing, that they have ten (10) business days, from the date of the written correspondence, to present mitigating circumstances or request an informal review. The letter will also indicate that their name will be removed from the waiting list if they fail to respond within the time frame specified. HACC system of removing applicants' names from the waiting list will not violate the rights of persons with disabilities. If an applicant's failure to respond to a request for information or updates was caused by the applicant's disability, HACC will provide a reasonable accommodation. If the applicant indicates that they did not respond due to a disability, the HACC will verify that there is in fact a disability and that the accommodation they are requesting is necessary based on the disability. An example of a reasonable accommodation would be to reinstate the applicant on the waiting list based on the date and time of the original application.

## *4.10 INFORMAL REVIEW*

If HACC determines that an applicant does not meet the criteria for receiving Section 8 assistance, HACC will promptly provide the applicant with written notice of the determination. The notice must contain a brief statement of the reason(s) for the decision, and state that the applicant may request an informal review of the decision within ten (10) business days of the denial. HACC will describe how to

obtain the informal review. The informal review process is described in Section 16.2 of this Plan.

# 5.0 SELECTING FAMILIES FROM THE WAITING LIST

## *5.1 WAITING LIST ADMISSIONS AND SPECIAL ADMISSIONS*

If HUD awards funding that is targeted for families with specific characteristics or families living in specific units, HACC will use the assistance for those families.

## *5.2 PREFERENCES*

Families are eligible for the following local preferences:

1. Residency - Living or working in Cochise or Graham Counties or have notified that they are hired to work in Cochise or Graham Counties..

2. Elderly/Disabled - One who is at least 62 years old. Disabled person as defined by Section 223 of the Social Security Act or Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act.

3. Economic Self Sufficiency - A person, who is a student, working or in job training for at least three months.

4. Chronically Homeless – A person who is referred to HACC by a homeless shelter as chronically homeless as defined by HUD.

## *5.3 SELECTION FROM THE WAITING LIST*

Families will be selected from the waiting list by local preference and then by date and time of the family's application for housing assistance.

If necessary to meet the statutory requirement that 75% of newly admitted families in any fiscal year be families who are extremely low-income, HACC retains the right to skip higher income families on the waiting to reach extremely low-income families. This measure will only be taken if it appears the goal will not otherwise be met. To ensure this goal is met, the Housing Authority will monitor incomes of newly admitted families and the income of the families on the waiting list.

The new statutory definition of an extremely low–income (ELI) family. Section 238 of HUD's FY 2014 Appropriations Act1 amended Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) to define ELI families as very low–income families whose income does not exceed the higher of 30 percent of the area median income or the federal poverty level. The federal poverty level provision in the definition of ELI families does not apply in the case of public housing agencies

or projects located in Puerto Rico or any other territory or possession of the United States.

If there are not enough extremely low-income families on the waiting list, HACC will conduct outreach on a non-discriminatory basis to attract extremely low-income families to reach the statutory requirement.

When an applicant is offered assistance and refuses the offer, he/she loses his/her placement on that particular waiting list. If the applicant is on another waiting list, the position on that list is not affected.

## 5.4 SPECIAL PROGRAMS

Admission preference may be established when special program needs arise. Applications for the following "special" programs will be accepted by referrals.

A. **HOPWA Rent Subsidy Program:** In collaboration with Cochise County and the Southern Arizona AIDS Foundation (SAAF). Ryan White Program, the PHA will provide a Section 8 "look-alike" program for eligible persons and families who qualify under HOPWA guidelines. If eligible under the guidelines, the PHA will determine eligibility for housing assistance. Applicants may be income eligible up to 80% of the median income.

B. **HUD-Veterans Affairs Supportive Housing (VASH):** The PHA in partnership with the Tucson Veterans Administration (VA) Medical Center provides housing assistance for homeless veterans along with case management, health, and other supportive services. Participants are referred by the VA. Higher payment standards may be set for the program as well as waiver of minimum rent.

# 6.0 ASSIGNMENT OF BEDROOM SIZES (SUBSIDY STANDARDS)

HACC will issue a voucher for a particular bedroom size – the bedroom size is a factor in determining the family's level of assistance. The following guidelines will determine each family's unit size without overcrowding or over-housing:

| Number of Bedrooms | Number of Persons | |
|---|---|---|
| | Minimum | Maximum |
| 0 | 1 | 1 |
| 1 | 1 | 2 |
| 2 | 2 | 4 |
| 3 | 3 | 6 |
| 4 | 4 | 8 |

These standards are based on the assumption that each bedroom will accommodate no more than two (2) persons and relate to the number of bedrooms on the voucher, not the family's actual living arrangements. The Unit size on the voucher remains the same as long as family composition remains the same, regardless of the actual unit size rented. HACC will consider factors such as family characteristics including sex age or relationship. Consideration will also be given for medical reasons and the presence of a live-in aide.

Generally, HACC assigns one bedroom to two people within the following guidelines but will not require adults and children to share a room:

A. Separate bedrooms will be assigned for persons of the opposite sex (other than adults who have a spousal relationship and children under the age of 6 years.)

B. Foster children will be included in determining unit size only if they will be in the unit for more than 6 months.

C. Live-in aides will generally be provided a separate bedroom at intake. No additional bedrooms are provided for the aide's family

D. Space will not be provided for a family member, other than a spouse, who

will be absent most of the time, such as a member who is away in the military.

E. A single pregnant woman with no other family members must be treated as a two-person family.

HACC may grant exceptions from the subsidy standards if the family requests and the PHA determines the exceptions are justified by the relationship, age, sex, health or disability of family members.

HACC will grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size that the subsidy standards permit when persons cannot share a bedroom because of a need, such as a: verified medical or health reason or elderly persons or persons with disabilities who may require a live-in aide. Requests based on health related matters must be verified by a certified professional and must state why a larger size unit than that allowed by the guidelines is necessary.

HACC will not issue a larger voucher due to additions of family members other than by birth, adoptions, marriage or court awarded custody. When a family qualifies for a larger unit HACC will do so at the next annual reexam providing funding is available.

The members of the family residing in the unit must be approved by HACC. The family must obtain approval of any additional family members before the new family member occupies the unit except for additions by birth, adoption or court ordered custody, in which case the family must inform the PHA within 30 calendar days. The above referenced guidelines will apply.

The family unit size will be determined by HACC in accordance with the above guidelines and will determine the maximum rent subsidy for the family; however, the family may select a unit that may be larger or smaller than the family unit size. If the family selects a smaller unit, the payment standard for the smaller size will be used to calculate the subsidy. If the family selects a larger size, the payment standard for the family unit size will determine the maximum subsidy.

HACC does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The PHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

The assignment of bedroom sizes (as described above) applies only to the initial occupancy, and does not apply to continued occupancy. During the initial term of the lease, as a result of additions to or decreases in the family size; the family will not be required to move to a larger or smaller unit unless the Housing Authority determines a move is in the best interest of the participant and/or Housing Authority. Such determination may only be made by the Director or authorized designee.

## *6.1 BRIEFING*

When HACC selects a family from the waiting list, the family will be invited to attend a briefing (allowing ten (10) business days notice) explaining how the program works. In order to receive a voucher the family is required to attend the briefing. If they cannot attend the originally scheduled briefing and provide prior written notice, they may attend a later session. If the family fails to attend the second scheduled briefing, they will be dropped from the waiting list and denied admission. Applicants arriving more than 10 minutes late to a briefing will not be briefed. Applicants will not be scheduled for more than two briefings.

If an applicant with a disability requires auxiliary aids to gain full benefit from the briefing, the Housing Authority will furnish such aids where doing so would not result in a fundamental alteration of the nature of the program or in an undue financial or administrative burden. In determining the most suitable auxiliary aid, the Housing Authority will give primary consideration to the requests of the applicant. Families unable to attend a briefing due to a disability may request a reasonable accommodation such as having the briefing presented at an alternate location.

The briefing will cover at least the following subjects:

A. A description of how the program works;

B. Family and owner responsibilities;

C. Where the family may rent a unit, including inside and outside the Housing Authority's jurisdiction;

D. Types of eligible housing;

E. For families qualified to lease a unit outside the Housing Authority's jurisdiction under portability, an explanation of how portability works;

F. An explanation of the advantages of living in an area that does not have a high concentration of poor families; and

F. An explanation that the family share of rent may not exceed 40% of the family's monthly adjusted income.

***6.2 PACKET***

During the briefing, HACC will give the family a packet covering at least the following subjects:

A. The term of the voucher and the Housing Authority's policy on extensions and suspensions of the term. The packet will include information on how to request an extension and forms for requesting extensions;

B. How the Housing Authority determines the housing assistance payment and total tenant payment for the family;

C. Information on the payment standard and the utility allowance schedule;

D. How the Housing Authority determines the maximum rent for an assisted unit;

E. Where the family may lease a unit. For families qualified to lease outside the Housing Authority's jurisdiction, the packet includes an explanation of how portability works;

F. The HUD-required tenancy addendum that provides the language that must be included in any assisted lease, and a sample contract;

G. The request for approval of the tenancy form and an explanation of how to request Housing Authority approval of a unit;

H. A statement of the Housing Authority's policy on providing information to prospective owners. This policy requires applicants to sign disclosure statements allowing the Housing Authority to provide prospective owners with the family's current and prior addresses and the names and addresses of the landlords for those addresses. Upon request, the Housing Authority will also supply any factual information or third party verification relating to the applicant's history as a tenant or their ability to comply with material standard lease terms or any history of drug trafficking, drug-related criminal activity or any violent criminal activity;

I. The Housing Authority's subsidy standards, including when and if the Housing Authority will consider granting exceptions to the standards;

J. The HUD brochure on how to select a unit ("A Good Place to Live");

K. The HUD-required lead-based paint brochure;

L. Information on Federal, State, and local equal opportunity laws; the brochure "Fair Housing: It's Your Right;" and a copy of the housing discrimination complaint form;

M. A list of vacant units submitted by owners/agents who may be willing to lease a unit to the family or help the family find a unit;

N. Notice that if the family includes a person with disabilities, the family may request a current list of accessible units known to the HACC that may be available;

O. The family's obligations under the program;

P. The grounds upon which the Housing Authority may terminate assistance because of the family's action or inaction;

Q. HACC informal hearing procedures, including when the Housing Authority is required to provide the opportunity for an informal hearing, and information on how to request a hearing; and

R. HACC owner information brochure. This brochure can be given by the applicant to a prospective owner to help explain the program.

## *6.3 ISSUANCE OF VOUCHER; REQUEST FOR APPROVAL OF TENANCY*

Once all family information has been verified, their eligibility determined, their subsidy calculated, and they have attended the family briefing, HACC will issue the voucher. At this point, the family begins their search for a unit. When the family finds a unit that the owner is willing to lease under the program, the family and the owner will complete and sign a proposed lease; the HUD required tenancy addendum and the request for approval of the tenancy form. The family will submit the proposed lease and the request form to the Housing Authority during the term of the voucher. The Housing Authority will review the request, the lease, and the HUD required tenancy addendum and make an initial determination of approval of tenancy. The Housing Authority may assist the family in negotiating changes that may be required for the tenancy to be approvable. Once it appears the tenancy may be approvable, the Housing Authority will schedule an appointment to inspect the unit within 15 business days after the receipt of inspection request from the family and owner. The 15 business day period is suspended during any period the unit is unavailable for inspection. The Housing Authority will promptly notify the owner and the family whether the unit and tenancy are approvable.

During the initial stage of qualifying the unit, the Housing Authority will, upon request, provide the prospective owner with information regarding the program. Information will include Housing Authority and owner responsibilities for screening and other essential program elements. The Housing Authority will provide the owner with the family's current and prior address as shown in the Housing Authority records along with the name and address (if known) of the landlords for those addresses.

Additional screening is the responsibility of the owner. Upon request by a prospective owner, the Housing Authority will provide any factual information or

third party written information they have relevant to a voucher holder's history of, or ability to, comply with standard material lease terms.

### *6.4 TERM OF THE VOUCHER*

The initial term of the voucher will be 90 days and will be stated on the Housing Choice Voucher.

The Housing Authority may grant one extension of the term, but the initial term plus any extensions will never exceed 120 calendar days from the initial date of issuance. To obtain an extension, the family must make a request in writing prior to the expiration date. A statement of the efforts the family has made to find a unit must accompany the request. A sample extension request form and a form for recording their search efforts will be included in the family's briefing packet. If the family documents their efforts and additional time can reasonably be expected to result in success, the Housing Authority will grant the length of request sought by the family or 30 days, whichever is less.

If the family includes a person with disabilities and the family requires an extension due to the disability, the Housing Authority will grant an extension allowing the family the full 120 days search time. If the Housing Authority determines that additional search time would be a reasonable accommodation, the Housing Authority may grant an additional extension beyond the 120-day period.

Upon submittal of a completed request for approval of tenancy form, HACC will suspend the term of the voucher. The term will be in suspension until the date the Housing Authority provides notice that the request has been approved or denied. This policy allows families the full term 30 days, or more with extensions) to find a unit, not penalizing them for the period during which the Housing Authority is taking action on their request. A family may submit a second request for approval of tenancy before the Housing Authority finalizes action on the first request. In this case, the suspension will last from the date of the first submittal through the Housing Authority's action on the second submittal. No more than two requests will be concurrently considered.

**Rescinding of Vouchers:**

If, due to budgetary constraints, the PHA must rescind vouchers that have already been issued to families, the PHA will do so according to the instructions under each category below. The PHA will first rescind vouchers that fall under Category 1. Vouchers in Category 2 will only be rescinded after all vouchers under Category 1 have been rescinded.

Category 1: Vouchers for which a Request for Tenancy (RTA) and proposed lease have **not** been submitted to the PHA.

Vouchers will be rescinded in order of the date and time they were issued, starting with the most recently issued vouchers.

Category 2: Vouchers for which a Request for Tenancy Approval and proposed lease have been submitted to the PHA.

Vouchers will be rescinded in order of the date and time the RTA was submitted to the PHA, starting with the most recently submitted requests.

Families who have their vouchers rescinded will be notified in writing and will be reinstated to their former position on the waiting list. When funding is again available, families will be selected from the waiting list in accordance with PHA selection policies.

## *6.5 APPROVAL TO LEASE A UNIT*

HACC will approve a lease if all of the following conditions are met:

A. The unit is eligible;

B. The unit is inspected by the Housing Authority and passes HQS;

C. The lease is approvable and includes the language of the tenancy addendum;

D. The rent to owner is reasonable;

E. The family's share of rent does not exceed 40% of their monthly adjusted income,

F. The owner has not been found to be debarred, suspended, or subject to a limited denial of participation by HUD or the Housing Authority; and

G. The family continues to meet all eligibility and screening criteria.

If tenancy approval is denied, the Housing Authority will advise the owner and the family in writing and advise them also of any actions they could take that would enable the Housing Authority to approve the tenancy.

The lease term may begin only after all of the following conditions are met:

A. The unit passes the Housing Authority HQS inspection;

B. The family's share of rent does not exceed 40% of their monthly adjusted income,

C. The landlord and tenant sign the lease to include the HUD required addendum; and

D. The Housing Authority approves the leasing of the unit.

The Housing Authority will prepare the contract when the unit is approved for tenancy. Generally, the landlord, simultaneously with the signing of the lease and the HUD required tenancy addendum, will execute the contract. Upon receipt of the executed lease and the signed contract by the landlord, the Housing Authority will execute the contract. The Housing Authority will not pay any housing assistance to the owner until the contract is executed.

In no case will the contract be executed later than 60 days after the beginning of the lease term.

Any contract executed after the 60-day period will be void and the Housing Authority will not pay housing assistance to the owner.

### *6.6 COCHISE COUNTY HA DISAPPROVAL OF OWNER*

The Housing Authority will deny participation by an owner at the direction of HUD. The Housing Authority will also deny the owner's participation for any of the following reasons:

A. The owner has violated any obligations under a Section 8 Housing Assistance Payments Contract;

B. The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program;

C. The owner has engaged in drug-related criminal activity or any violent criminal activity;

D. The owner has a history or practice of non-compliance with HQS for units leased under Section 8 or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other Federal housing program;

E. The owner has a history or practice of renting units that fail to meet State or local codes; or

F. The owner has not paid State or local real estate taxes, fines, or assessments.

G. The owner refuses (or has a history of refusing) to evict families for drug-related or violent criminal activity, or for activity that threatens the health, safety or right of peaceful enjoyment of the:

1. premises by tenants, HACC employees or owner employees; or

2. surrounding residents and/or neighbors;

H. If the owner is the parent, child, grandparent, grandchild, sister or brother

of any member of the family, unless the HACC determines that approving the unit would provide reasonable accommodation for a family member with disabilities.

I. Other conflicts of interest under Federal, State, or local law.

## *6.7 INELIGIBLE/ELIGIBLE HOUSING*

The following types of housing cannot be assisted under the Section 8 Tenant-Based Program:

A. A public housing or Indian housing unit;

B. A unit receiving project-based assistance under a Section 8 Program;

C. Nursing homes, board and care homes, or facilities providing continual psychiatric, medical or nursing services;

D. College or other school dormitories;

E. Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;

F. A unit occupied by its owner. This restriction does not apply to cooperatives or to assistance on behalf of a manufactured home owner leasing a manufactured home space;

G. Units owned by family members; and

H. A unit receiving any duplicative Federal, State, or local housing subsidy. This does not prohibit renting a unit that has a reduced rent because of a tax credit.

HACC will not approve a lease for any of the following special housing types, except as a reasonable accommodation for a family with disabilities:

A. Congregate housing

B. Group homes

C. Shared housing

D. Cooperative housing

E. Single room occupancy housing

HACC will approve leases for the following housing types:

A. Single family dwellings

B. Apartments

C. Manufactured/Mobile housing - Post 1976

D. Manufactured/Mobile home space rentals

### *6.8 SECURITY DEPOSIT*

The owner may collect a security deposit from the tenant in an amount not in excess of amounts charged in private market practice and not in excess of amounts charged by the owner to unassisted tenants.

When the tenant moves out of the dwelling unit, the owner, subject to State or local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid rent payable by the tenant, damages to the unit or for other amounts the tenant owes under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount, if any, used to reimburse the owner, the owner must refund promptly the full amount of the unused balance to the tenant.

If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant.

## 7.0 MOVES WITH CONTINUED ASSISTANCE

In the tenant and/or project based program, participating families are not allowed to move to another unit or change programs until the initial 12 month lease has expired and proper notice has been given to the landlord and the PHA, or if the Housing Authority has terminated the HAP contract with an owner.

HACC may issue a new voucher if the family does not owe HACC -or any other Housing Authority or landlord money in connection with a Section 8 program, has not violated a Family Obligation, has not moved and/or been issued a voucher within the last 12 months, **and** only if HACC has sufficient funding for continued assistance. If the move is necessitated for a reason other than family choice, the 12-month requirement may be waived. Mutual termination of an existing lease will not be accepted except for ADA accommodation or other mitigating circumstances.

### *7.1 WHEN A FAMILY MAY MOVE*

For families already participating in the Section 8 Program, HACC will allow the family to move to a new unit if:

A. The assisted lease for the old unit has terminated;

B. The owner has given the tenant a notice to vacate, has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the tenant; or

C. The tenant has given notice of lease termination (if the tenant has a right to terminate the lease on notice to the owner).

## *7.2 PROCEDURES REGARDING FAMILY MOVES*

Families with tenant based assistance considering transferring to a new unit will be scheduled to attend a mover's briefing. All families who are moving, including any families moving into or out of the HACC jurisdiction, will be required to attend a mover's briefing prior to HACC entering a new HAP contract on their behalf.

This briefing is intended to provide the following:

A. A refresher on program requirements and the family's responsibilities. Emphasis will be on giving proper notice and meeting all lease requirements such as leaving the unit in good condition;

B. Information about finding suitable housing and the advantages of moving to an area that does not have a high concentration of poor families;

C. Payment standards, exception payment standard rent areas, and the utility allowance schedule;

D. An explanation that the family share of rent may not exceed 40% of the family's monthly adjusted income;

E. Portability requirements and opportunities;

F. The need to have a reexamination conducted within 120 days prior to the move;

G. An explanation and copies of the forms required to initiate and complete the move; and

H. All forms and brochures provided to applicants at the initial briefing.

## *7.3 WHEN TO CONDUCT A NEW REEXAM FOR A FAMILY MOVE*

The following procedures relating to ***reexaminations*** and ***anniversary dates*** will apply for all Family Moves. Failure to follow the procedures below may subject the family to termination from the program.

A. In all cases of a transfer, a new reexam **must be** completed if the family income or composition has changed since the last recertification (even if the last recertification/verification is less than 120 days old). This will result in a new anniversary date for the family.

B. Families are required to give proper written notice of their intent to terminate the lease. In accordance with HUD regulations, no notice requirement may exceed 60 days or be less than 30 days. Mutual termination of an existing lease will not be accepted unless they are for ADA accommodation or other mitigating circumstances.

C. If the family moves from the unit before the initial term of the lease ends without approval of the owner and HACC, it will be considered a serious lease violation and cause for termination from the program.

D. The family is required to give HACC a copy of the notice to terminate the lease at the same time as it gives the notice to the landlord. A family's failure to provide a copy of the lease termination notice to HACC will be considered a violation of Family Obligations and is cause for termination from the program.

E. A family who gives notice to terminate the lease must mail the notice by certified mail or have the landlord or his agent sign a statement stating the date and time received. The family will be required to provide the certified mail receipt and a copy of the lease termination notice to HACC, or a copy of the lease termination notice and the signed statement stating the date and time the notice was received. If the landlord or his/her agent does not accept the certified mail receipt, the family will be required to provide the receipt and envelope showing that the attempt was made.

# 8.0 PORTABILITY

## *8.1 GENERAL POLICIES OF THE HOUSING AUTHORITY OF COCHISE COUNTY*

A family whose head or spouse has a domicile (legal residence) or works in the jurisdiction of HACC at the time the family first submits its application for participation in the program to HACC may lease a unit anywhere in the jurisdiction of HACC or outside the HACC jurisdiction as long as there is another entity operating a tenant-based Section 8 program covering the location of the proposed unit.

If the head or spouse of the assisted family does not have a legal residence or work in the jurisdiction of HACC at the time of its application, the family will not have any right to lease a unit outside of the HACC jurisdiction for a 12-month period beginning when the family is first admitted to the program. During this period, the family may only lease a unit located in the jurisdiction of HACC.

Families participating in the tenant based program will not be allowed to move more than once in any 12-month period and under no circumstances will HACC allow a participant to improperly break a lease. Under extraordinary circumstances, HACC may consider allowing more than one move in a 12-month period.

Families may only move to a jurisdiction where a Section 8 Program is being administered.

If a family has moved out of their assisted unit in violation of the lease, HACC will not issue a voucher, and will terminate assistance in compliance with Section 14.0, Termination of Assistance to the Family By the Housing Authority of Cochise County.

## *8.2 INCOME ELIGIBILITY*

A. Admission

A family must be income-eligible in the area where the family first leases a unit with assistance in the Tenant Based Assistance Program.

B. If a portable family is already a participant in the Initial Housing Authority's Tenant Based Assistance Program, income eligibility is not re-determined.

## *8.3 PORTABILITY: ADMINISTRATION BY RECEIVING HOUSING AUTHORITY*

A. When a family utilizes portability to move to an area outside the Initial Housing Authority jurisdiction, another Housing Authority (the Receiving Housing Authority) must administer assistance for the family if that Housing Authority has a tenant-based program covering the area where the unit is located.

B A Housing Authority with jurisdiction in the area where the family wants to lease a unit must issue the family a voucher. If there is more than one such housing authority, the Initial Housing Authority may choose which housing authority shall become the Receiving Housing Authority.

## *8.4 PORTABILITY PROCEDURES*

A. When HACC is the Initial Housing Authority:

1. HACC will brief the family on the process that must take place to exercise portability. The family will be required to attend an applicant or mover's briefing.

2. HACC will determine whether the family is income-eligible in the

area where the family wants to lease a unit (if applicable).

3. HACC will advise the family how to contact and request assistance from the Receiving Housing Authority.

4. HACC will, within ten (10) business days, notify the Receiving Housing Authority to expect the family.

5. HACC will immediately mail to the Receiving Housing Authority the most recent HUD Form 50058 (Family Report) for the family, and related verification information.

B. When HACC is the Receiving Housing Authority:

1. When the portable family requests assistance from HACC, HACC will within ten (10) calendar days inform the Initial Housing Authority whether it will bill the Initial Housing Authority for assistance on behalf of the portable family, or absorb the family into its own program. When HACC receives a portable family, the family can be absorbed if funds are available and a voucher will be issued.

2. HACC will issue a voucher to the family. The term of a HACC voucher will not expire before the expiration date of any Initial Housing Authority's voucher. HACC will determine whether to extend the voucher term. The family must submit a request for tenancy approval to HACC during the term of the HACC voucher.

3. HACC will determine the family unit size for the portable family. The family unit size is determined in accordance with the HACC subsidy standards.

4. HACC will within ten (10) business days notify the Initial Housing Authority if the family has leased an eligible unit under the program, or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the voucher.

5. If HACC opts to conduct a new reexamination, HACC will not delay issuing the family a voucher or otherwise delay approval of a unit unless the re-certification is necessary to determine income eligibility.

6. In order to provide tenant-based assistance for portable families, HACC will perform all Housing Authority program functions, such as reexaminations of family income and composition. At any time, either the Initial Housing Authority or HACC may make a determination to deny or terminate assistance to the family in accordance with 24 CFR 982.552.

C. Absorption by the Housing Authority of Cochise County

If funding is available under the consolidated ACC for HACC Voucher Program when the portable family is received, HACC can absorb the family into its Voucher Program. After absorption, the family is assisted with funds available under the consolidated ACC for HACC Tenant-Based Program. Should HACC be absorbing a tenant who is an existing Port-In, HACC will absorb the tenant with the earliest effective date.

D. Portability Billing

1. To cover assistance for a portable family, the Receiving Housing Authority may bill the Initial Housing Authority for housing assistance payments and administrative fees. The billing procedure will be as follows:

   a. As the Initial Housing Authority, HACC will promptly reimburse the Receiving Housing Authority for the full amount of the housing assistance payments made by the Receiving Housing Authority for the portable family. The amount of the housing assistance payment for a portable family in the Receiving Housing Authority's program is determined in the same manner as for other families in the Receiving Housing Authority's program.

   b. The Initial Housing Authority will promptly reimburse the Receiving Housing Authority for 80% of the Initial or HUD prorated amounts Housing Authority's on-going administrative fee for each unit month that the family receives assistance under the tenant-based programs and is assisted by the Receiving Housing Authority. If both Housing Authorities agree, we may negotiate a different amount of reimbursement.

E. When a Portable Family Moves

When a portable family moves out of the tenant-based program of a Receiving Housing Authority that has not absorbed the family, the Housing Authority in the new jurisdiction to which the family moves becomes the Receiving Housing Authority, and the first Receiving Housing Authority is no longer required to provide assistance for the family.

# 9.0 DETERMINATION OF FAMILY INCOME

## *9.1 INCOME, EXCLUSIONS FROM INCOME, DEDUCTIONS FROM INCOME*

To determine annual income, HACC counts the income of all family members, excluding the types and sources of income that are specifically excluded. Once the annual income is determined, HACC subtracts out all allowable deductions (allowances) as the next step in determining the Total Tenant Payment.

## *9.2 INCOME*

A. Annual income means all amounts, monetary or not, that:

1. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member, or

2. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

3. Are not specifically excluded from annual income.

If it is not feasible to anticipate a level of income over a 12-month period (e.g. seasonal or cyclic income), HACC believes that past income is the best available indicator of expected future income, HACC may annualize the income anticipated for a shorter period, subject to a re-determination at the end of the shorter period.

B. Annual income includes, but is not limited to:

1. The full amount, before any payroll deductions of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.

2. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from an investment is included in income, except

to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income includes the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.

4. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump sum amount or prospective monthly amounts for the delayed start of a periodic amount. (However, deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts are excluded.)

5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay. (However, lump sum additions such as insurance payments from worker's compensation are excluded.)

6. Welfare assistance.

    a. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income consists of:

        i. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

        ii. The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this requirement is the amount resulting from one application of the percentage.

    b. Imputed welfare income.

        i. A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to HACC by the welfare agency), plus the total amount

of other annual income.

ii. At the request of HACC, the welfare agency will inform HACC in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform HACC of any subsequent changes in the term or amount of such specified welfare benefit reduction. HACC will use this information to determine the amount of imputed welfare income for a family.

iii. A family's annual income includes imputed welfare income in family annual income, as determined at an interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to HACC by the welfare agency).

iv. The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

v. HACC will not include imputed welfare income in annual income if the family was not an assisted resident at the time of the sanction.

vi. If a participant is not satisfied that HACC has calculated the amount of imputed welfare income in accordance with HUD requirements, and if HACC denies the family's request to modify such amount, then HACC shall give the resident written notice of such denial, with a brief explanation of the basis for HACC determination of the amount of imputed welfare income. HACC notice shall also state that if the resident does not agree with the determination, the resident may contest the decision in accordance with our informal review policy.

c. Relations with welfare agencies

i HACC will ask welfare agencies to inform it of any specified welfare benefits reduction for a family

member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives HACC written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

ii. HACC is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the agency. However, HACC is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

iii. Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. HACC shall rely on the welfare agency notice to HACC of the welfare agency's determination of a specified welfare benefits reduction.

7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.

8. All regular pay, special pay, and allowances of a member of the Armed Forces. (Special pay to a member exposed to hostile fire is excluded.)

### *9.3 EXCLUSIONS FROM INCOME*

**Fully Excluded Income:**

Income that is fully excluded means the entire amount qualifies to be excluded from the annual income determination. For fully excluded income, the PHA is **not required** to:

- Verify the income in accordance with the HUD-prescribed verification hierarchy;
- Document in the tenant file why third party verification was not available as required by 24 CFR 960.259(c)(i) and 24 CFR 982.516(a)(2); and
- Report the income in Section 7 of the form HUD-50058.

HACC may accept an applicant or participant's self-certification as verification of fully excluded income. HACC's application and reexamination documentation, which is signed by all adult family members, may serve as the self-certification of the fully excluded income. HACC has the option of elevating the verification requirements if necessary, to determine if a source of income qualifies for a full exclusion.
Examples of common fully excluded income categories that are verifiable through applicant or participant self-certification are:

- Supplemental Nutrition Assistance Program (SNAP) benefits, formerly known as food stamps.
- Income from a live-in aide.

For a complete list of income exclusions, see 24 CFR 5.609(c).

**Partially Excluded Income:**

Income that is partially excluded means that only a certain portion of the income reported by the family qualifies to be excluded, while the remainder must be included when determining the family's annual income.

For partially excluded income, HACC will:

- Comply with HUD-prescribed verification requirements and all applicable regulations pertaining to the determination of annual income; and
- Report the income in Section 7 of the form HUD-50058. The example below shows how the
partially excluded income for a full-time student should be reported on the form HUD-50058.

Examples of partially excluded income that are subject to regular verification requirements include:

- The Department of Veterans Affairs "Aid and Attendance" benefits – in accordance with 24 CFR 5.609(c)(4), these benefits may be excluded from income if they are used "specifically for, or in reimbursement of, the cost of medical expenses for any family member." Live-in or periodic medical assistance and services of doctors and health care professionals are among the services that may be counted as medical expenses. The PHA must verify the amount provided for aid and attendance medical expenses and the amount actually being used by the veteran for such expenses.
Any portion of the benefit not used for such expenses would continue to be counted as income by HACC when determining the family's annual income.
- Earnings in excess of $480 for full-time students 18 years old or older (24 CFR 5.609(c)(11) – in order to determine the amount of earnings to include in the calculation

of the family's annual income, the PHA must verify the amount of employment income for these family members.

For a complete list of income exclusions, see 24 CFR 5.609(c).

Annual income does not include the following:

A. Income from employment of children (including foster children) under the age of 18 years;

B. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

C. Lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;

D. Amounts received by the family that is specifically for, or in reimbursement of, the cost of medical expenses for any family member;

E. Income of a live-in aide;

F. The full amount of student financial assistance paid directly to the student or to the educational institution;

G. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

H. The amounts received from the following programs:

1. Amounts received under training programs funded by HUD;

2. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

3. Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and that are made solely to allow participation in a specific program;

4. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the Housing

Authority or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiative coordination. No resident may receive more than one such stipend during the same period of time;

5. Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program;

6. Temporary, nonrecurring, or sporadic income (including gifts);

7. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

8. Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

9. Adoption assistance payments in excess of $480 per adopted child;

10. Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts;

11. Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

12. Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

13. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits.

These exclusions include:

a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));

b. Payments to Volunteers under the domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

c. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d. Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

e. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f. Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94–540, 90 Stat. 2503–04);

h. The first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407–1408);

i. Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j. Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l. Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

n. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95–433);

p. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q. Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

s. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

## *9.4 DEDUCTIONS FROM ANNUAL INCOME*

The following deductions will be made from annual income:

A. $480 for each dependent

B. $400 for any elderly family or disabled family

C. The sum of the following, to the extent the sum exceeds three percent of annual income:

1. Unreimbursed medical expenses of any elderly family or disabled family; and

2. Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed, but this allowance may not exceed the earned income received by family members who are 18 years of age or older who are able to work because of such attendant care or auxiliary apparatus; and

D. Reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education. This deduction shall not exceed the amount of employment income that is included in annual income.

E. For persons with disabilities, the incremental earnings due to employment during a cumulative 12-month period following date of the initial hire shall be excluded. This exclusion is only available to the following families:

1. Families whose income increases as a result of employment of a disabled family member who was previously unemployed (defined as working less than 10 hours a week at the established minimum wage) for one or more years.

2. Families whose income increases during the participation of a disabled family member in any economic self-sufficiency or other job-training program.

3. Persons with disabilities who are or were, within 6 months, assisted under State TANF or Welfare–to-Work program for at least $500.00.
   During the second cumulative 12-month period after the date of initial hire, 50% of the increased income shall be excluded from income.

   The disallowance of increased income of an individual family member is limited to a lifetime 48-month period. It only applies for 12 months of the 100% exclusion and 12 months of the 50% exclusion. (effective 5.21.01).

## *9.5 RECEIPT OF A LETTER OR NOTICE FROM HUD CONCERNING INCOME*

A. If a Section 8 participant receives a letter or notice from HUD concerning the amount or verification of family income, the letter shall be brought to the person responsible for income verification within thirty (30) days of receipt by the participant.

B. The HACC Director, or authorized designee, shall reconcile any difference between the amount reported by the participant and the amount listed in the HUD communication. This shall be done as promptly as possible.

C. After the reconciliation is complete, HACC shall adjust the participant's rental contribution beginning at the start of the next month unless the reconciliation is completed during the final five (5) days of the month and then the new rent shall take effect on the first day of the second month following the end of the current month. In addition, if the participant had not previously reported the proper income, HACC shall do one of the following:

1. Immediately collect the back over paid assistance paid by the agency;

2. Establish a repayment plan for the resident to pay the sum due to the agency;

3. Terminate the participant from the program for failure to report income; or

4. Terminate the participant from the program for failure to report income and collect the back over paid assistance paid by the agency.

## *9.6 COOPERATING WITH WELFARE AGENCIES*

HACC will make its best efforts to enter into cooperation agreements with local welfare agencies under which the welfare agencies will agree:

A. To target assistance, benefits and services to families receiving assistance in the public housing and Section 8 tenant-based assistance program to achieve self-sufficiency.
B. To provide written verification to HACC concerning welfare benefits for families applying for or receiving assistance in our housing assistance programs.

## 9.7 Amendment to the Definition of Tuition

### I. Purpose

The definition of tuition found in the *Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance* (71 FR 18146, appendix A) which is used in both Multifamily Housing and Public and Indian Housing (PIH) programs. The *Supplementary Guidance* states that "tuition shall have the meaning given this term by the institution of higher education in which the student is enrolled. Tuition will now be defined in the same manner in which the Department of Education defines "tuition and fees." The term "tuition" is defined in the *Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance* (71

FR 18146, appendix A). Multifamily Housing programs define the term tuition in HUD Handbook 4350.3 REV-1.

**Amended Definition of Tuition as Defined by the Department of Education**

The Department of Education defines tuition as the amount of money charged to students for instructional services which may be charged per term, per course, or per credit. The Department of Education further defines tuition and fees as the amount of tuition and required fees covering a full academic year most frequently charged to students. These values represent what a typical student would be charged and may not be the same for all students at an institution. If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an entire academic year is used to estimate average tuition. Required fees include all fixed sum charges that are required of a large proportion of all students. The student who does not pay the charges is an exception. Examples of required fees include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program). Expenses related to attending an institution of higher education must **not** be included as tuition. Examples of these expenses include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed sum charges.

For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (**in excess of amounts received for tuition and any other required fees and charges**) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.

**Applicability**

All provisions of this notice apply to owners and management agents (O/As) and public housing authorities (PHAs) administering the following covered programs under section 8 of the United States Housing Act of 1937:

A. Project-based Section 8
1. New Construction
2. State Agency Financed
3. Substantial Rehabilitation
4. Section 202/8
5. Rural Housing Services Section 515/8
6. Loan Management Set-Aside (LMSA)
7. Property Disposition Set-Aside (PDSA)

B. Section 8 Housing Choice Voucher (including Project-Based Voucher and Project-Based Certificate)

C. Moderate Rehabilitation

In programs, other than HUD's section 8 programs, that follow the definition of annual income in 24 CFR part 5 (e.g. the Public Housing program), PHAs and other grantees may continue to exclude the full amount of student financial assistance from a person's annual income in accordance with 24 CFR § 5.609(c)(6).

The amended definition of tuition applies to all HUD programs. The income determination and verification requirements may also apply to other HUD programs that follow 24 CFR part 5

**Income Determination**

In implementing the amended definition of tuition, for section 8 programs only, O/As and PHAs must include amounts of financial assistance an individual receives in excess of tuition and other required fees and charges when determining annual income in accordance with 24 CFR 5.609(b)(9).
Under other programs, such as the Public Housing program, the full amount of financial assistance a student receives while participating in the program continues to be excluded from the program participant's annual income pursuant to 24 CFR § 5.609(c)(6).

*Example*:

Kim, a 22 year old, married, participant in a Section 8 program is enrolled in a nursing program at her local community college. She is receiving $7,000 in financial assistance to cover the full cost of tuition and fees of $6,000 for the academic year. The $6,000 includes:

- $2,500 in tuition per semester (total $5,000) *plus*
- $500 in individual fees (total $1,000)—athletic fee, writing laboratory fee, student center fee, science laboratory fee, technology fee—charged to every student per semester.

In this example, the excess $1,000 ($7,000 - $6,000) Kim received in financial assistance will be included in her annual income in accordance with 24 CFR 5.609(b)(9).

Under HUD's previous definition of tuition, Kim's housing authority might have considered her financial assistance to be in excess of $2,000 if her college's definition of tuition did not include fees. Under HUD's new definition, Kim's housing authority will determine her excess financial assistance to be $1,000 rather than $2,000 because the required fees and charges are included with tuition.

Using the same example, if Kim was a participant in the Public Housing program, the full amount of financial assistance she received would be excluded from her income in accordance with 24 CFR § 5.609(c)(6).

**Verification of Tuition and Fees**

O/As and PHAs must verify the amounts of tuition and required fees charged by the school when determining annual income. O/As and PHAs may wish to verify those amounts using the student's bill or account statement (including an online account statement) as provided by the school's bursar's office, or by contacting the bursar's office directly. It is also recommended that you visit the school's website as many institutions of higher education provide an itemized list covering tuition and fees that are charged to a majority of their students on their websites.

# 10.0 VERIFICATION

HACC will verify information related to waiting list preferences, eligibility, admission and level of benefits prior to admission. Periodically during occupancy, items related to eligibility and rent determination shall also be reviewed and verified. Income, assets, and expenses will be verified, as well as disability status, need for a live-in aide and other reasonable accommodations, full time student status of family members 18 years of age and older, Social Security Numbers, citizenship/eligible immigration status.

## *10.1 ACCEPTABLE METHODS OF VERIFICATION*

Age, relationship, U.S. citizenship, and Social Security Numbers will generally be verified with documentation provided by the family. For citizenship/eligible non-citizen documentation is required. Verification of these items will include making copies of Birth Certificates, Immigration Documents, Social Security cards and other documents presented by the family, the INS SAVE approval code, and forms signed by the family.

Other information will be verified by third party verification. This type of verification includes written documentation (with forms sent directly to and received directly from a source, not passed through the hands of the family). This verification may also be direct contact with the source, in person or by telephone. It may also be a report generated by a request from HACC or automatically by another government agency, i.e. the Social Security Administration. Verification forms and reports received will be contained in the applicant/tenant file. Oral third party documentation will include the same information as if the documentation had been written, i.e. name date of contact, amount received, etc.

When third party verification cannot be obtained, HACC will accept documentation received from the applicant/participant. Hand-carried documentation will be accepted if HACC has been unable to obtain third party

verification in a four week period of time. Photocopies of the documents provided by the family will be maintained in the file.

When neither third party verification nor hand-carried verification can be obtained, the HACC will accept a notarized statement signed by the head, spouse or co-head. Such documents will be maintained in the file.

### *10.2 TYPES OF VERIFICATION*

The chart below outlines the factors that may be verified and gives common examples of the verification that will be sought. To obtain written third party verification, HACC will send a request form to the source along with a release form signed by the applicant/participant via first class mail.

Verification Requirements for Individual Items

| **Item to Be Verified** | **3rd party verification** | **Hand-carried verification** |
|---|---|---|
| **General Eligibility Items** | | |
| Social Security Number | Letter from Social Security, electronic reports | Social Security card |
| Citizenship | N/A | Signed certification, voter's registration card, birth certificate, etc. |
| Eligible immigration status | INS SAVE confirmation # | INS card |
| Disability | Letter from medical professional, SSI, etc | Proof of SSI or Social Security disability payments |
| Full time student status (if >18) | Letter from school | For high school students, any document evidencing enrollment |
| Need for a live-in aide | Letter from doctor or other professional knowledgeable of condition | N/A |
| Child care costs | Letter from care provider | Bills and receipts |
| Disability assistance expenses | Letters from suppliers, care givers, etc. | Bills and records of payment |
| Medical expenses | Letters from providers, prescription record from pharmacy, medical professional's letter stating | Bills, receipts, records of payment, dates of trips, mileage log, receipts for fares and tolls |

| | | |
|---|---|---|
| | assistance or a companion animal is needed | |
| **Value of and Income from Assets** | | |
| Savings, checking accounts | Letter from institution | Passbook, most current statements. Savings accounts will be calculated on actual amount in account. Checking accounts will be calculated by averaging the most recent three month statements. |
| CDs, bonds, etc | Letter from institution | Tax return, information brochure from institution, the CD, the bond |
| Stocks | Letter from broker or holding company | Stock or most current statement, price in newspaper or through Internet |
| Real property | Letter from tax office, assessment, etc. | Property tax statement (for current value), assessment, records or income and expenses, tax return |
| Personal property | Assessment, bluebook, etc | Receipt for purchase, other evidence of worth |
| Cash value of life insurance policies | Letter from insurance company | Current statement |
| Assets disposed of for less than fair market value | N/A | Original receipt and receipt at disposition, other evidence of worth |
| **Income** | | |
| Earned income | Letter from employer | Multiple pay stubs |
| Self-employed | N/A | Tax return from prior year, books of accounts |
| Regular gifts and contributions | Letter from source, letter from organization receiving gift (i.e., if grandmother pays day care provider, the day care provider could so state) | Bank deposits, other similar evidence |
| Alimony/child support | Court order, letter from source, letter from Human Services | Record of deposits, divorce decree |
| | | |

| | | |
|---|---|---|
| Periodic payments (i.e., social security, welfare, pensions, workers' comp, unemployment) | Letter or electronic reports from the source | Award letter, letter announcing change in amount of future payments |
| Training program participation | Letter from program provider indicating<br>- whether enrolled<br>- whether training is HUD-funded<br>- whether State or local program<br>- whether it is employment training<br>- whether payments are for out- of-pocket expenses incurred in order to participate in a program | N/A |

HACC will accept a family's self-declaration of the amount of assets if the assets are equal to or below $5,000 and the amount of income expected to be received from those assets. The PHA's application and reexamination documentation which is signed by all adult family members, can serve as self-declaration. HACC will not need to request supporting documentation from the family to confirm assets or the amount of income expected to be received from those assets. If the net family assets are in excess of $5,000, HACC must obtain supporting documentation from the family to confirm the assets.

## *10.3 VERIFICATION OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS*

The citizenship/ eligible noncitizen status of each family member regardless of age must be determined. Prior to being admitted, or at the first reexamination, all citizens and nationals will be required to sign a declaration under penalty of perjury. (They will be required to show proof of their status by such means as Social Security card, birth certificate, military ID or military DD 214 Form, immigration documents.)

Prior to being admitted or at the first reexamination, all eligible non-citizens who are 62 years of age or older will be required to sign a declaration under penalty of perjury. They will also be required to show proof of age.

Prior to being admitted or at the first reexamination, all eligible non-citizens must sign a declaration of their status and a verification consent form and provide their original INS documentation. HACC will make a copy of the individual's INS documentation and place the copy in the file. HACC also will verify their status through the INS SAVE system. If the INS SAVE system cannot confirm eligibility, HACC will mail information to the INS so a manual check can be made of INS records.

Family members who do not claim to be citizens, nationals or eligible non-citizens, or whose status cannot be confirmed, must be listed on a statement of non-eligible members and the list must be signed by the head of the household.

Non-citizen students on student visas, though in the country legally, are not eligible to be admitted to the Section 8 Program.

Any family member who does not choose to declare their status must be listed on the statement of non-eligible members.

If no family member is determined to be eligible under this Section, the family's admission will be denied.

The family's assistance will not be denied, delayed, reduced or terminated because of a delay in the process of determining eligible status under this Section, except to the extent that the delay is caused by the family.

If HACC determines that a family member has knowingly permitted an ineligible non-citizen (other than any ineligible non-citizens listed on the lease) to permanently reside in their Section 8 unit, the family's assistance will be terminated. Such family will not be eligible to be readmitted to Section 8 for a period of 24 months from the date of termination.

## *10.4 VERIFICATION OF SOCIAL SECURITY NUMBERS*

Prior to admission, each family member who has a Social Security Number and who is at least six years of age must provide verification of his or her Social Security Number. New family members at least six years of age must provide this verification prior to being added to the lease. Children in assisted households must provide this verification at the first regular reexamination after turning six.

A 90-day period during which an applicant family may become a program participant, even if the family lacks the documentation necessary to verify the Social Security Number (SSN) of a family member under the age of 6 years. An extension of one additional 90-day period must be granted if the Housing Authority of Cochise County determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside of the control of the applicant. For example, an applicant may be able to demonstrate timely submission of a request for a SSN, in which case processing time would be the cause of the delay. If the applicant family does not produce the required documentation within the authorized time period, the Housing Authority of Cochise County or processing entity must impose appropriate penalties, in accordance with 24 CFR 5.218.

In terms of offering a grace period and an extension, if merited, HACC will implement this provision just as it currently implements the provision for program participants. Specifically, an applicant family with a child under the age of 6 years

may become a participant family, even if the SSN for the child has not been verified at the time of admission. If the SSN has still not been verified at the end of the initial 90-day period, then the HACC must determine whether a 90-day extension is merited. If it is not merited, then the HACC must follow the provisions of 24 CFR 5.218. If a 90-day extension is merited, then the PHA must either verify the SSN for the child by the end of the 90-day extension period or follow the provisions of 24 CFR 5.218.

The best verification of the Social Security Number is the original Social Security card. If the card is not available, HACC will accept letters from Social Security that establish and state the number. Documentation from other governmental agencies will also be accepted that establish and state the number. Driver's license, military ID, passports, or other official documents that establish and state the number are also acceptable.

If an individual states that they do not have a Social Security Number they will be required to sign a statement to this effect. HACC will not require any individual who does not have a Social Security Number to obtain a Social Security Number.

If a member of an applicant family indicates they have a Social Security Number, but cannot readily verify it, the family cannot be assisted until verification is provided.

If a member of a tenant family indicates they have a Social Security Number, but cannot readily verify it, they shall be asked to certify to this fact and shall up to 60 days to provide the verification. If the individual is at least 62 years of age, they will be given 120 days to provide the verification. If the individual fails to provide the verification within the time allowed, the family will be denied assistance or will have their assistance terminated.

## *10.5 TIMING OF VERIFICATION*

Verification must be dated within 90 days of certification or reexamination. If the verification is older than this, the source will be contacted and asked to provide information regarding any changes.

When an interim reexamination is conducted, the Housing Authority will verify and update only those elements reported to have changed.

## *10.6 FREQUENCY OF OBTAINING VERIFICATION*

For each family member, citizenship/eligible non-citizen status will be verified only once. This verification will be obtained prior to admission. If the status of any family member was not determined prior to admission, verification of their status will be obtained at the next regular reexamination. Prior to a new member joining the family, their status will be verified.

For each family member age 6 and above, verification of Social Security Number

will be obtained only once. This verification will be accomplished prior to admission. When a family member who did not have a Social Security Number at admission receives a Social Security Number, that number will be verified at the next regular reexamination. Likewise, when a child turns six, their verification will be obtained at the next regular reexamination.

# 11.0 RENT AND HOUSING ASSISTANCE PAYMENT

## *11.1 GENERAL*

After October 1, 1999, HACC will issue only vouchers to applicants, movers, and families entering the jurisdiction through portability.

## *11.2 RENT REASONABLENESS*

No HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises.

Reasonableness is determined prior to the initial lease and at the following times:

A. Before any increase in rent to owner is approved at the time of annual renewal of the lease, when the tenant continues to reside in the same unit;

**PHA Policy:**
After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the PHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the PHA will consider unit size and length of tenancy in the other units.

The PHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing. All rents adjustments will be effective the first of the month following 60 days after the PHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

B. If 60 days before the contract anniversary date there is a 5% decrease in the published FMR as compared to the previous FMR; and

C. If the Housing Authority or HUD directs that reasonableness be re-determined.

In addition to the instances described above, the PHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the PHA determines that the initial rent reasonableness determination was in error or (2) the PHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

## *11.3 COMPARABILITY*

In making a rent reasonableness determination, the Housing Authority will compare the rent for the unit to the rent of comparable units in the same or comparable neighborhoods. The Housing Authority will consider the following factors:

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

The Housing Authority will maintain current survey information on rental units in the jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database. The Housing Authority will also obtain from landlord associations and management firms the value of the array of amenities.

Owners are invited to submit information to the survey at any time. Owners may review the determination made on their unit and may submit additional information or make improvements to the unit that will enable the Housing Authority to establish a higher value.

The owner must certify the rents charged for other units. By accepting the housing assistance payment each month the owner is certifying that the rent to owner is not more than the rent charged by the owner for comparable unassisted units in the premises.

**Units that Must Not be Used as Comparables**
Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

## *11.4 MAXIMUM SUBSIDY*

The Fair Market Rent (FMR) published by HUD determines the maximum subsidy for a family.

For a regular tenancy under the Tenant Based Certificate Program, the FMR is the maximum initial gross rent under the assisted lease. This only applies until the transition of the merger of the Section 8 Certificate and Voucher programs as outlined in 24 CFR 982.502 is complete.

For the Voucher Program, the maximum payment standard will be 110% of the FMR without prior approval from HUD, or the exception payment standard approved by HUD.

For a voucher tenancy in an insured or noninsured 236 project, a 515 project of the Rural Development Administration, or a Section 221(d)(3) below market interest rate project the payment standard may not exceed the basic rent charged including the cost of tenant-paid utilities.

For manufactured home space rental, the maximum subsidy under any form of assistance is the Fair Market Rent for the space as outlined in 24 CFR 982.888.

## *11.5 SETTING THE PAYMENT STANDARD*

HUD requires that the payment standard be set by the Housing Authority at between 90 and 110% of the FMR. HACC will review its determination of the payment standard annually after publication of the FMRs. HACC will consider vacancy rates and rents in the market area, size and quality of units leased under the program, rents for units leased under the program, success rates of voucher holders in finding units, and the percentage of annual income families are paying for rent under the Voucher Program. If it is determined that success rates will suffer or that families are having to rent low quality units or pay over 40% of income for rent, the payment standard may be raised to the level judged necessary to alleviate these hardships.

Payment standards will not be raised solely to allow the renting of luxury quality

units.

If success levels are projected to be extremely high and rents are projected to be at or below 30% of income, the Housing Authority will reduce the payment standard. Payment standards for each bedroom size are evaluated separately so that the payment standard for one bedroom size may increase or decrease while another remains unchanged. HACC may consider adjusting payment standards at times other than the annual review when circumstances warrant.

Before increasing any payment standard, the Housing Authority will conduct a financial feasibility test to ensure that in using the higher standard, adequate funds will continue to be available to assist families in the program.

HACC may approve a payment standard of not more than 120 percent of the FMR without HUD approval if required as a reasonable accommodation for a family that includes a person with disabilities. This provision applies to the HCV program only and allows a HACC to establish a payment standard within limits currently permitted but designated for approval only by a HUD Field Office (24 CFR 982.503(c)(2)(B)(ii)). For any voucher unit assisted under the program, HACC must perform a rent reasonableness determination in accordance with the section 8(o)(10) of the U.S. Housing Act of 1937 and the HCV program regulations. HACC must maintain documentation that the PHA performed the required rent reasonableness analysis. In addition, the PHA must maintain documentation that that the unit has the feature(s) required to meet the needs of the person with disabilities.

## *11.6 SELECTING THE CORRECT PAYMENT STANDARD FOR A FAMILY*

A. For the voucher tenancy, the payment standard for a family is the lower of:

1. The payment standard for the family unit size; or

2. The payment standard for the unit size rented by the family.

B. If the unit rented by a family is located in an exception rent area; the Housing Authority will use the appropriate payment standard for the exception rent area.

C. During the HAP contract term for a unit, the amount of the payment standard for a family is the higher of:

1. The initial payment standard (at the beginning of the lease term) minus any amount by which the initial rent to owner exceeds the current rent to owner; or

2. The payment standard as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.

D. At the next annual reexamination following a change in family size or composition during the HAP contract term and for any reexamination thereafter, paragraph C above does not apply.

E. If there is a change in family unit size resulting from a change in family size or composition, the new family unit size will be considered when determining the payment standard at the next annual reexamination.

## *11.7 ASSISTANCE AND RENT FORMULAS*

A. Total Tenant Payment

The total tenant payment is equal to the highest of:

1. 10% of monthly income

2. 30% of adjusted monthly income

3. Minimum rent

4. The welfare rent

Plus any rent above the payment standard.

B Minimum Rent.

The minimum family contribution towards rent is the higher of $50 or 10 percent of monthly unadjusted income. If the $50 "minimum rent" amount is being used, families will be notified of their right to request a minimum rent hardship exception, and the documentation required to verify the claim. If the request is denied, the family will be notified of their right to an informal hearing.

A hardship exception may be granted for the following reasons:

1. Family has lost eligibility or is awaiting eligibility determination for a federal, State or local assistance program.

2. Family will be evicted as a result of the imposition of the minimum rent requirement.

3. Family income has decreased because of changed circumstances, Including loss of employment.

4. Death in the family.

5. Other circumstances as determined by HACC.

If the financial hardship is temporary in nature, the $50 minimum rent may be suspended for up to 90 days. However, after the 90 day period is over, the family will be required to repay the suspended amount back to HACC. If the hardship is of longer duration, no repayment will be required.

C. Section 8 Merged Vouchers

1. The payment standard is set by the Housing Authority between 90% and 110% of the FMR or higher or lower with HUD approval.

2. The participant pays the greater of the Total Tenant Payment or the minimum rent, plus the amount by which the gross rent exceeds the payment standard.

3. No merged voucher participant when initially receiving tenant-based assistance on a unit shall pay more than 40% of their monthly-adjusted income.

D. Section 8 Preservation Vouchers

1. Payment Standard

a. The payment standard is the lower of:

i. The payment standard amount for the appropriate family unit size; or

ii. The payment standard amount for the size of the dwelling unit actually rented by the family.

b. During the HAP contract term, the payment standard for the family is the higher of :

i. The initial payment standard (at the beginning of the HAP contract term), as determined in accordance with paragraph (1)(a) or (1)(b) of this section, minus any amount by which the initial rent to the owner exceeds the current rent to the owner; or

ii. The payment standard as determined in accordance with paragraph (1)(a) or (1)(b) of this section, as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.

c. At the next regular reexamination following a change in family composition that causes a change in family unit size during the HAP contract term, and for any examination thereafter during the term:

i. Paragraph (c)(i) of this section does not apply; and

ii. The new family unit size must be used to determine the payment standard.

1. HACC will pay a monthly housing assistance payment on behalf of the family that equals the lesser of:

a. The payment standard minus the total tenant payment; or

b. The gross rent minus the total tenant payment.

E. Manufactured Home Space Rental: Section 8 Vouchers

1 The payment standard for a participant renting a manufactured home space is the published FMR for rental of a manufactured home space.

2 The space rent is the sum of the following as determined by the Housing Authority:

a. Rent to the owner for the manufactured home space;

b. Owner maintenance and management charges for the space; and

c. Utility allowance for tenant paid utilities.

3. The participant pays the rent to owner less the HAP.

4. HAP equals the lesser of:

a. The payment standard minus the total tenant payment; or

b. The rent paid for rental of the real property on which the manufactured home owned by the family is located.

F. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES

Prorations of assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

"Mixed" families who were participants on June 10, 1995, and who do not qualify for continued assistance must be offered prorated assistance. Applicant mixed families are entitled to prorated assistance. Families that become mixed after June 19,1995 by addition of an ineligible members are entitled to prorated assistance.

If a mixed family qualifies for prorated assistance but decides not to accept it or if the family has no eligible members, the family may be eligible for temporary deferral of termination of assistance to permit the family additional time for the orderly transition of some or all of its members to locate other affordable housing. Under this provision the family receives full assistance. If assistance is granted under this provision prior to November 29, 1996, it may last no longer than three years. If granted after that date, the maximum period of time for assistance under the provision is 18 months. HACC will grant each family a period of 6 months to find suitable affordable housing. If the family cannot find suitable affordable housing, HACC will provide additional search periods up to the maximum time allowable.

Suitable housing means housing that is not substandard and is of appropriate size for the family. Affordable housing means that it can be rented for an amount not exceeding the amount the family pays for rent, plus utilities, plus 25%.

The family's assistance is prorated in the following manner:

1. Find the prorated housing assistance payment (HAP) by dividing the HAP by the total number of family members, and then multiplying the result by the number of eligible family members.

2. Obtain the prorated family share by subtracting the prorated HAP from the gross rent (contract rent plus utility allowance).

3. The prorated tenant rent equals the prorated family share minus the full utility allowance.

## *11.8 UTILITY ALLOWANCE*

The Housing Authority maintains a utility allowance schedule for all tenant-paid utilities (except telephone), for cost of tenant-supplied refrigerators and ranges, and for other tenant-paid housing services (e.g., trash collection (disposal of waste and refuse)).

The utility allowance schedule is determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the Housing Authority uses normal patterns of consumption for the community as a whole and current utility rates.

The Housing Authority reviews the utility allowance schedule annually and revises any allowance for a utility category if there has been a change of 10% or more in the utility rate since the last time the utility allowance schedule was revised. The Housing Authority maintains information supporting the annual review of utility allowances and any revisions made in its utility allowance schedule.

The Housing Authority uses the appropriate utility allowance for the size of dwelling unit actually leased by the family (rather than the family unit size as determined under the Housing Authority subsidy standards).

In accordance with 24 CFR 982.517, HACC will use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the voucher size issued, as determined by the PHA subsidy standards.

In cases where a reasonable accommodation has been provided to a family that includes a person with disabilities, the PHA must use the appropriate utility allowance for the size of the dwelling unit actually leased by the family. To ensure compliance with this provision, PHAs may employ ad hoc reports that are available through the Inventory Management System/Public and Indian Housing Information Center, as explained in Notice PIH 2014–25 ("Over Subsidization in the Housing Choice Voucher Program").

At each reexamination, the Housing Authority applies the utility allowance from the most current utility allowance schedule.

The Housing Authority will approve a request for a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

The utility allowance will be subtracted from the family's share to determine the amount of the Tenant Rent. The Tenant Rent is the amount the family owes each month to the owner. The amount of the utility allowance is then still available to the family to pay the cost of their utilities. Any utility cost above the allowance is the responsibility of the tenant. Any savings resulting from utility costs below the amount of the allowance belong to the tenant. Failure of a tenant to use the utility allowance to pay for utility services, as evidenced by delinquent payment and/or shut-off notices from a utility company, may subject the tenant to termination of assistance for misuse of funds, as described in section 14 of the administrative plan. The tenant will be responsible for repayment to the housing authority of any utility allowance that was not used to pay any unmet utility expenses.

## *11.9 DISTRIBUTION OF HOUSING ASSISTANCE PAYMENT*

The Housing Authority pays the owner the lesser of the housing assistance payment or the rent to owner.

### *11.10 CHANGE OF OWNERSHIP*

HACC requires a written request by the owner who executed the HAP contract in order to make changes regarding who is to receive the HACC rent payment or the address as to where the rent payment should be sent.

In addition, HACC requires a written request from the new owner to process a change of ownership. The following documents must accompany the written request:

A. Deed of Trust showing the transfer of title; and

B. Tax Identification Number or Social Security Number.

New owners will be required to execute IRS form W-9. The HACC may withhold the rent payment until the taxpayer identification number is received.

# 12.0 INSPECTION POLICIES, HOUSING QUALITY STANDARDS, AND DAMAGE CLAIMS

HACC will inspect all units to ensure that they meet Housing Quality Standards (HQS). No unit will be initially placed on the Section 8 Existing Program unless the HQS is met. Units will be inspected at least biennially, and at other times as needed, to determine if the units meet HQS.

The Housing Authority of Cochise County has the discretion to conduct unit inspections biennially rather than annually, the Housing Choice Voucher Program.

This flexibility is applicable only to periodic unit inspections conducted during the term of the assisted tenancy. Periodic inspections are those that HACC is required to conduct at least biennially, while a HCV participant is living in a unit. Periodic inspections do not include inspections conducted prior to the initial term of the lease or to interim inspections pursuant to 24 CFR §983.103(a) and (b).

The Housing Authority of Cochise County is exercising the discretion to continue with annual inspections. Biennial inspections will be conducted for:

- Units in properties that are already inspected annually under a local housing code enforcement program.
- Any unit that receives a “pass” score under HQS for two or more years in a row.
- Factors related to an owner’s record of providing decent, safe, and sanitary housing.
- Distance may be taken into account. However, it will not be the only factor considered.

HACC may continue with annual inspections of any units not inspected annually under another program or any unit that had health and safety deficiencies during its previous HQS inspection.

Under any circumstance in which HACC is prohibited from relying on an alternative inspection method for a property, the HACC must promptly conduct an HQS inspection of all units occupied by voucher program participants, and follow HQS procedures to remedy any identified deficiencies, as required under the HQS inspection method.

*Duty to inspect.* Irrespective of the biennial/alternative inspection method provision, HACC has a duty to inspect a unit when a participant family or government official reports a condition that violates HQS. If the condition is life-threatening (i.e., the PHA would require the owner to make the repair within no more than 24 hours in accordance with § 982.404(a)(3)), then the PHA must inspect the unit within 24 hours of when the PHA receives the notification. If the condition is not life-threatening (i.e., the PHA would require the owner to make the repair within no more than 30 calendar days), then the PHA must inspect the unit within 15 days of when the PHA receives the notification. In the event of extraordinary circumstances, such as if a unit is within a presidentially declared disaster area or if a natural or manmade disaster makes inspection of a unit infeasible, HUD may waive the 24-hour or the 15-day inspection requirement until such time as an inspection can be made. In such circumstances, HACC must submit a waiver request to its local HUD field office, stating the regulation from which a waiver is requested and including an explanation of why it is needed.

HACC must be allowed to inspect the dwelling unit at reasonable times with reasonable notice. The family and owner will be notified of the inspection appointment by first class mail. If the family cannot be at home for the scheduled inspection appointment, the family must call and reschedule the inspection or make arrangements to enable the Housing Authority to enter the unit and complete the inspection.

If the family misses the scheduled inspection and fails to reschedule the inspection, HACC will only schedule one more inspection. If the family misses two inspections, HACC will consider the family to have violated a Family Obligation and their assistance will be terminated.

## *12.1 TYPES OF INSPECTIONS*

There are seven types of inspections HACC will perform:

A. Initial Inspection - An inspection that must take place to insure that the unit passes HQS before assistance can begin.

B. Annual or Biennial Inspection - Inspections to determine that the unit continues to meet HQS which are done on an annual or biennial basis.

C. Complaint Inspection - An inspection caused by the Authority receiving a complaint on the unit by anyone.

D. Special Inspection - An inspection caused by a third party, i.e. HUD, needing to view the unit.

E. Emergency - An inspection that takes place in the event of a perceived emergency. These will take precedence over all other inspections.

F. Move Out Inspection (if applicable) - An inspection required for units in service before October 2, 1995, and optional after that date. These inspections document the condition of the unit at the time of the move-out.

G. Quality Control Inspection - Supervisory inspections on at least 5% of the total number of units that were under lease during the Housing Authority's previous fiscal year.

## *12.2 OWNER AND FAMILY RESPONSIBILITY*

A. Owner Responsibility for HQS

1. The owner must maintain the unit in accordance with HQS.

2. If the owner fails to maintain the dwelling unit in accordance with HQS, HACC will take prompt and vigorous action to enforce the owner obligations. HACC remedies for such breach of the HQS include termination, abatement of or reduction of housing assistance payments and termination of the HAP contract.

3. HACC will not make any housing assistance payments for a dwelling unit that fails to meet the HQS, unless the owner corrects the defect within the period specified by the HACC and the HACC verifies the correction. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects the owner must correct the defect within no more than 30 calendar days (or any HACC approved extension).

4. The owner is not responsible for a breach of the HQS that is not caused by the owner, and for which the family is responsible. Furthermore, HACC may terminate assistance to a family because of the HQS breach caused by the family.

B. Family Responsibility for HQS

1. The family is responsible for a breach of the HQS that is caused by any of the following:

a. The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;

b. The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or

c. Any member of the household or a guest damages the dwelling unit or premises (damage beyond ordinary wear and tear). "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

2. If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any HACC approved extension).

3. If the family has caused a breach of the HQS, HACC will take prompt and vigorous action to enforce the family obligations. HACC may terminate assistance for the family in accordance with 24 CFR 982.552.

## *12.3 HOUSING QUALITY STANDARDS (HQS) 24 CFR 982.401*

This Section states performance and acceptability criteria for these key aspects of the following housing quality standards:

A. Sanitary Facilities

1. Performance Requirements

The dwelling unit must include sanitary facilities located in the unit. The sanitary facilities must be in proper operating condition and adequate for personal cleanliness and the disposal of human waste. The sanitary facilities must be usable in privacy.

2. Acceptability Criteria

a. The bathroom must be located in a separate private room and have a flush toilet in proper operating condition.

b. The dwelling unit must have a fixed basin in proper operating condition, with a sink trap and hot and cold running water.

c. The dwelling unit must have a shower or a tub in proper operating condition with hot and cold running water.

d. The facilities must utilize an approvable public or private disposal system (including a locally approvable septic system).

B. Food Preparation and Refuse Disposal

1. Performance Requirements

a. The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.

b. There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

2. Acceptability Criteria

a. The dwelling unit must have an oven, a stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper operating condition. Either the owner or the family may supply the equipment. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building or premises.

b. The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approvable public or private system.

c. The dwelling unit must have space for the storage, preparation, and serving of food.

d. There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).

C. Space and security

1. Performance Requirement

The dwelling unit must provide adequate space and security for the family.

2. Acceptability Criteria

a. At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom.

b. The dwelling unit must have at least one bedroom or living/ sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.

c. Dwelling unit windows that are accessible from the outside, such as a basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or sash locks, and combination windows with latches). Windows that are nailed shut are acceptable only if these windows are not needed for ventilation or as an alternate exit in case of fire.

e. The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

D. Thermal Environment

1. Performance Requirement

The dwelling unit must have and be capable of maintaining a thermal environment healthy for the human body.

2. Acceptability Criteria

a. There must be a safe system for heating the dwelling unit (and a safe cooling system, where present). The system must be in proper operating condition. The system must be able to provide adequate heat (and cooling, if applicable), either directly or indirectly, to each room, in order to assure a healthy living environment appropriate to the climate.

b. The dwelling unit must not contain un-vented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

E. Illumination and Electricity

1. Performance Requirement

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. The electrical fixtures and wiring must ensure safety from fire.

2. Acceptability Criteria

a. There must be at least one window in the living room and in each sleeping room.

b. The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in proper operating condition.

c. The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.

F. Structure and Materials

1. Performance Requirement

The dwelling unit must be structurally sound. The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.

2. Acceptability Criteria

a. Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.

b. The roof must be structurally sound and weather tight.

c. The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.

d. The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.

d. Elevators must be working and safe.

G. Interior Air Quality

1. Performance Requirement

The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants.

2. Acceptability Criteria

a. The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.

b. There must be adequate air circulation in the dwelling unit.

c. Bathroom areas must have one window that can be opened or other adequate exhaust ventilation.

d. Any room used for sleeping must have at least one window. If the window is designed to be opened, the window must work.

H. Water Supply

1. Performance Requirements

The water supply must be free from contamination.

2. Acceptability Criteria

The dwelling unit must be served by an approvable public or private water supply that is sanitary and free from contamination.

I. Lead-based Paint

1. Definitions

a. Chewable surface: Protruding painted surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age; for example, protruding corners, window sills and frames, doors and frames, and other protruding woodwork.

b. Component: An element of a residential structure identified by type and location, such as a bedroom wall, an exterior

window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.

c. Defective paint surface: A surface on which the paint is cracking, scaling, chipping, peeling, or loose.

d. Elevated blood level (EBL): Excessive absorption of lead. Excessive absorption is a confirmed concentration of lead in whole blood of 20 ug/dl (micrograms of lead per deciliter) for a single test or of 15-19 ug/dl in two consecutive tests 3-4 months apart.

e. HEPA: A high efficiency particle accumulator as used in lead abatement vacuum cleaners.

f. Lead-based paint: A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 milligram per centimeter squared ($mg/cm^2$), or 0.5 % by weight or 5000 parts per million (PPM).

2. Performance Requirements

a. The purpose of this paragraph of this Section is to implement Section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate as far as practicable the hazards of lead-based paint poisoning for units assisted under this part. This paragraph is issued under 24 CFR 35.24(b)(4) and supersedes, for all housing to which it applies, the requirements of subpart C of 24 CFR part 35.

b. The requirements of this paragraph of this Section do not apply to 0-bedroom units, units that are certified by a qualified inspector to be free of lead-based paint, or units designated exclusively for the elderly. The requirements of subpart A of 24 CFR part 35 apply to all units constructed prior to 1978 covered by a HAP contract under part 982.

c. If a dwelling unit constructed before 1978 is occupied by a family that includes a child under the age of six years, the initial and each periodic inspection (as required under this part), must include a visual inspection for defective paint surfaces. If defective paint surfaces are found, such surfaces must be treated in accordance with paragraph k of this Section.

d. The Housing Authority may exempt from such treatment

defective paint surfaces that are found in a report by a qualified lead-based paint inspector not to be lead-based paint, as defined in paragraph 1(f) of this Section. For purposes of this Section, a qualified lead-based paint inspector is a State or local health or housing agency, a lead-based paint inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD.

e. Treatment of defective paint surfaces required under this Section must be completed within 30 calendar days of Housing Authority notification to the owner. When weather conditions prevent treatment of the defective paint conditions on exterior surfaces with in the 30-day period, treatment as required by paragraph k of this Section may be delayed for a reasonable time.

f. The requirements in this paragraph apply to:

i. All painted interior surfaces within the unit (including ceilings but excluding furniture);

ii. The entrance and hallway providing access to a unit in a multi-unit building; and

iii. Exterior surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age (including walls, stairs, decks, porches, railings, windows and doors, but excluding outbuildings such as garages and sheds).

g. In addition to the requirements of paragraph c of this Section, for a dwelling unit constructed before 1978 that is occupied by a family with a child under the age of six years with an identified EBL condition, the initial and each periodic inspection (as required under this part) must include a test for lead-based paint on chewable surfaces. Testing is not required if previous testing of chewable surfaces is negative for lead-based paint or if the chewable surfaces have already been treated.

h. Testing must be conducted by a State or local health or housing agency, an inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD. Lead content must be tested by using an X-ray fluorescence analyzer (XRF) or by laboratory analysis of paint samples. Where lead-based paint on chewable surfaces is identified, treatment of the paint

surface in accordance with paragraph k of this Section is required, and treatment shall be completed within the time limits in paragraph c of this Section.

i. The requirements in paragraph g of this Section apply to all protruding painted surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age:

i. Within the unit;

ii. The entrance and hallway providing access to a unit in a multi-unit building; and

iii. Exterior surfaces (including walls, stairs, decks, porches, railings, windows and doors, but excluding outbuildings such as garages and sheds).

j. In lieu of the procedures set forth in paragraph g of this Section, the housing authority may, at its discretion, waive the testing requirement and require the owner to treat all interior and exterior chewable surfaces in accordance with the methods set out in paragraph k of this Section.

k. Treatment of defective paint surfaces and chewable surfaces must consist of covering or removal of the paint in accordance with the following requirements:

i. A defective paint surface shall be treated if the total area of defective paint on a component is:

(1) More than 10 square feet on an exterior wall;

(2) More than 2 square feet on an interior or exterior component with a large surface area, excluding exterior walls and including, but not limited to, ceilings, floors, doors, and interior walls;

(3) More than 10% of the total surface area on an interior or exterior component with a small surface area, including, but not limited to, windowsills, baseboards and trim.

ii. Acceptable methods of treatment are the following: removal by wet scraping, wet sanding, chemical stripping on or off site, replacing painted components, scraping with infra-red or coil type heat

gun with temperatures below 1100 degrees, HEPA vacuum sanding, HEPA vacuum needle gun, contained hydro blasting or high pressure wash with HEPA vacuum, and abrasive sandblasting with HEPA vacuum. Surfaces must be covered with durable materials with joint edges sealed and caulked as needed to prevent the escape of lead contaminated dust.

iii. Prohibited methods of removal are the following: open flame burning or torching, machine sanding or grinding without a HEPA exhaust, uncontained hydro blasting or high pressure wash, and dry scraping except around electrical outlets or except when treating defective paint spots no more than two square feet in any one interior room or space (hallway, pantry, etc.) or totaling no more than twenty square feet on exterior surfaces.

iv. During exterior treatment soil and playground equipment must be protected from contamination.

v. All treatment procedures must be concluded with a thorough cleaning of all surfaces in the room or area of treatment to remove fine dust particles. Cleanup must be accomplished by wet washing surfaces with a lead solubilizing detergent such as trisodium phosphate or an equivalent solution.

vi. Waste and debris must be disposed of in accordance with all applicable Federal, State, and local laws.

l. The owner must take appropriate action to protect residents and their belongings from hazards associated with treatment procedures. Residents must not enter spaces undergoing treatment until cleanup is completed. Personal belongings that are in work areas must be relocated or otherwise protected from contamination.

m. Prior to execution of the HAP contract, the owner must inform the Housing Authority and the family of any knowledge of the presence of lead-based paint on the surfaces of the residential unit.

n. The Housing Authority must attempt to obtain annually from local health agencies the names and addresses of children with identified EBLs and must annually match this information with the names and addresses of participants

under this part. If a match occurs, the Housing Authority must determine whether local health officials have tested the unit for lead-based paint. If the unit has lead-based paint, the Housing Authority must require the owner to treat the lead-based paint. If the owner does not complete the corrective actions required by this Section, the family must be issued a voucher to move.

o. The Housing Authority must keep a copy of each inspection report for at least three years. If a dwelling unit requires testing, or if the dwelling unit requires treatment of chewable surfaces based on the testing, the Housing Authority must keep the test results indefinitely and, if applicable, the owner certification and treatment. The records must indicate which chewable surfaces in the dwelling units have been tested and which chewable surfaces were tested or tested and treated in accordance with the standards prescribed in this Section, such chewable surfaces do not have to be tested or treated at any subsequent time.

p. The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

J. Access

1. Performance Requirements

The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

K. Site and Neighborhood

1. Performance Requirements

The site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.

2. Acceptability Criteria

The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or

dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

L. Sanitary Condition

1. Performance Requirements

The dwelling unit and its equipment must be in sanitary condition.

2. Acceptability Criteria

The dwelling unit and its equipment must be free of vermin and rodent infestation.

M. Smoke Detectors

1. Performance Requirements

a. Except as provided in paragraph b below of this Section, each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics. Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any hearing-impaired person, smoke detectors must have an alarm system, designed for hearing-impaired persons as specified in NFPA 74 (or successor standards).

b. For units assisted prior to April 24, 1993, owners who installed battery-operated or hard-wired smoke detectors prior to April 24, 1993, in compliance with HUD's smoke detector requirements, including the regulations published on July 30, 1992, (57 FR 33846), will not be required subsequently to comply with any additional requirements mandated by NFPA 74 (i.e., the owner would not be required to install a smoke detector in a basement not used for living purposes, nor would the owner be required to change the location of the smoke detectors that have already been installed on the other floors of the unit).

## *12.4 EXCEPTIONS TO THE HQS ACCEPTABILITY CRITERIA.*

HACC will utilize the acceptability criteria as outlined above with applicable State and local codes. Additionally, HACC has received HUD approval to require the following additional criteria:

A. In each room, there will be at least one exterior window that can be opened and that contains a screen.

B. Exterior doors must have screens for ventilation and to keep critters out.

C. Adequate cooling is required due to extremely high Arizona temperatures and shall be, at minimum, a working swamp cooler for the unit.

D. Adequate heat shall be considered to be 68 degrees.

E. If space heaters are to be installed in sleeping rooms, they should be Vented; Listed; equipped with safety shutoff device and the heater must have a label and the input rating must not exceed 30 BTU's per cubic foot of room/space in which the heater is installed.

F. In units where the tenant must pay for utilities, each unit must have separate metering device(s) for measuring utility consumption.

G. A ¾" overflow pipe that meets code requirements must be present on the hot water heater safety valves and installed down to within 6 inches of the floor.

## *12.5 TIME FRAMES AND CORRECTIONS OF HQS FAIL ITEMS*

A. Correcting Initial HQS Fail Items

HACC will schedule a timely inspection of the unit on the date the owner indicates that the unit will be ready for inspection, or as soon as possible thereafter (within 15 business days) upon receipt of a Request for Tenancy Approval. The owner and participant will be notified in writing of the results of the inspection. If the unit fails HQS again, the owner and the participant will be advised to notify HACC to reschedule a re-inspection when the repairs have been properly completed.

On an initial inspection, the owner will be given up to 30 days to correct the items noted as failed, depending on the extent of the repairs that are required to be made. No unit will be placed in the program until the unit meets the HQS requirements.

B. HQS Fail Items for Units under Contract

The owner or participant will be given time to correct the failed items cited on the inspection report for a unit already under contract. If the failed items endanger the family's health or safety (using the emergency item list below), the owner or participant will be given 24 hours to correct the violations. For less serious failures, the owner or participant will be given up to 30 days to correct the failed item(s).

If the owner fails to correct the HQS failed items after proper notification has been given, HACC will abate payment and terminate the contract in accordance with Sections 12.7 and 17.0(B)(3).

If the participant fails to correct the HQS failed items that are family-caused after proper notification has been given, HACC will terminate assistance for the family in accordance with Sections 12.2(B) and 17.0(B)(3).

C. Time Frames for Corrections

1. Emergency repair items must be abated within 24 hours.

2. Repair of refrigerators, range and oven, or a major plumbing fixture supplied by the owner must be abated within 72 hours.

3. Non-emergency items must be completed within 10 days of the initial inspection.

4. For major repairs, the owner will have up to 30 days to complete.

D. Extensions

At the sole discretion of HACC, extensions of up to 30 days may be granted to permit an owner to complete repairs if the owner has made a good faith effort to initiate repairs. If repairs are not completed within 30 days after the initial inspection date, HACC will abate the rent and cancel the HAP contract for owner noncompliance. Appropriate extensions will be granted if a severe weather condition exists for such items as exterior painting and outside concrete work for porches, steps, and sidewalks.

## *12.6 EMERGENCY FAIL ITEMS*

The following items are to be considered examples of emergency items that need to be abated within 24 hours:

A. No hot or cold water

B. Utilities not in service

C. Inability to maintain adequate heat

D. Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling.

E. Natural gas leak

F. Broken lock(s) on first floor doors or windows

G. Broken windows that unduly allow weather elements into the unit

H. Electrical outlet smoking or sparking

I. Exposed electrical wires which could result in shock or fire

J. Unusable toilet when only one toilet is present in the unit

K. Any condition that jeopardizes the security of the unit such as broken doors or windows that would allow intrusion

L. Other conditions which pose an immediate threat to health or safety such as heating and cooling

M. Obstacles that prevent safe entrance or exit from the unit.

N. Inoperable Smoke Detectors

### *12.7 ABATEMENT*

When a unit fails to meet HQS and the owner has been given an opportunity to correct the deficiencies, but has failed to do so within in the required time frame, the rent for the dwelling unit will be abated.

If the corrections of deficiencies are not made within the specified time frame, the abatement will continue until the HAP contract is terminated. When the deficiencies are corrected, HACC will end the abatement the day the unit passes inspection. Rent will resume the following day and be paid the first day of the next month.

The Tenant is to be notified that their portion of the rent must still be paid to the landlord during any abatement period.

For tenant caused HQS deficiencies, the owner will not be held accountable and the rent will not be abated. The tenant is held to the same standard and time frames for correction of deficiencies as owners. If repairs are not completed by the deadline, HACC will send a notice of termination to both the tenant and the owner. The tenant will be given the opportunity to request an informal hearing.

# 13.0 RECERTIFICATION

### *13.1 ANNUAL REEXAMINATION*

At least annually, HACC will conduct a reexamination of family income and circumstances. The results of the reexamination determine (1) the rent the family

will pay, and (2) whether the family subsidy is correct based on the family unit size.

HACC will send a notification letter to the family letting them know that it is time for their annual reexamination and scheduling an appointment with ten (10) business days advance notice. The letter includes forms for the family to complete in preparation for the interview. The letter includes instructions permitting the family to reschedule the interview if necessary. The letter tells families who may need to make alternate arrangements due to a disability that they may contact staff to request an accommodation of their needs.

During the interview, the family will provide all information regarding income, assets, expenses, and other information necessary to determine the family's share of rent. The family will sign the HUD consent form and other consent forms that later will be mailed to the sources that will verify the family circumstances.

Upon receipt of verification, HACC will determine the family's annual income and will calculate their family share.

### *13.2 EFFECTIVE DATE OF RENT CHANGES FOR ANNUAL REEXAMINATION*

The new family share will generally be effective upon the anniversary date with 30 days notice of any rent increase to the family.

If the rent the family receives a 30 day notice of the amount. If the new rent is a reduction and the delay is beyond the control of the family, the reduction will be delayed due to a reason beyond the control of the family, then any rent increase will be effective the first of the month after the month in which effective as scheduled on the anniversary date.

If the family caused the delay, then any increase will be effective on the anniversary date. Any reduction will be effective the first of the month after the rent amount is determined.

### *13.3 MISSED APPOINTMENTS*

If the family fails to respond to the letter and fails to attend the interview, a second letter will be mailed. The second letter will advise of a new time and date for the interview, allowing for the same considerations for rescheduling and accommodation as above. The letter will also advise that failure by the family to attend the second scheduled interview will result in HACC taking action to terminate the family's assistance.

### *13.4 INTERIM REEXAMINATIONS*

CHANGES TO REPORT

The TTP and Tenant Rent will remain in effect for the period between regularly scheduled reexaminations except in the circumstances below:

A. A person with income joins the family.

B. The tenant has misrepresented the facts upon which rent is based.

C. The income increases in families with zero income or unrealistically low income. Reexamination is scheduled every 60 days until income does to a realistic level.

D. Families whose annual income cannot be projected with any reasonable degree of accuracy. Reexaminations shall be not more than 90 days apart or less than every 30 days.

E. For families where an error was made at admission or reexamination. The family will not be charged retroactively for an error made by HACC staff.

F. Receipt of a deferred payment in a lump sum which represents the delayed start of a periodic payment, such as unemployment, or a deferral due to a dispute, such as back child support payments. Lump sum payments up to $1,000 will not have to be reported at the Interim Adjustment. If the lump sum payment is $1,000 or over, a deduction will be made for HUD Allowable Legal Expenses incurred in seeking the award. Deferred payments of Social Security or SSI benefits are excluded from annual income.

G. Change in the contract rent after the first year of the lease.

H. Disabled families are eligible for a 12 month 100 percent earned income disregard and an additional 50 percent earned income disregard if the family member with disabilities meets the criteria of 24CFR 5.617.

I. Family members who are eligible for the benefit of earned income disregard (EID) is limited to 24 straight months. The final rule provides:
   - Once a family member is determined to be eligible for the EID, the 24-calender month period starts;
   - If the family member discontinues the employment that initially qualified the family for the EID, the 24-calendar month period continues;
   - During the 24-calendar month, EID benefits are recalculated based on changes to family member income and employment.
   - During the first 12-calendar month period, HACC must exclude all increased income from the qualifying employment of the family member. After the first 12-calendar month period, the PHA must exclude from annual income of the family at least 50

percent of any increase in income of such family member as a result of employment over the family member's income before the qualifying event (i.e., the family member's baseline income);

- The EID benefit is limited to a lifetime 24-month period for the qualifying family member.
- At the end of the 24 months, the EID ends regardless of how many months were "used."

**FAMILIES ARE REQUIRED TO REPORT PERTINANT INFORMATION AS SOON AS POSSIBLE**.

The tenant must request HACC's approval to add family members, except births, adoptions or court awarded custody. HACC will determine eligibility of new family members prior to adding the family member.

The family may report any of the following changes which could result in a decrease in the tenant's rent:

A. Decrease in income;

B. Increase in allowances or deductions.

Decreases in the tenant portion of the rent will be effective the first day of the month following the month in which the change occurs if reported in a timely manner.

Any other changes reported by tenants other than those listed above will not be processed between regularly scheduled annual recertifications.

**VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS**

If the family is divided into two otherwise eligible families due to divorce, legal separation or other division of the family, HACC must determine which family should continue receiving the assistance.

The Voucher may be retained by either household if there is mutual consent. A court stipulated determination may also resolve which household retains the Voucher. Otherwise, HACC will be required to make the decision as to which family will retain the Voucher.

The following factors shall be considered in making the decision ( no priority specified):

Which family has custody of dependent children;

To whom the Voucher was initially issued, if not jointly;

The composition of the new family units, and which family contains elderly or disabled members;

Which family remains in the unit;

Whether domestic violence is involved in the breakup; and

Recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, HACC will terminate assistance on the basis of failure to provide information necessary for a recertification.

If the family breakup results in eligibility for a smaller sized Voucher, the family may be required to move to a smaller unit.

In cases where the family split is the result of having children and grandchildren in the home, the Voucher holder may request another Voucher for the mother and child(ren) in order for them to start living independently. The family leaving must have been a permanent part of the family of the original Voucher holder, and **not have joined the family within the past two years**. Since the departing family is already considered a participant of the Section 8 Program, there is no requirement to go on the waiting list.

HACC will issue a determination within 10 business days of the request for a determination. The family member requesting the determination may request an informal hearing in compliance with the informal hearings in Section 16.3.

## *13.5 EFFECTIVE DATE OF ALL OTHER RENT CHANGES*

Unless there is a delay in reexamination processing caused by the family, any rent increase will be effective the first of the second month after the month in which the family receives notice of the new rent amount. If the family causes a delay, then the rent increase will be effective on the date it would have been effective had the process not been delayed (even if this means a retroactive increase).

If the new rent is a reduction and any delay is beyond the control of the family, the reduction will be effective the first of the month after the interim reexamination should have been completed.

If the new rent is a reduction and the family caused the delay or did not report the change in a timely manner, the change will be effective the first of the month after the rent amount is determined.

The Housing Authority of Cochise County must obtain third-party verification of all family assets upon admitting a family to the HCV and then again at least every 3 years thereafter. During the intervening annual reexaminations, HACC has the

discretion under this provision to accept a family's declaration that it has total net assets equal to or less than $5,000, without taking additional steps to verify the accuracy of the declaration. If a family submits such a declaration, then the PHA does not need to request supporting documentation (e.g., bank statements) to verify the assets or the amount of income expected to be received from those assets. The family's declaration of total assets must show each asset and the amount of income expected from that asset. The total amount of income expected from all assets must be less than or equal to $5,000. The total amount of the expected income from assets will be the family's "final asset income," and must be entered in field 6j of Form HUD-50058.

HACC may obtain a family's declaration of assets under $5,000 at the family's next interim or annual reexamination following adoption of the provision in the Admin. Plan.

All family members 18 years of age and older sign the family's declaration of total assets. A family that knowingly submits false information is subject to a civil penalty, plus damages, under the False Claims Act (31 U.S.C. 3729).
Whenever a family member is added, HACC must obtain third-party verification of that family member's assets. At the next annual reexamination of income following the addition of that family member, HACC must obtain third-party verification of all family assets if the addition of that family member's assets puts the family above the $5,000 asset threshold. If the addition of that family member's assets does not put the family above the $5,000 asset threshold, then it is not required to obtain third-party verification of all family assets at the next annual reexamination of income following the addition of the family member; however, third-party verification of all family assets is required at least every 3 years.

# 14.0 TERMINATION OF ASSISTANCE TO THE FAMILY BY THE HOUSING AUTHORITY OF COCHISE COUNTY

HACC may at any time terminate program assistance for a participant, because of any of the actions or inaction by the household:

A The family violates any family obligations under the program.

B. A family member fails to sign and submit consent forms.

C. The participant fails to establish citizenship or eligible immigrant status and is not eligible for or does not elect continuation of assistance, pro-ration of assistance, or temporary deferral of assistance. If HACC determines that a family member has knowingly permitted an ineligible noncitizen (other than any ineligible noncitizens listed on the lease) to permanently reside in their Section 8 unit, the family's assistance will be terminated. Such family

will not be eligible to be readmitted to Section 8 for a period of 24 months from the date of termination.

D. Any member of the family has ever been evicted from federally assisted housing in the last five years or evicted from housing assisted under the program for a serious violation of the lease.

E. The Housing Authority has ever terminated assistance under the Certificate or Voucher Program for any member of the family.

F. Any member of the family commits drug-related criminal activity, or violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents or persons residing in the immediate vicinity of the premises. Under 24 CFR 5.2005(c)(2), criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or affiliated individual of the tenant is the victim.

G. Any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.

H. The family currently owes rent or other amounts to the Housing Authority or to another Housing Authority in connection with Section 8 or public housing assistance under the 1937 Act.

I. The family has not reimbursed any Housing Authority for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

J. The family breaches an agreement with the Housing Authority to pay amounts owed to a Housing Authority, or amounts paid to an owner by a Housing Authority. (The Housing Authority, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a Housing Authority or amounts paid to an owner by a Housing Authority. The Housing Authority may prescribe the terms of the agreement.)

K. A family participating in the FSS program fails to comply, without good cause, with the family's FSS contract of participation.

L. The family has engaged in or threatened abusive or violent behavior toward Housing Authority personnel.

M. Any household member is subject to a lifetime registration requirement under a State sex offender registration program.

N. A household member's illegal use (or pattern of illegal use) of a controlled substance, or whose abuse (or pattern of abuse) of alcohol, is determined by the HACC to interfere with the health, safety, or right to peaceful enjoyment

of the premises by other residents.

O. A family fails to use a provided utility allowance to pay its utility expenses, as evidenced by delinquent payment notices, shut-off notices, or the suspension of utility service for non-payment. The family will also be responsible for repayment of utility allowance up to the extent of any unpaid utility expenses intended to be met by that allowance.

P. If there is insufficient program funding. The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

HACC Policy:
The PHA will determine whether there is sufficient funding to pay for currently assisted families in accordance to 24 CFR 982.454. If the PHA determines there is a shortage of funding, prior to terminating any HAP contracts, the PHA will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the PHA will terminate HAP contracts as a last resort. Prior to terminating any HAP contracts, the PHA will inform the local HUD field office. The PHA will terminate the minimum number needed in order to reduce HAP costs to a level within the PHA's annual budget authority.

If the PHA must terminate HAP contracts due to insufficient funding, the PHA will do so in accordance with the following criteria and instructions:

The PHA will terminate contracts starting with Category 1 families. The PHA will only move to the next category when there are no families remaining in the current category and more HAP contract terminations are necessary.

Category 1: Families who have committed program fraud or abuse within the past 6 months.

Within each group below, the PHA will terminate HAP contracts according to the date the PHA first notified the family of the debt, starting with the most recent. If more than one family received notice on the same day, the PHA will rank the notices for that date using a random method.

First, the PHA will terminate families who owe the PHA money but are not yet under repayment agreement.

Second, the PHA will terminate families who owe the PHA money but are under repayment agreement, but have made at least one late payment.

Third, the PHA will terminate families who owe the PHA money, are under repayment agreement, and have made all payments in accordance with the repayment agreement.

Category 2: Families who committed program fraud or abuse 6-12 months ago.

Terminations based on issues unrelated to family behavior:

First in, first out. Under this option, the PHA would terminate families according to the date of the family's admission to the program, starting with those who have been receiving assistance the longest amount of time, or the first ones to enter the program, except for elderly or disabled families. The PHA would select families for termination in the following order:

i. Non elderly, non disabled, single member families.
ii. Non elderly, non disabled families, with no children under the age of 18.
iii. Non elderly, non-disabled families with children under the age of 18.
iv. Elderly and disabled families.

**Notice of Termination of Assistance**

In any case where the PHA decides to terminate assistance to the family, the PHA must give the family written notice which states:

- The reason(s) for the proposed termination
- The effective date of the proposed termination
- The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.
- The date by which a request for an informal hearing must be received by the PHA.

If the PHA proposes to terminate assistance for criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the tenant with a copy of the criminal record.

The PHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

Under VAWA, persons assisted under the Section 8 rental assistance program have the following specific protections, which will be observed by HACC:

1. An incident or incidents or actual or threatened domestic violence, dating violence, or stalking will **not** be construed as a serious or repeated violation

of the lease by the victim or threatened victim of that violence, and shall **not** be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

2. HACC may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence or stalking to family members or other without terminating the assistance or evicting victimized lawful occupants.

3. HACC may honor court orders regarding the rights of access or control of the property, including EPO's, DVO's, and other orders issued to protect the victim and disused to address the distribution or possession or property among household members where the family "breaks up".

4. There is no limitation on the ability of HACC to terminate assistance for other good cause unrelated to the incident or incidents of domestic violence, dating violence or stalking, other than the victim may not be subject to a "more demanding standard" than non-victims.

5. There is no prohibition on HACC terminating assistance if it "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's (victim's) assistance is not terminated."

6. Any protections provided by law which give greater protection to the victims are not superseded by these provisions.

7. HACC may require certification by the victim of victim status on such Forms as HACC and/or HUD shall prescribe or approve.

# 15.0 COMPLAINTS, INFORMAL REVIEWS FOR APPLICANTS, INFORMAL HEARINGS FOR PARTICIPANTS

## *15.1 COMPLAINTS*

HACC will investigate and respond to complaints by participant families, owners, and the general public. HACC may require that complaints other than HQS violations be put in writing. Anonymous complaints are investigated whenever possible.

## *15.2 INFORMAL REVIEW FOR THE APPLICANT*

A. Informal Review for the Applicant

HACC will give an applicant for participation in the Section 8 Existing Program prompt notice of a decision denying assistance to the applicant. The notice will contain a brief statement of the reasons for the HACC decision. The notice will state that the applicant may request an informal review within 10 business days of the denial and will describe how to obtain the informal review.

B. When an Informal Review is not Required

HACC will not provide the applicant an opportunity for an informal review for any of the following reasons:

1. A determination of the family unit size under the Cochise County HA subsidy standards.

2. A HACC determination not to approve an extension or suspension of a voucher term.

3. A HACC determination not to grant approval to lease a unit under the program or to approve a proposed lease.

4. A HACC determination that a unit selected by the applicant is not in compliance with HQS.

5. A HACC determination that the unit is not in accordance with HQS because of family size or composition.

6. General policy issues or class grievances.

7. Discretionary administrative determinations by the HACC.

C. Informal Review Process

HACC will give an applicant an opportunity for an informal review of HACC decision denying assistance to the applicant. The procedure is as follows:

1. The review will be conducted by any person or persons designated by HACC other than the person who made or approved the decision under review or a subordinate of this person.

2. The applicant will be given an opportunity to present written or oral objections to a HACC decision.

3. HACC will notify the applicant of their decision after the informal review within 14 calendar days. The notification will include a brief statement of the reasons for the final decision.

D. Considering Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The Housing Authority may impose, as a condition of continued assistance for other family members, a requirement that family members (inclusive of head if household and/or spouse) who participated in or were culpable for the action or failure will not reside in the unit. The Housing Authority may permit the other members of a participant family to continue receiving assistance.

If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny or terminate assistance. In determining whether to terminate assistance for these reasons HACC will consider documented evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;

2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or

3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

E. Informal Review Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The applicant family may request that HACC provide for an informal review after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the applicant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

For applicant families, the Informal Review Process above will be utilized

with the exception that the applicant family will have up to 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision to request the review.

## *15.3 INFORMAL HEARINGS FOR PARTICIPANTS*

A. When a Hearing is Required

1. HACC will give a participant family an opportunity for an informal hearing to consider whether the following HACC decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations, and HACC policies:

   a. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.

   b. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HACC utility allowance schedule.

   c. A determination of the family unit size under HACC subsidy standards.

   d. A determination that a family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the HACC subsidy standards, or HACC determination to deny the family's request for an exception from the standards.

   e. A determination to terminate assistance for a participant family because of the family's action or failure to act.

   f. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the HACC policy and HUD rules. **(See Section 2.3 Obligations of Participant)**

2. In cases described in paragraphs 15.3(A)(1)(d), (e), and (f), of this Section, HACC will give the opportunity for an informal hearing before HACC terminates housing assistance payments for the family under an outstanding HAP contract.

B. When a Hearing is not Required

HACC will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

1. Discretionary administrative determinations by HACC.

2. General policy issues or class grievances.

3. Establishment of HACC schedule of utility allowances for families in the program.

4. A HACC determination not to approve an extension or suspension of a voucher term.

5. A HACC determination not to approve a unit or lease.

6. A HACC determination that an assisted unit is not in compliance with HQS. (However, HACC will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family.)

7. A HACC determination that the unit is not in accordance with HQS because of the family size.

8. A determination by HACC to exercise or not exercise any right or remedy against the owner under a HAP contract.

C. Notice to the Family

1. In the cases described in paragraphs 15.3(A)(1)(a), (b), and (c), of this Section, HACC will notify the family that the family may ask for an explanation of the basis of a HACC determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.

2. In the cases described in paragraphs 16.3(A)(1)(d), (e), and (f), of this Section, HACC will give the family prompt written notice that the family may request a hearing within 10 business days of the notification. The notice will:

a. Contain a brief statement of the reasons for the decision; and

b. State that if the family does not agree with the decision, the family may request an informal hearing on the decision within 10 business days of the notification.
c. Promptness required. An extension will not be granted if more than 15 minutes late.

D. Hearing Procedures

HACC and participants will adhere to the following procedures:

1. Discovery

a. The family will be given the opportunity to examine48 hours before the hearing any HACC documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family's expense. If HACC does not make the document(s) available for examination on request of the family 48 hours prior to the hearing, HACC may not rely on the document at the hearing.

b. HACC will be given the opportunity to examine, at the HACC offices 48 hours before the hearing, any family documents that are directly relevant to the hearing. HACC will be allowed to copy any such document at HACC expense. If the family does not make the document(s) available for examination on request of HACC, the family may not rely on the document at the hearing.

Note: The term **document** includes records and regulations.

2. Representation of the Family

At its own expense, a lawyer or other representative may represent the family.

3. Hearing Officer

a. The hearing will be conducted by any person or persons designated by HACC, other than a person who made or approved the decision under review or a subordinate of this person.

b. The person who conducts the hearing will regulate the conduct of the hearing in accordance with HACC hearing procedures.

4. Evidence

HACC and the family must have the opportunity to present evidence and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

5. Issuance of Decision

The person who conducts the hearing must issue a written decision within 10 business days from the date of the hearing, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a

preponderance of the evidence presented at the hearing.

6. Effect of the Decision

HACC is not bound by a hearing decision:

a. Concerning a matter for which HACC is not required to provide an opportunity for an informal hearing under this Section, or that otherwise exceeds the authority of the person conducting the hearing under HACC hearing procedures.

b. Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or local law.

c. If HACC determines that it is not bound by a hearing decision, HACC will notify the family within 10 business days of the determination, and of the reasons for the determination.

E. Considering Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The Housing Authority may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The Housing Authority may permit the other members of a participant family to continue receiving assistance.

If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny or terminate assistance. In determining whether to terminate assistance for these reasons the HACC will consider evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;

2. Has otherwise been rehabilitated successfully and is no longer

engaging in the illegal use of a controlled substance or abuse of alcohol; or

3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

F. Informal Hearing Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The participant family may request that HACC provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the participant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

For the participant families, the Informal Hearing Process above will be utilized with the exception that the participant family will have up to 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision.

# 16.0 TERMINATION OF THE LEASE AND CONTRACT

The term of the lease and the term of the HAP contract are the same. They begin on the same date and they end on the same date. The lease may be terminated by the owner, by the tenant, or by the mutual agreement of both at the end of term. The owner may only terminate the contract by terminating the lease. The HAP contract may be terminated by HACC. Under some circumstances the contract automatically terminates.

A. Termination of the lease

1. By the family

The family may terminate the lease without cause upon proper notice to the owner and to HACC after the first year of the lease. The length of the notice that is required is stated in the lease (generally 30 days).

2. By the owner.

a. The owner may terminate the lease during its term on the following grounds:

i. Serious or repeated violations of the terms or conditions of the lease;

ii. Violation of Federal, State, or local law that impose obligations on the tenant in connection with the occupancy or use of the unit and its premises;

iii. Criminal activity by the household, a guest, or another person under the control of the household that threatens the health, safety, or right to peaceful enjoyment of the premises by other persons residing in the immediate vicinity of the premises;

iv. Any drug-related criminal activity on or near the premises;

v. Other good cause. Other good cause may include, but is not limited to:

(1) Failure by the family to accept the offer of a new lease;
(2) Family history of disturbances of neighbors or destruction of property, or living or housekeeping habits resulting in damage to the property or unit;

(3) The owner's desire to utilize the unit for personal or family use or for a purpose other than use as a residential rental unit;

(4) A business or economic reason such as sale of the property, renovation of the unit, desire to rent at a higher rental amount.

b. During the first year the owner may not terminate tenancy for other good cause unless the reason is because of something the household did or failed to do.

c. The owner may only evict the tenant by instituting court action. The owner must give HACC a copy of any owner eviction notice to the tenant at the same time that the owner gives the notice to the tenant.

d. The owner may terminate the contract at the end of the initial lease term or any extension of the lease term without cause by providing notice to the family that the lease term will not be renewed.

B. Termination of the Contract

1. Automatic termination of the Contract

   a. If HACC terminates assistance to the family, the contract terminates automatically.

   b. If the family moves out of the unit, the contract terminates automatically.

   c. The contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.

2. Termination of the contract by the owner

   The owner may only terminate tenancy in accordance with lease and State and local law.

3. Termination of the HAP contract by HACC

   The Housing Authority may terminate the HAP contract because:

   a. The Housing Authority has terminated assistance to the family.

   b. The unit does not meet HQS space standards because of an increase in family size or change in family composition.

   c. The unit is larger than appropriate for the family size or composition under the Program.

   d. When the family breaks up and HACC determines that the family members who move from the unit will continue to receive the assistance.

   e. HACC determines that there is insufficient funding in their contract with HUD to support continued assistance for families in the program.

   f. The owner has breached the contract in any of the following ways:

      i. If the owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit in accordance with the HQS.

      ii. If the owner has violated any obligation under any other housing assistance payments contract under Section 8 of the 1937.

iii. If the owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program.

iv. For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement;

v. If the owner has engaged in drug trafficking.

4. Final HAP payment to owner

The HAP payment stops when the lease terminates. The owner may keep the payment for the month in which the family moves out. If the owner has begun eviction proceedings and the family continues to occupy the unit, the Housing Authority will continue to make payments until the owner obtains a judgment or the family moves out.

# 17.0 QUALITY CONTROL OF SECTION 8 PROGRAM

In order to maintain the appropriate quality standards for the Section 8 Program, HACC will annually review files and records to determine if the work documented in the files or records conforms to program requirements. This shall be accomplished by a supervisor or another qualified person other than the one originally responsible for the work or someone subordinate to that person. The number of files and/or records checked shall be at least equal to the number specified in the Section 8 Management Assessment Program for a program the size of this housing authority.

# 18.0 PROCEDURES FOR DAILY PRACTICE ARE IN ACCORDANCE WITH INDUSTRY STANDARDS AND ARE MAINTAINED SEPARATELY.

# 19.0 REVISION OF ADMINISTRATIVE PLAN

(Revision of Administrative Plan Resulting From Changes in Local, State, or Federal Law or Regulation)

The provisions of this plan are based upon local, state and Federal law and

regulation. Should any applicable law or regulation change, this plan will be deemed to be automatically revised. To the extent that the change is mandatory (i.e., allowing no Housing Authority discretion), the text of the Plan shall be revised without requirement for administrative processing.

# 20.0 CODE OF CONDUCT

## PURPOSE

This Code of Conduct establishes standards for employee and Commissioner conduct that will assure the highest level of public service. Recognizing that compliance with any ethical standards rests primarily on personal integrity and specifically in this situation with the integrity of the employees and Commissioners of the Housing Authority of Cochise County. This Section sets forth those acts or omissions of acts that could be deemed injurious to the general mission of the Authority.

This Code of Conduct is not intended, nor should it be construed, as an attempt to unreasonably intrude upon the individual employee or Commissioner's right to privacy and the right to participate freely in a democratic society and economy.

## PROCUREMENT STANDARDS

Grantees and sub grantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or sub grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

i. The employee, officer or agent,

ii. Any member of his immediate family,

iii. His or her partner, or

iv. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The grantee's or sub grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential

contractors, or parties to sub agreements. Grantee and sub grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and sub grantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

# CONFLICT OF INTEREST

In accordance with 24 CFR 982.161, neither the Housing Authority of Cochise County nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during his or her tenure with the Housing Authority of Cochise County or for one year thereafter:

A. Any present or former member or officer of the Housing Authority (except a participant commissioner);

B. Any employee of the Housing Authority or any contractor, subcontractor or agent of the Housing Authority who formulates policy or who influences decisions with respect to the programs;

C. Any public official, member of a governing body, or State or local legislator who exercises functions or responsibilities with respect to the Housing Authority of Cochise County ’s programs; or

D. Any member of the Congress of the United States.

Any member of the classes described in A, B, C, or D, must disclose their interest or prospective interest to the Housing Authority and HUD.

The Conflict of Interest prohibition under this section (24.2) may be waived by the HUD Field Office upon the request of the Housing Authority of Cochise County for good cause.

1. No employee, officer or agent of this Authority shall participate in selection, or in the award or administration of a contract supported by U. S. Federal funds if a conflict of interest would be involved.
Such a conflict would arise when the employee, officer, or agent, any member of his/her immediate family, his/her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

2. An employee, officer or agent of this corporation shall be careful to ensure that s/he is involved in no apparent or potential violations of this provision.

**GIFTS**

1. This Authority's officers, employees or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub agreements.
Depending upon the circumstances, exceptions to this provision may be granted only in situations where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.
2. An employee, officer or agent of this Authority shall be careful to ensure that s/he is involved in no apparent or potential violations of this provision.

**ADMINISTRATION**

1. Any employee, officer or agent of this corporation should report violations of this Code of Conduct to his/her supervisor, or to the Executive Director.
2. There will be no retaliation against any party who makes a good faith complaint concerning violations of this Code of Conduct; regardless of whether it is ultimately determined that such violation has in fact occurred. Nor will there be any retaliation against any party who provides information in the course of an investigation into alleged violations of this Code of Conduct.
3. All corporation supervisors have a responsibility to be sensitive to and deal with violations of this Code of Conduct. This responsibility includes monitoring all relevant work activities and contacting a higher
level supervisor or the Executive Director, if it is reasonably believed that a violation of the Code of Conduct has occurred. Any such report shall be investigated regardless of whether a formal complaint has been made.

# PROHIBITION OF SOLICITATION OR ACCEPTANCE OF GIFTS

No Commissioner or Authority employee shall solicit any gift or consideration of any kind, nor shall any Authority employee accept or receive a gift having value in excess of $25.00 regardless of the form of the gift, from any person who has an interest in any matter proposed or pending before the Authority.

# HOUSING AUTHORITY ADMINISTRATIVE AND DISCIPLINARY REMEDIES FOR VIOLATION OF THE HOUSING AUTHORITY CODE OF CONDUCT

Violations of this Code of Conduct Policy will result in disciplinary action as outlined in the Housing Authority of Cochise County's Personnel Policy. Any employee, officer, or agent of this Authority determined to have a committed a violation of this Code of Conduct shall be subject to disciplinary action, ranging from oral and written warnings, up to and including suspension and / or discharge.

## DISSEMINATION

Any employee, officer or agent of this corporation shall be informed of this Code of Conduct when this code is adopted, and/or when s/he is initially retained by the Corporation, and on an annual basis thereafter..

# 21.0 STEPS TO BE TAKEN TO REDUCE VOUCHER PROGRAM COSTS

In accordance with HUD Notice PIH 2005-9 (HA), the housing authority always reserves the ability to take action as described in this section to reduce program costs within the amount budgeted for the calendar year, and/or to maximize the number of vouchers it can fund within its budget and baseline number of units. Under such circumstances, these actions take precedence over other applicable policies and procedures described in this plan.

Based on the 2005 Appropriations Act Conference Report language, as well as existing authority under the voucher program regulations at 24 CFR Part 982, possible housing authority cost-saving actions are described below, by topic. Some of these actions are necessary just to ensure compliance with program requirements (e.g., ensuring that owner rents are reasonable) and should be taken by the housing authority, irrespective of whether the housing authority is experiencing financial difficulties.

**Payment Standards**

The housing authority may opt to lower payment standards. In the tenant-based rental voucher program, a lower payment standard applies immediately to all new admissions, all movers, and stayers with a new HAP contract (e.g., when the owner offers or requires a new lease). For all other tenant-based rental voucher participants, decreased payment standard amounts are not applied until the second regular reexamination after the payment standard is lowered. The delayed applicability of a lower payment standard is a regulatory, not statutory, requirement. The housing authority retains the right to submit a request to HUD to waive this requirement, for good cause.

The housing authority requests to approve payment standards below 90 percent of the Fair Market Rent may be approved by the HUD field office. However, §982.503(d) states that HUD will not approve such payment standard amounts if the family share for more than 40 percent of voucher participants exceeds 30 percent of monthly adjusted income. This is a regulatory, not statutory, requirement. If the housing authority is experiencing financial difficulties, it retains the ability to submit a request to HUD to waive this requirement for good cause.

The housing authority regulatory waiver requests concerning payment standards must provide justification for the waiver. For example, the housing authority may have insufficient funding to continue to assist current participants within the funding amounts at current payment standards. In such a situation, the housing authority may be required to more quickly impose lower payment standards in order

to maintain an appropriate level of service. The waiver requests should, at a minimum, include the calculation the housing authority used to arrive at the projected shortfall in funding, after factoring in anticipated turnover of vouchers, as well as any cost savings measures the housing authority has already taken or will take in the future. In addition, the housing authority must include the actions it has taken to protect "at risk" families, the current rent burden to families prior to the implementation of the lower payment standard, and an affirmative statement that the implementation of the waiver will allow the housing authority to manage its programs within its budgetary allocation.

**Utility Allowances**

The PHA may review utility allowances to determine if they are too high. Changes in utility allowances may be implemented immediately, but not later than the next regularly scheduled reexamination of family income.

Section 982.517(c) of the voucher regulations requires the housing authority to revise utility allowances whenever there is a utility rate increase of ten percent or more. This is a regulatory, not statutory, requirement. If experiencing financial difficulties, the housing authority retains the ability to submit a request to HUD to waive this requirement, for good cause.

**Portability and Moves**

The housing authority may opt to deny portability moves, and moves within its jurisdiction, if the housing authority does not have sufficient funds under its calendar year budget to subsidize families that move to a higher cost area or unit. "Higher cost area" is defined as an area where a higher subsidy amount will be paid for a family because of higher payment standard amounts or "more generous" subsidy standards (e.g., the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA). This is a denial to move for insufficient funding under §982.314(e)(1). In such cases, the housing authority must determine that based on its current funding level, it has insufficient funds to pay for higher subsidy amounts for families wishing to move to more expensive areas or units. Note also that in the case of portability moves, the housing authority will contact the receiving PHA and confirm that the receiving PHA will not absorb the family. If the receiving PHA is willing to absorb, there are no grounds to deny the portability move under §982.314(e)(1). No regulatory waiver is necessary to impose such portability and moving restrictions.

**Ensuring Reasonable Rents**

The housing authority does not have to wait until the Housing Assistance Payments (HAP) contract anniversary date to review owner rents and reduce them if warranted. It must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units in accordance with the regulations at §982.507(b) and the HAP contract. The housing authority should ensure that owner rents do not exceed the amount being charged by the owner for unassisted units in the same building or complex. The initial rent and all rent increases must comply with any State or local rent control limits. Further, any owner leasing promotions for unassisted tenants (e.g., the initial 2 months of

occupancy are "rent free") must be taken into consideration in determining rent reasonableness.

The housing authority will provide written notice, in accordance with the HAP contract, to the owner before reducing unreasonable rents. Rents may be reduced as early as the first of the following month. If the rent to owner is not reasonable as most recently determined by the housing authority, the owner must reduce the rent to the reasonable amount or the HAP contract must be terminated. In such cases, the family will be issued a voucher to find a new unit, and any lower payment standard or correction to the family unit size would be applicable immediately.

Even if an owner's rent is reasonable, the housing authority can request the owner to voluntarily agree to a temporary rent reduction or defer a rent increase to avoid termination of family assistance and HAP contract termination. It is the owner's option to agree to such measures.

**Termination of Assistance Due to Insufficient Funding**

The housing authority may terminate HAP contracts, in accordance with HUD requirements, if it determines that "funding under the consolidated ACC is insufficient to support continued assistance for families in the program" (§982.454). Such action will be conducted according to termination policies within its administrative plan. These policies will describe how the housing authority will determine which HAP contracts will be terminated. Any policies concerning the resumption of assistance for impacted families will also be included in the administrative plan.

Before terminating HAP contracts on the basis of insufficient funding, the housing authority will ensure that the determination of such fact is documented.

**Voucher Issuance**

The housing authority always retains the ability to stop issuing vouchers or pull back, or void, outstanding vouchers for applicants searching for housing (that have not yet resulted in an executed HAP contract). All applicants who have their vouchers voided will be returned to the waiting list at the same position they occupied when the voucher was issued.

**Subsidy Standards**

The housing authority retains the ability revise subsidy standards to reduce bedroom size eligibility. A subsidy standard of two persons per bedroom, regardless of sex or age, is acceptable. An efficiency subsidy standard (0-bedroom unit) for single person households is acceptable. If a family leases a unit larger than the unit size on the voucher, the housing authority will ensure that the payment standard is based on the lower of the voucher unit size or the actual unit size leased. If the family size is reduced after admission, it will ensure that the correct the payment standard is used. An "empty nester" single individual living in a 3-bedroom unit should have a 0- or 1-bedroom payment standard, not a 3-bedroom payment standard. If the unit size for which the family is eligible changes during the term of the HAP contract, the "new" unit size is applicable at the first regular reexamination

following the change (§982.505(b)(5)).

**Family Income Matching/Verification and Other Anti-Fraud Efforts**
The housing authority may accelerate efforts concerning income matching and income verification. It may notify families that enforcement action can be taken where underreporting of income is discovered.

**Interim Reexaminations**
The housing authority requires families to report all changes in household income and makeup between reexaminations, within 10 days of the effective date of the change, and it may conduct more frequent interim reviews at its discretion. For families reporting no income, income reviews which will be done at least every three months.

# 22.0 VIOLENCE AGAINST WOMEN ACT(VAWA) POLICY

## I. Purpose and Applicability

The purpose of this policy (herein called "Policy") is to implement the applicable provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L.109-162) and more generally to set forth by the Housing Authority of Cochise County policies and procedures regarding domestic violence, dating violence, sexual assault, and stalking, as hereinafter defined.

This Policy shall be applicable to the administration by the Housing Authority of Cochise County of all federally subsidized public housing and Section 8 rental assistance under the United States Housing Act of 1937 (42 U.S.C.§1437 *et seq.*). Notwithstanding its title, this policy is gender-neutral, and its protections are available to males who are victims of domestic violence, dating violence, sexual assault, or stalking as well as female victims of such violence.

- VAWA 2013 expands housing protections to victims of sexual assault. The current regulatory language at 24 CFR part 5, subpart L describes protections for "victims of domestic violence, dating violence, sexual assault, and stalking," but effective March 7, 2013 (the date VAWA 2013 was signed into law) these protections were expanded to include victims of sexual assault.
- VAWA 2013 expands protections relating to the prohibition of terminating assistance because of criminal activity directly related to domestic violence, dating violence, sexual assault, and stalking (currently at 24 CFR 5.2005(c)(2)) by replacing term "immediate family member" with "affiliated individual." VAWA 2013 provides that criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a

member of the tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or affiliated individual of the tenant is the victim or threatened victim of domestic violence, dating violence, sexual assault, and stalking. VAWA 2013 defines "affiliated individual," with respect to an individual, as a spouse, parent, brother, sister, or child of that individual , or an individual to whom that that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

**II. Goals and Objectives**

This Policy has the following principal goals and objectives:

A. Maintaining compliance with all applicable legal requirements imposed by VAWA;

B. Ensuring the physical safety of victims of actual or threatened domestic violence, dating violence, sexual assault, and stalking who are assisted by the Housing Authority of Cochise County;

C. Providing and maintaining housing opportunities for victims of domestic violence dating violence, sexual assault, and stalking;

D. Creating and maintaining collaborative arrangements between the Housing Authority of Cochise County, law enforcement authorities, victim service providers, and others to promote the safety and well-being of victims of actual and threatened domestic violence, dating violence, sexual assault, and stalking, who are assisted by the Housing Authority of Cochise County; and

E. Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, and stalking, affecting individuals assisted by the Housing Authority of Cochise County.

**III. Other Housing Authority of Cochise County Policies and Procedures**

This Policy shall be referenced in and attached to the Housing Authority of Cochise County's Five-Year Public Housing Agency Plan and shall be incorporated in and made a part of the Housing Authority of Cochise County's Admissions and Continued Occupancy Policy and the Housing Authority of Cochise County's Section 8 Administrative Plan. The Housing Authority of Cochise County's annual public housing agency plan shall also contain information concerning the Housing Authority of Cochise County's activities, services or programs relating to domestic violence, dating violence, sexual assault, and stalking.

To the extent any provision of this policy shall vary or contradict any previously adopted policy or procedure of the Housing Authority of Cochise County, the provisions of this Policy shall prevail.

**IV. Definitions**

As used in this Policy:

A. *Domestic Violence* – The term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction."

B. *Dating Violence* – means violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

C. *Stalking* – means –

(A) (i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and (ii) to place under surveillance with the intent to kill, injure, harass or intimidate another person; and

(B) in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to –

(i) that person;

(ii) a member of the immediate family of that person; or

(iii) the spouse or intimate partner of that person;

D. *Immediate Family Member* - means, with respect to a person –

(A) a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or

(B) any other person living in the household of that person and related to that person by blood or marriage.

E. *Perpetrator* – means person who commits an act of domestic violence, dating violence or stalking against a victim.

**F.** *Affiliated Individual*-means with respect to an individual, as a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco

parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

**V. Admissions and Screening**

A. *Non-Denial of Assistance*. The Housing Authority of Cochise County will not deny admission to public housing or to the Section 8 rental assistance program to any person because that person is or has been a victim of domestic violence, dating violence, sexual assault, and stalking, provided that such person is otherwise qualified for such admission.

B. *Mitigation of Disqualifying Information*. When so requested in writing by an applicant for assistance whose history includes incidents in which the applicant was a victim of domestic violence, the Housing Authority of Cochise County, may but shall not be obligated to, take such information into account in mitigation of potentially disqualifying information, such as poor credit history or previous damage to a dwelling. If requested by an applicant to take such mitigating information into account, the Housing Authority of Cochise County shall be entitled to conduct such inquiries as are reasonably necessary to verify the claimed history of domestic violence and its probable relevance to the potentially disqualifying information. The Housing Authority of Cochise County will not disregard or mitigate potentially disqualifying information if the applicant household includes a perpetrator of a previous incident or incidents of domestic violence.

**VI. Termination of Tenancy or Assistance**

A. *VAWA Protections.* Under VAWA, public housing residents and persons assisted under the Section 8 rental assistance program have the following specific protections, which will be observed by the Housing Authority of Cochise County:

1. An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be considered to be a "serious or repeated" violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of or assistance to the victim of that violence.

2. In addition to the foregoing, tenancy or assistance will not be terminated by the Housing Authority of Cochise County as a result of criminal activity, if that criminal activity is directly related to domestic violence, dating violence or stalking engaged in by a member of the assisted household, a guest or another person under the tenant's control, and the tenant or an affiliated individual is the victim or threatened victim of this criminal activity. However, the protection against termination of tenancy or assistance described in this paragraph is subject to the following limitations:

(a) Nothing contained in this paragraph shall limit any otherwise available authority of the Housing Authority of

Cochise County or a Section 8 owner or manager to terminate tenancy, evict, or to terminate assistance, as the case may be, for any violation of a lease or program requirement not premised on the act or acts of domestic violence, dating violence, or stalking in question against the tenant or a member of the tenant's household. However, in taking any such action, neither the Housing Authority of Cochise County nor a Section 8 manager or owner may apply a more demanding standard to the victim of domestic violence dating violence or stalking than that applied to other tenants.

(b) Nothing contained in this paragraph shall be construed to limit the authority of the Housing Authority of Cochise County or a Section 8 owner or manager to evict or terminate from assistance any tenant or lawful applicant if the owner, manager or the Housing Authority of Cochise County, as the case may be, can demonstrate an actual and imminent threat to other tenants or to those employed at or providing service to the property, if the tenant is not evicted or terminated from assistance.

B. *Removal of Perpetrator*. Further, notwithstanding anything in paragraph VI.A.2. or
Federal, State or local law to the contrary, the Housing Authority of Cochise County or a Section 8 owner or manager, as the case may be, may bifurcate a lease, or remove a household member from a lease, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in acts of physical violence against family members or others. Such action against the perpetrator of such physical violence may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also the tenant or a lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by law applicable to terminations of tenancy and evictions by the Housing Authority of Cochise County. Leases used for all public housing operated by the Housing Authority of Cochise County and, at the option of Section 8 owners or managers, leases for dwelling units occupied by families assisted with Section 8 rental assistance administered by the Housing Authority of Cochise County, shall contain provisions setting forth the substance of this paragraph.

- VAWA 2013 expands the protections regarding lease bifurcations (currently at 24 CFR 5.2009(a)) by:
    - Changing the language regarding the violent acts ("criminal acts of physical violence against family members or others" becomes "criminal activity directly relating to domestic violence, dating violence, sexual assault, and stalking against an affiliated individual or other individual"), and

- Mandating that if such bifurcation occurs, and the removed tenant or lawful occupant was the sole tenant eligible to receive assistance under a covered housing program, the PHA shall provide any remaining tenant the opportunity to establish eligibility for the covered housing program. If the remaining tenant cannot establish eligibility, HACC is required to provide the tenant a reasonable program. HUD will provide through rule making or guidance, as may be applicable, what constitutes a reasonable time for remaining tenants to find new housing or establish eligibility under another HUD covered housing program. HACC will not be able to implement this provision until HUD provides such rulemaking or guidance. HUD specifically solicits comment on that period that would be reasonable to find new housing or establish eligibility under another HUD covered housing program.

**VII. Verification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

A. *Requirement for Verification.* The law allows, but does not require, the Housing Authority of Cochise County or a Section 8 owner or manager to verify that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, and stalking claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in this policy. Subject only to waiver as provided in paragraph VII. C., the Housing Authority of Cochise County shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority of Cochise County. Section 8 owners or managers receiving rental assistance administered by the Housing Authority of Cochise County may elect to require verification, or not to require it as permitted under applicable law.

Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence or stalking may be accomplished in one of the following three ways:

1. *HUD-approved form* - by providing to the Housing Authority of Cochise County or to the requesting Section 8 owner or manager a written certification, on a form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim of domestic violence, dating violence or stalking that the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definition(s) set forth in this policy. The incident or incidents in question must be described in reasonable detail as required in the HUD-approved form, and the completed certification must include the name of the perpetrator.

2. *Other documentation* - by providing to the Housing Authority of Cochise County or to the requesting Section 8 owner or manager documentation signed by an employee, agent, or volunteer of a victim

service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault, and stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy.

The victim of the incident or incidents of domestic violence, dating violence, sexual assault, and stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.

3. *Police or court record* – by providing to the Housing Authority of Cochise County or to the requesting Section 8 owner or manager a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

- VAWA 2013 expands the forms of documentation that a victim may provide. Specifically, VAWA 2013 provides that the forms of documentation a victim may provide (currently at 24 CFR 5.2007(b)(2)-(3), and listed on the form HUD-50066) also include a record of an administrative agency, and documentation from a mental health professional. Additionally, VAWA 2013 provides that the victim is required to provide the name of the perpetrator on the HUD-50066 only if the name of the perpetrator is safe to provide and is known to the victim.

B. *Time allowed to provide verification/ failure to provide.* An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, and stalking, and who is requested by the Housing Authority of Cochise County, or a Section 8 owner or manager to provide verification, must provide such verification within 14 business days (*i.e.*, 14 calendar days, excluding Saturdays, Sundays, and federally-recognized holidays) after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action.

C. *Waiver of verification requirement*. The Executive Director of the Housing Authority of Cochise County, or a Section 8 owner or manager, may, with respect to any specific case, waive the above-stated requirements for verification and provide the benefits of this policy based on the victim's statement or other corroborating evidence. Such waiver may be granted in the sole discretion of the Executive Director, owner or manager. Any such waiver must be in writing. Waiver in a particular instance or instances shall not operate as precedent for, or create any right to, waiver in any other case or cases, regardless of similarity in circumstances.

**VIII. Confidentiality**

A. *Right of confidentiality.* All information (including the fact that an individual is a victim of domestic violence, dating violence, sexual assault and stalking) provided to the Housing Authority of Cochise County or to a Section 8 owner or manager in connection with a verification required under section VII of this policy or provided in lieu of such verification where a waiver of verification is granted, shall be retained by the receiving party in confidence and shall neither be entered in any shared database nor provided to any related entity, except where disclosure is:

1. requested or consented to by the individual in writing, or
2. required for use in a public housing eviction proceeding or in connection with termination of Section 8 assistance, as permitted in VAWA, or
3. otherwise required by applicable law.

B. *Notification of rights.* All tenants of public housing and tenants participating in the
Section 8 rental assistance program administered by the Housing Authority of Cochise County shall be notified in writing concerning their right to confidentiality and the limits on such rights to confidentiality.

C. *Security.* All information pertaining to the fact that an individual is a victim of domestic violence, dating violence, sexual assault, and stalking shall be maintained separately and securely by the Resident Services Department unless such information is subject to the disclosure exceptions noted in this section.

**IX. Transfer to New Residence**

A. *Application for transfer.* In situations that involve significant risk of violent harm to an individual as a result of previous incidents or threats of domestic violence, dating violence, sexual assault, and stalking, the Housing Authority of Cochise County will, if an approved unit size is available at a location that may reduce the risk of harm, approve transfer by a public housing or Section 8 tenant to a different unit in order to reduce the level of risk to the individual. A tenant who requests transfer must attest in such application that the requested transfer is necessary to protect the health or safety of the tenant or another member of the household who is or was the victim of domestic violence dating violence or stalking and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.

B. *Action on applications.* The Housing Authority of Cochise County will act upon such an application promptly.

C. *No right to transfer.* The Housing Authority of Cochise County will make every effort to accommodate requests for transfer when suitable alternative vacant units are available and the circumstances warrant such action. However, except

with respect to portability of Section 8 assistance as provided in paragraph IX. E. below the decision to grant or refuse to grant a transfer shall lie within the sole discretion of the Housing Authority of Cochise County, and this policy does not create any right on the part of any applicant to be granted a transfer.

D. *Family rent obligations*. If a family occupying the Housing Authority of Cochise County public housing moves before the expiration of the lease term in order to protect the health or safety of a household member, the family will remain liable for the rent during the remainder of the lease term unless released by the Housing Authority of Cochise County. In cases where the Housing Authority of Cochise County determines that the family's decision to move was reasonable under the circumstances, the Housing Authority of Cochise County may wholly or partially waive rent payments and any rent owed shall be reduced by the amounts of rent collected for the remaining lease term from a tenant subsequently occupying the unit.

E. *Portability*. Notwithstanding the foregoing, a Section 8-assisted tenant will not be denied portability to a unit located in another jurisdiction (notwithstanding the term of the tenant's existing lease has not expired, or the family has not occupied the unit for 12 months) so long as the tenant has complied with all other requirements of the Section 8 program and has moved from the unit in order to protect a health or safety of an individual member of the household who is or has been the victim of domestic violence dating violence, sexual assault, and stalking and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.

- VAWA 2013 expands the housing protection from VAWA 2005 to extend to the following new housing programs, including two that are not administered by HUD:
    - HOME Investment Partnership Program
    - Section 202 Supportive Housing for the Elderly
    - Section 236 Rental Program
    - Section 811 Supportive Housing for People with Disabilities
    - Section 221(d)(3) Below Market Interest Rate (BMIR) Program
    - HOPWA Housing Program
    - HUD's McKinney-Vento homeless programs
    - Low-Income Housing Tax Credit properties (Department of Treasury)
    - USDA Rural Housing properties (Department of Agriculture)

**X. Court Orders/Family Break-up**

A. *Court orders*. It is the Housing Authority of Cochise County's policy to honor orders entered by courts of competent jurisdiction affecting individuals assisted by the Housing Authority of Cochise County and their property. This includes cooperating with law enforcement authorities to enforce civil protection orders

issued for the protection of victims and addressing the distribution of personal property among household members in cases where a family breaks up.

B. *Family break-up*. Other the Housing Authority of Cochise County policies regarding family break-up are contained in the Housing Authority of Cochise County's Public Housing Admissions and Continuing Occupancy Plan (ACOP) and its Section 8 Administrative Plan.

**XI. Relationships with Service Providers**

It is the policy of the Housing Authority of Cochise County to cooperate with organizations and entities, both private and governmental, which provide shelter and/or services to victims of domestic violence. If the Housing Authority of Cochise County staff becomes aware that an individual assisted by the Housing Authority of Cochise County is a victim of domestic violence, dating violence, sexual assault, and stalking, the Housing Authority of Cochise County will refer the victim to such providers of shelter or services as appropriate. Notwithstanding the foregoing, this Policy does not create any legal obligation requiring the Housing Authority of Cochise County either to maintain a relationship with any particular provider of shelter or services to victims or domestic violence or to make a referral in any particular case. The Housing Authority of Cochise County's annual public housing agency plan shall describe providers of shelter or services to victims of domestic violence with which the Housing Authority of Cochise County has referral or other cooperative relationships.

**XII. Notification**

The Housing Authority of Cochise County shall provide written notification to applicants, tenants, and Section 8 owners and managers, concerning the rights and obligations created under VAWA relating to confidentiality, denial of assistance and, termination of tenancy or assistance at time of initial lease-up and at each annual recertification. The full policy and required forms will also be made available on the Housing Authority of Cochise County's website.

- VAWA 2013 expands the notification requirements (currently at 24 CFR 5.2005(a)(1)) to require that HACC provide the notice when a person is denied assistance, when a person is admitted, and when a tenant is notified of eviction or termination of housing benefits, and to require that the notice be provided together with form HUD-50066.

**XIII. Relationship with Other Applicable Laws**

Neither VAWA nor this Policy implementing it shall preempt or supersede any provision of Federal, State or local law that provides greater protection than that provided under VAWA for victims of domestic violence, dating violence, sexual assault, or stalking.

**XIV. Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures**

**Purpose.** In accordance with PIH 2017-02 (HA) the procedures that public housing agencies (PHAs) must follow when an applicant or resident/tenant requests admission or continued residency as a result of being a VAWA self-petitioner. VAWA self-petitioners are those who claim to be victims of "battery or extreme cruelty." VAWA covers the following types of battery or extreme cruelty: domestic violence, dating violence, sexual assault, and stalking.

**Applicability.** PIH 2017-02 (HA) applies to public housing, housing choice voucher assistance (including project-based vouchers), and Section 8 Mod Rehab.

**Background.** VAWA was originally signed into law in 1994, and was most recently reauthorized in 2013. HUD issued implementing regulations for the most recent reauthorization in late 2016 (81 FR 87812). Prior to VAWA, non-citizen victims of covered crimes were dependent on the good will of their abusers to obtain the authorized immigration status necessary to receive assisted housing. Section 214 of the Housing and Community Development Act of 1980 states that HUD may not allow financial assistance to ineligible non-citizens, but assistance must not be denied while verifying immigration status.

HUD has determined that self-petitioners can indicate that they are in "satisfactory immigration status" when applying for assistance or continued assistance from Section 214-covered housing providers. "Satisfactory immigration status" means an immigration status which does not make the individual ineligible for financial assistance. After verifying such
1 See HUD memorandum "Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980," dated December 15, 2016 (available at http://library.niwap.org/wp-content/uploads/Eligibility-of-VAWA-Self-Petitioners-2016-12-14.pdf) 2 immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, the Housing Authority of Cochise County will make a final determination as to the self-petitioner's eligibility for assistance.

**Applicability to other VAWA Housing Protections.** Not every noncitizen victim who has been subjected to battery or extreme cruelty will qualify under these procedures. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or LPR. PHAs may receive a petition at any time, but submissions will most likely be related to a request for VAWA protections pursuant to 24 CFR Part 5 Subpart L (e.g. with a request for an emergency transfer or family breakup resulting from domestic violence, dating violence, sexual assault, or stalking). See PIH 2016-09. Once HACC receives a self-petition (INS Form I-360 or I-130) or INS Form 797, it is prohibited from requesting any additional information from the VAWA self-petitioner, other than what is required below to complete the verification.

**Procedure.** When the Housing Authority of Cochise County receives a self-petition or INS Form 797 Notice of Action, HACC must initiate verification in the SAVE System:

1. Enter self-petitioner name, alien ID number, and date of birth in the SAVE System. The system will provide one of the following responses:

 If the SAVE system responds with a match, no further action is necessary at this time. Skip to step 3.

 If the SAVE system responds "no match," the PHA must complete the following additional steps. Continue to step 2.

2. Push the button for "Institute Additional Verification." In the next screen, in the memo field, type "verify VAWA self-petition." If the documentation provided by the applicant is a form I-130, type in the memo field "verify I-130." Upload one of the following documents from applicant:

 I-360 VAWA Self-Petition

 I-130 Family-Based Visa Petition

 I-797 Notice of Action

Steps undertaken by DHS:

- o receipt of I-130 or I-360
- o prima facie determination
- o approval of self-petition

3. Wait for a final determination from the SAVE System. You will receive one of two confirmations:

(1) the VAWA self-petition is verified, in which case the applicant is immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected;

(2) the I-130 is verified, in which case the petitioner submitting 3 a family-based visa petition must provide to the PHA any evidence of "battery or extreme cruelty." See 8 USC 1154(a)(1)(J). Housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR status is made. If the final determination is to deny the VAWA self-petition or LPR petition, the PHA must alert the petitioner and take actions to terminate voucher assistance or evict the petitioner from public housing in accordance with the existing public housing requirements.

## XV. Amendment

This policy may be amended from time to time by the Housing Authority of Cochise County as approved by the Cochise County Board of Supervisors.

This policy was adopted by the Housing Authority of Cochise County Board of Commissioners at their September 21, 2009 Regular Meeting.

## 23.0 REPAYMENT POLICY

### Owner Debts to the PHA

Any amount due to the PHA by an owner must be repaid by the owner with 30 days of the PHA determination of the debt.

If the owner is not entitled to future HAP payments, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or reaches a repayment agreement, the PHA will ban the owner from future participation in the program and pursue other modes of collection.

### Family Debts to the PHA

Any amount due to the PHA by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate the assistance upon notification to the family and pursue other modes of collection.

### Repayment Agreement [24 CFR 792.103]

The term *repayment* agreement refers to a formal document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

### Repayment Agreement Guidelines

#### *Payment Thresholds*

Amounts between $3,000 and the Federal or State threshold for criminal prosecution must be repaid with 36 months.

Amounts between $2,000 and $2,999 must be repaid within 30 months.

Amounts between $1,000 and $1,999 must be repaid within 24 months.

Amounts under $1,000 must be repaid within 12 months.

***Execution of the Agreement***

The head of household and spouse/co-head (if applicable) must sign the repayment agreement.

***Due Dates***

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

***Non-Payment***

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the PHA, the PHA will send the family a delinquency notice giving the family 10 business days to make the late payment.

If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the PHA will terminate assistance upon written notification to the family.

If a family receives 3 delinquency notices for unexcused late payments in a 12 months period, the repayment agreement will be considered in default, and the PHA will terminate assistance upon written notification to the family.

***No Offer of Repayment Agreement***

The PHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by the family or owner exceed the Federal or State threshold for criminal prosecution.

## GLOSSARY

**1937 Housing Act:** The United States Housing Act of 1937 [42 U.S.C. 1437 et seq.)

**Absorption:** In portability, the point at which a receiving housing authority stops billing the initial housing authority for assistance on behalf of a portable family. [24 CFR 982.4]

**Adjusted Annual Income:** The amount of household income, after deductions for specified allowances, on which tenant rent is based.

**Administrative fee:** Fee paid by HUD to the housing authority for the administration of the program.

**Administrative Plan:**The plan that describes housing authority policies for the administration of the tenant-based programs.

**Admission:** The point when the family becomes a participant in the program. In a tenant-based program, the date used for this purpose is the effective date of the first HAP Contract for a family (first day of initial lease term).

**Adult:** A household member who is 18 years or older or who is the head of the household, or spouse, or co-head.

**Allowances:** Amounts deducted from the household's annual income in determining adjusted annual income (the income amount used in the rent calculation). Allowances are given for elderly families, dependents, medical expenses for elderly families, disability expenses, and child care expenses for children under 13 years of age. Other allowance can be given at the discretion of the housing authority.

**Amortization Payment:** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home. If furniture was included in the purchase price, the debt service must be reduced by 15% to exclude the cost of the furniture. The amortization cost is the initial financing, not refinancing. Set-up charges may be included in the monthly amortization payment.

**Annual Contributions Contract (ACC):** The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the 1937 Act, and the housing authority agrees to comply with HUD requirements for the program.

**Annual Income:** All amounts, monetary or not, that:

a. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member, or

b. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

c. Are not specifically excluded from Annual Income.

d. Annual Income also includes amounts derived (during the 12-month period) from assets to which any member of the family has access.

**Applicant (applicant family):** A family that has applied for admission to a program but is not yet a participant in the program.

**Assets:**see net family assets.

**Asset Income:** Income received from assets held by household members. If assets total more than $5,000, income from the assets is "imputed" and the greater of actual asset income and imputed asset income is counted in annual income.

**Assisted lease (lease):** A written agreement between an owner and a family for the leasing of a dwelling unit to the family. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the housing authority.

**Certificate:** A document issued by a housing authority to a family selected for admission to the Certificate Program. The certificate describes the program and the procedures for housing authority approval of a unit selected by the family. The certificate also states the obligations of the family under the program.

**Certification:** The examination of a household's income, expenses, and family composition to determine the household's eligibility for program participation and to calculate the household's rent for the following 12 months.

**Child:** For purposes of citizenship regulations, a member of the family other than the family head or spouse who is under 18 years of age.

**Child care expenses:** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Chronically Homeless:** In general, a chronically homeless person is an unaccompanied disabled individual who has been continuously homeless for over one year.

**Citizen:** A citizen or national of the United States.

**Common space:** In shared housing: Space available for use by the assisted family and other occupants of the unit.

**Congregate housing:** Housing for elderly or persons with disabilities that meets the HQS for congregate housing.

**Consent form:** Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The consent forms may authorize the collection of other information from assistance applicants or participant to determine eligibility or level of benefits.

**Contiguous MSA:** In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial housing authority is located.

**Continuously assisted:** An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the Voucher Program.

**Cooperative:** Housing owned by a non-profit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing.

**Covered Families:** Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

**Domicile:** The legal residence of the household head or spouse as determined in accordance with State and local law.

**Decent, safe, and sanitary:** Housing is decent, safe, and sanitary if it satisfies the applicable housing quality standards.

**Department:** The Department of Housing and Urban Development.

**Dependent:** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Domestic Violence**: The term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by the person who is cohabiting with or has cohabited with the victim as a spouse, by the person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction."

**Dating Violence:** Violence committed by a person:

A. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
B. where the existence of such a relationship shall be determined based on a consideration of the following factors:
    1. The length of the relationship.
    2. The type of relationship.

3. The frequency of interaction between the persons involved in the Relationship.

**Disability assistance expenses:** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled family:** A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

**Disabled person:** See "person with disabilities."

**Displaced family:** A family in which each member, or whose sole member, is a person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Displaced person:** A person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Drug related criminal activity:** Illegal use or personal use of a controlled substance, and the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use, of a controlled substance.

**Drug trafficking:** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance.

**Economic self-sufficiency program:** Any program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

**Elderly family:** A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly person:** A person who is at least 62 years of age.

**Evidence of citizenship or eligible status:** The documents that must be submitted to evidence citizenship or eligible immigration status.

**Exception rent:** An amount that exceeds the published fair market rent.

**Extremely low-income families:** Those families whose incomes do not exceed 30% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Fair Housing Act:** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.*).*

**Fair market rent (FMR):** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. FMRs are published periodically in the Federal Register.

**Family** includes but is not limited to**:**

a. A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);
b. An elderly family;
c. A near-elderly family;
d. A disabled family;
e. A displaced family;
f. The remaining member of a tenant family; and
g. A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

**Family members:** include all household members except live-in aides, foster children and foster adults. All family members permanently reside in the unit, though they may be temporarily absent. All family members are listed on the HUD-50058.

**Family self-sufficiency program (FSS program):** The program established by a housing authority to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

**Family share:** The portion of rent and utilities paid by the family or the gross rent minus the amount of the housing assistance payment.

**Family unit size:** The appropriate number of bedrooms for a family as determined by the housing authority under the housing authority's subsidy standards.

**50058 Form:** The HUD form that Housing Authority's are required to complete for each assisted household in public housing to record information used in the certification and re-certification process, and, at the option of the housing authority, for interim reexaminations.

**FMR/exception rent limit:** The Section 8 existing housing fair market rent published by HUD headquarters, or any exception rent. For a tenancy in the Voucher Program, the housing authority may adopt a payment standard up to the FMR/exception rent limit.

**Full-time student:** A person who is attending school or vocational training on a full-time basis.

**Gross rent:** The sum of the rent to the owner plus any utilities.

**Group Home:** A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide).

**Head of household:** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Household members:** include all individuals who reside or will reside in the unit and who are listed on the lease, including live-in aides, foster children and foster adults.

**Housing Assistance Payment (HAP):** The monthly assistance by a housing authority, which includes (1) a payment to the owner for rent to the owner under the family's lease, and (2) an additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing quality standards (HQS):** The HUD minimum quality standards for housing assisted under the Section 8 program.

**Housing voucher:** A document issued by a housing authority to a family selected for admission to the Voucher Program. This document describes the program and the procedures for housing authority approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

**Housing voucher holder:** A family that has an unexpired housing voucher.

**Affiliated individual** – means, with respect to a person –

A. a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or
B. any other person living in the household of that person and related to that person by blood or marriage.

**Imputed income:** For households with net family assets of more than $5,000, the amount calculated by multiplying net family assets by a HUD-specified percentage. If imputed income is more than actual income from assets, the imputed amount is used in determining annual income.

**Imputed welfare income:** The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

**Income category:** Designates a family's income range. There are three categories: low income, very low income and extremely low-income.

**Incremental income:** The increased portion of income between the total amount of welfare and earnings of a family member prior to enrollment in a training program and welfare and earnings of the family member after enrollment in the training program. All other amounts, increases and decreases, are treated in the usual manner in determining annual income.

**Initial Housing Authority:** In portability, both: (1) a housing authority that originally selected a family that later decides to move out of the jurisdiction of the selecting housing authority; and (2) a housing authority that absorbed a family that later decides to move out of the jurisdiction of the absorbing housing authority.

**Initial payment standard:** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner:** The rent to owner at the beginning of the initial lease term.

**Interim (examination):** A reexamination of a household's income, expenses, and household status conducted between the annual recertifications when a change in a household's circumstances warrant such a reexamination.

**Jurisdiction:** The area in which the housing authority has authority under State and local law to administer the program.

**Lease:** A written agreement between an owner and tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP Contract between the owner and the housing authority.

**Live-in aide:** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

a. Is determined to be essential to the care and well- being of the persons;
b. Is not obligated for the support of the persons; and
c. Would not be living in the unit except to provide the necessary supportive services.

**Low-income families:** Those families whose incomes do not exceed 80% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

**Manufactured home:** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS.

**Manufacture home space:** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space.

**Medical expenses:** Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance.

**Mixed family:** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Moderate rehabilitation:** Rehabilitation involving a minimum expenditure of $1000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to:

a. upgrade to decent, safe and sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below these standards (improvements being of a modest nature and other than routine maintenance; or
b. repair or replace major building systems or components in danger of failure.

**Monthly adjusted income:** One twelfth of adjusted income.

**Monthly income:** One twelfth of annual income.

**Mutual housing** is included in the definition of "cooperative".

**National:** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-elderly family:** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

**Net family assets:**

a. Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.
b. In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the

trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income.

c. In determining net family assets, housing authorities or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

**Noncitizen:** A person who is neither a citizen nor national of the United States.

**Notice Of Funding Availability (NOFA):** For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance, and the criteria for awarding the funding.

**Occupancy standards:** The standards that the housing authority establishes for determining the appropriate number of bedrooms needed to house families of different sizes or composition.

**Owner:** Any person or entity, including a cooperative, having the legal right to lease or sublease existing housing.

**Participant (participant family]:** A family that has been admitted to the housing authority's program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the housing authority for the family (first day of initial lease).

**Payment standard:** In a voucher tenancy, the maximum monthly assistance payment for a family (before deducting the total tenant payment by family contribution). For a voucher tenancy, the housing authority sets a payment standard in the range from 90% to 110% of the current FMR.

**Person with disabilities:** A person who:

A. Has a disability as defined in 42 U.S.C. 423

B. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

1. Is expected to be of long-continued and indefinite duration;

2. Substantially impedes his or her ability to live independently; and

3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

C. Has a developmental disability as defined in 42 U.S.C. 6001

This definition does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

For purposes of qualifying for low-income housing, it does not include a person whose disability is based solely on any drug or alcohol dependence.

**Perpetrator:** Means person who commits an act of domestic violence, dating violence, Or stalking against a victim.

**Portability:** Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial housing authority.

**Premises:** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Private space:** In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

**Preservation:** This program encourages owners of eligible multifamily housing projects to preserve low-income housing affordability and availability while reducing the long-term cost of providing rental assistance. The program offers several approaches to restructuring the debt of properties developed with project-based Section 8 assistance whose HAP contracts are about to expire.

**Processing Entity:** The person or entity that is responsible for making eligibility and related determinations and an income reexamination. In the Section 8 and public housing programs the processing entity is the responsibility entity.

**Proration of assistance:** The reduction in a family's housing assistance payment to reflect the proportion of family members in a mixed family who are eligible for assistance.

**Public Housing:** Housing assisted under the 1937 Act, other than under Section 8. Public housing includes dwelling units in a mixed finance project that are assisted by a PHA with capital or operating funds.

**Public Housing Agency:** A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing.

**Reasonable rent:** A rent to owner that is not more than charged: (a) for comparable units in the private unassisted market; and (b) for a comparable unassisted unit in the premises.

**Receiving Housing Authority:** In portability, a housing authority that receives a family selected for participation in the tenant-based program of another housing authority. The receiving housing authority issues a voucher, and provides program assistance to the family.

**Re-certification:** A reexamination of a household's income, expenses, and family composition to determine the household's rent for the following 12 months.

**Remaining member of a tenant family:** A member of the family listed on the lease who continues to live in an assisted household after all other family members have left.

**Rent to owner:** The monthly rent payable to the owner under the lease. Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

**Responsible Entity:**

A. For the public housing program, the Section 8 tenant-based assistance program (24 CFR 982), and the Section 8 project-based certificate or voucher program (24 CFR 983), and the Section 8 moderate rehabilitation program (24 CFR 882), responsible entity means the PHA administering the program under an ACC with HUD;

B. For all other Section 8 programs, responsible entity means the Section project owner.

**Set-up charges:** In a manufactured home space rental, charges payable by the family for assembly, skirting and anchoring the manufactured home.

**Shared housing:** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family.

**Shelter Allowance:** That portion of a welfare benefit (e.g., TANF) that the welfare agency designates to be used for rent and utilities.

**Single person:** Someone living alone or intending to live alone who does not qualify as an elderly person, a person with disabilities, a displaced person, or the remaining member of a tenant family.

**Single room occupancy housing (SRO):** A unit for occupancy by a single eligible individual capable of independent living that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities.

**Special admission**: Admission of an applicant that is not on the housing authority waiting

list, or without considering the applicant's waiting list position.

**Special housing types:** Special housing types include: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified welfare benefit reduction:**

A. A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

B. "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:
   1. at the expiration of a lifetime or other time limit on the payment of welfare benefits;
   2. because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
   3. because a family member has not complied with other welfare agency requirements.

**Stalking:**

A. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and to place under surveillance with the intent to kill, injure, harass or intimidate another person; and
B. in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to:
   1. that person;
   2. a member of the immediate family of that person; or
   3. the spouse or intimate partner of that person.

**State Wage Information Collection Agency (SWICA):** The State agency receiving quarterly wage reports from employers in the State, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Statement of family responsibility:** An agreement in the form prescribed by HUD, between the housing authority and a Family to be assisted under the Moderate Rehabilitation Program, stating the obligations and responsibilities of the family.

**Subsidy standards:** Standards established by a housing authority to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension:** Stopping the clock on the term of a family's voucher, for such period as determined by the housing authority, from the time when the family submits a request for housing authority approval to lease a unit, until the time when the housing authority approves or denies the request. Also referred to as tolling.

**Tenant:** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent:** The amount payable monthly by the family as rent to the owner minus any utility allowance.

**Third-party (verification):** Oral or written confirmation of a household's income, expenses, or household composition provided by a source outside the household, such as an employer, doctor, school official, etc.

**Tolling:** see suspension.

**Total tenant payment (TTP):**

(1) Total tenant payment is the amount calculated under Section 3(a)(1) of the 1937 Act. which is the higher of :

30% of the family's monthly adjusted income;

10% of the family's monthly income;

Minimum rent; or

if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under Section 3(a)(1) shall be the amount resulting from one application of the percentage.

**Utility allowance**: If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a housing authority or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility hook-up charge:** In a manufactured home space rental, costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

**Utility reimbursement:** The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment for the family occupying the unit.

**Verification:**

a. The process of obtaining statements from individuals who can attest to the accuracy of the amounts of income, expenses, or household member status (e.g., employers, public assistance agency staff, doctors).

b. The three types of verification are:

(1) Third-party verification, either written or oral, obtained from employers, public assistance agencies, schools, etc.)

(2) Documentation, such as a copy of a birth certificate or bank statement

(3) Family certification or declaration (only used when third-party or documentation verification is not available)

**Very low-income families:** Families whose incomes do not exceed 50% of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Violent criminal activity:** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Voucher (rental voucher):** A document issued by a housing authority to a family selected for admission to the Housing Choice Voucher Program. This document describes the program and the procedures for housing authority approval of a unit selected by the family and states the obligations of the family under the program.

**Voucher holder:** A family holding a voucher with unexpired search time.

**Waiting list admission:** An admission from the housing authority waiting list. *[24 CFR 982.4]*

**Welfare assistance**. Welfare or other payments to families or individuals, based on need, that are made under programs funded by Federal, State or local governments. *[24 CFR 5.603(d)]*

**Welfare rent:** In "as-paid" welfare programs, the amount of the welfare benefit designated for shelter and utilities.

## ACRONYMS

ACC Annual Contributions Contract

CACC Consolidated Annual Contributions Contract

CFR Code of Federal Regulations

FMR Fair Market Rent

FSS Family Self Sufficiency (program)

HACC Housing Authority of Cochise County

HAP Housing Assistance Payment

HCV Housing Choice Voucher

HCDA Housing and Community Development Act

HOPWA Housing Opportunities for Persons With AIDS

HQS Housing Quality Standards

HUD Department of Housing and Urban Development

HUD-VASH HUD Veterans Affairs Supportive Housing

INS (U.S.) Immigration and Naturalization Service

NAHA (Cranston-Gonzalez) National Affordable Housing Act

NOFA Notice of Funding Availability

O/A Operaters/Agents

OMB (U.S.) Office of Management and Budget

PBC Project-Based Certificate (program)

PHA Public Housing Agency

QHWRA Quality Housing and Work Responsibility Act of 1998

PHA Public Housing Agency

TTP Total Tenant Payment

VAMC Veterans Affairs Medical Center

VASH Veterans Affairs Support Housing

VAWA Violence Against Women Act

ADA Americans with Disabilities Act

SAAF Southern Arizona AIDS Foundation

| Streamlined Annual PHA Plan *(HCV Only PHAs)* | U.S. Department of Housing and Urban Development Office of Public and Indian Housing | OMB No. 2577-0226 Expires 02/29/2016 |
|---|---|---|

**Purpose.** The 5-Year and Annual PHA Plans provide a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA's operations, programs, and services, and informs HUD, families served by the PHA, and members of the public of the PHA's mission, goals and objectives for serving the needs of low- income, very low- income, and extremely low- income families

**Applicability.** Form HUD-50075-HCV is to be completed annually by **HCV-Only PHAs**. PHAs that meet the definition of a Standard PHA, Troubled PHA, High Performer PHA, Small PHA, or Qualified PHA do not need to submit this form. Where applicable, separate Annual PHA Plan forms are available for each of these types of PHAs.

**Definitions.**

(1) ***High-Performer PHA*** – A PHA that owns or manages more than 550 combined public housing units and housing choice vouchers, and was designated as a high performer on both of the most recent Public Housing Assessment System (PHAS) and Section Eight Management Assessment Program (SEMAP) assessments if administering both programs, or PHAS if only administering public housing.

(2) ***Small PHA*** - A PHA that is not designated as PHAS or SEMAP troubled, or at risk of being designated as troubled, that owns or manages less than 250 public housing units and any number of vouchers where the total combined units exceeds 550.

(3) ***Housing Choice Voucher (HCV) Only PHA*** - A PHA that administers more than 550 HCVs, was not designated as troubled in its most recent SEMAP assessment, and does not own or manage public housing.

(4) ***Standard PHA*** - A PHA that owns or manages 250 or more public housing units and any number of vouchers where the total combined units exceeds 550, and that was designated as a standard performer in the most recent PHAS and SEMAP assessments.

(5) ***Troubled PHA*** - A PHA that achieves an overall PHAS or SEMAP score of less than 60 percent.

(6) ***Qualified PHA*** - A PHA with 550 or fewer public housing dwelling units and/or housing choice vouchers combined, and is not PHAS or SEMAP troubled.

## A. PHA Information.

**A.1**

**PHA Name**: __Housing Authority of Cochise County_____ **PHA Code**: _AZ034_____
**PHA Plan for Fiscal Year Beginning**: (MM/YYYY): __07/2018_____
**PHA Inventory** (Based on Annual Contributions Contract (ACC) units at time of FY beginning, above)
**Number of Housing Choice Vouchers (HCVs)** _493 plus 88 HUD-VASH_____
**PHA Plan Submission Type:** X Annual Submission ☐ Revised Annual Submission

**Availability of Information.** In addition to the items listed in this form, PHAs must have the elements listed below readily available to the public. A PHA must identify the specific location(s) where the proposed PHA Plan, PHA Plan Elements, and all information relevant to the public hearing and proposed PHA Plan are available for inspection by the public. Additionally, the PHA must provide information on how the public may reasonably obtain additional information of the PHA policies contained in the standard Annual Plan, but excluded from their streamlined submissions. At a minimum, PHAs must post PHA Plans, including updates, at the main office or central office of the PHA. PHAs are strongly encouraged to post complete PHA Plans on their official website.

The PHA Plan may be obtained online at www.cochise.az.gov/departments/housingauthority and /or at the main office waiting area located at 1415 Melody Lane, Building A, Suite 100, Bisbee, Arizona 85603

☐ **PHA Consortia**: (Check box if submitting a joint Plan and complete table below)

| Participating PHAs | PHA Code | Program(s) in the Consortia | Program(s) not in the Consortia | No. of Units in Each Program |
|---|---|---|---|---|
| Lead HA: | | | | |
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## B. Annual Plan.

**B.1** **Revision of PHA Plan Elements.**

(a) Have the following PHA Plan elements been revised by the PHA since its last Annual Plan submission?

Y N
☐ X Housing Needs and Strategy for Addressing Housing Needs.
☐ X Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions.
☐ X Financial Resources.
☐ X Rent Determination.
☐ X Operation and Management.
☐ X Informal Review and Hearing Procedures.
☐ X Homeownership Programs.
☐ X Self Sufficiency Programs and Treatment of Income Changes Resulting from Welfare Program Requirements.
☐ X Substantial Deviation.
☐ X Significant Amendment/Modification.

(b) If the PHA answered yes for any element, describe the revisions for each element(s):

No revisions made.

The HACC continues to increase voucher lease up for the HCV and HUD-VASH Programs in an effort to address housing needs.
HACC administers voucher-based rental programs in which HCV ACC units is 493 and HUD-VASH is 88 plus 10 port-ins from Tucson, Arizona. As December 2016, HACC spent $1,398,083.21 for the HCV and HUD-VASH vouchers and $104,224.50 in operating costs. HACC is anticipating $2.654 million on Housing Assistance Payments with a lease-up of 507 vouchers at a Per Unit Cost (PUC) of $436 and operating costs of $326,00 for the Housing Choice Voucher and HUD-VASH programs in Fiscal Year 2018-2019. HACC's additional Federal funding sources are Housing Opportunities for Persons With AIDS (HOPWA) in which an estimated $204,000 is projected for operating and program costs and the Family Self-Sufficiency Program is estimated $55,476. HACC does not receive non-Federal funding.

**B.2** **New Activities**

(a) Does the PHA intend to undertake any new activities related to the following in the PHA's current Fiscal Year?

Y N
☐ X Project Based Vouchers.

(b) If this activity is planned for the current Fiscal Year, describe the activities. Provide the projected number of project-based units and general locations, and describe how project-basing would be consistent with the PHA Plan.

**B.3** **Most Recent Fiscal Year Audit.**

(a) Were there any findings in the most recent FY Audit?

Y N N/A
☐ X ☐

(b) If yes, please describe:

**B.4** **Civil Rights Certification**

Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulations,* must be submitted by the PHA as an electronic attachment to the PHA Plan.

**B.5** **Certification by State or Local Officials.**

Form HUD 50077-SL, *Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan*, must be submitted by the PHA as an electronic attachment to the PHA Plan.

| | |
|---|---|
| **B.6** | **Progress Report.**<br><br>Provide a description of the PHA's progress in meeting its Mission and Goals described in its 5-Year PHA Plan.<br><br>Goal 1: Continue to explore the expanding the HUD-VASH program. Since HACC was awarded HUD-VASH, vouchers have increased from 25-88 with 10 port-ins from Tucson.<br><br>Goal 2: Co-sponsor Fair Housing workshops with Southwest Fair Housing Council for tenants, realtors, landlords, and housing staff. HACC has increased from one workshop to two on an annual basis.<br><br>Goal 3: Explore the feasibility of applying for Lead-Based Paint Hazard Control Grant. Has not applied to date.<br><br>Goal 4: Continue FSS Program. HACC continues to offer the FSS program, exceeding the required 25 participants.<br><br>Goal 5: Increase leasing of HCV vouchers to the 493 ACC units assigned to the Housing Authority of Cochise County. Leasing continues to increase, exhausting the current wait list, accepting new wait list applications in April 2018.<br><br>Goal 6: Begin data entry on the Homeless Management Information Systems for the Housing Opportunities for Persons With AIDS Program. HACC has attended training and been issued license and continues to enter data.<br><br>Goal 7: Continue administering the Housing Opportunities for Persons With AIDS (HOPWA) Program. HACC continues this program. |
| **B.7** | **Resident Advisory Board (RAB) Comments.**<br><br>(a) Did the RAB(s) provide comments to the PHA Plan?<br><br>Y N<br>X ☐<br><br>(a) If yes, comments must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the RAB recommendations and the decisions made on these recommendations. |

# Instructions for Preparation of Form HUD-50075-HCV
# Annual PHA Plan for HCV Only PHAs

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**A. PHA Information.** All PHAs must complete this section. (24 CFR §903.23(4)(e))

**A.1** Include the full **PHA Name**, **PHA Code**, **PHA Type**, **PHA Fiscal Year Beginning** (MM/YYYY), **Number of Housing Choice Vouchers (HCVs), PHA Plan Submission Type**, and the **Availability of Information**, specific location(s) of all information relevant to the public hearing and proposed PHA Plan.

**PHA Consortia**: Check box if submitting a Joint PHA Plan and complete the table. (24 CFR §943.128(a))

**B. Annual Plan.** All PHAs must complete this section. (24 CFR §903.11(c)(3))

**B.1 Revision of PHA Plan Elements.** PHAs must:

Identify specifically which plan elements listed below that have been revised by the PHA. To specify which elements have been revised, mark the "yes" box. If an element has not been revised, mark "no."

YES **Housing Needs and Strategy for Addressing Housing Needs.** Provide a statement addressing the housing needs of low-income, very low-income families who reside in the PHA's jurisdiction and other families who are on the Section 8 tenant-based waiting list. The statement must identify the housing needs of (i) families with incomes below 30 percent of area median income (extremely low-income), (ii) elderly families and families with disabilities, and (iii) households of various races and ethnic groups residing in the jurisdiction or on the waiting list based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location. (24 CFR §903.7(a)(1) and 24 CFR §903.7(a)(2)(i)). Provide a description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. 24 CFR §903.7(a)(2)(ii)

HACC decreased the waiting list from 334 to 55 families and is opening the waiting list in April 2018 . Of the 55 applicants, applicants, 3 are elderly, 7 are handicapped/disabled, and 46 are families. Of the 55 on the waiting list, 6 are low income, while the remaining 49 are extremely low (39 ) or very low income (10). The ethnicity break down of the waiting list is as follows: 29 Hispanic ( 22 also counted as White), 32 White , 11 Black, 1 Indian/Alaskan, 0 Asian, 2 Pacific Islander and 2 Mixed. HACC's

jurisdiction covers Cochise and Graham Counties, spanning nearly 11,000 square miles, including Bisbee, Douglas (outside the City of Douglas), Sierra Vista, Hereford, Palominas, Tombstone, Willcox, Benson, Safford, Thatcher, and surrounding areas. Within our county, Bisbee and Tombstone are tourist attractions; Sierra Vista is the home to Fort Huachuca Army Base, and two large Border Patrol stations at the ports of entry in Naco and Agua Prieta, Mexico. Because of this, the rental market is high, making it difficult to find affordable housing. Payment Standards for 2017 are:

| Cochise County | Sierra Vista | Graham |
|---|---|---|
| 0 BR: $581 | $639 | $454 |
| 1BR: $600 | $660 | $641 |
| 2 BR: $751 | $826 | $763 |
| 3 BR: $1085 | $1194 | $1124 |
| 4 BR: $1330 | $1463 | $1128 |

Due to the vastness of our county, moving to the very rural areas where housing is more affordable means trading affordable rent for being close to hospitals, grocery stores, pharmacies, public transportation, etc...

Cochise County has some of the oldest housing stock in the West. 58% of the housing in the city of Bisbee was built before 1940 and 91% before 1978. In Douglas and surrounding areas, 21% of the housing was built prior to 1940 and 78% before 1978. Sierra Vista is our largest city with newer homes and units, with more expensive rents and limited affordable housing.

NO **Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions.** A statement of the PHA's policies that govern resident or tenant eligibility, selection and admission including admission preferences for HCV. (24 CFR §903.7(b))

.

YES **Financial Resources.** A statement of financial resources, including a listing by general categories, of the PHA's anticipated resources, such as PHA HCV funding and other anticipated Federal resources available to the PHA, as well as tenant rents and other income available to support tenant-based assistance. The statement also should include the non-Federal sources of funds supporting each Federal program, and state the planned use for the resources. (24 CFR §903.7(c))

The HACC continues to increase voucher lease up for the HCV and HUD-VASH Programs in an effort to address housing needs.
HACC administers voucher-based rental programs in which HCV ACC units is 493 and HUD-VASH is 88 plus 10 port-ins from Tucson, Arizona. As December 2016, HACC spent $1,398,083.21 for the HCV and HUD-VASH vouchers and $104,224.50 in operating costs. HACC is anticipating $2.654 million on Housing Assistance Payments with a lease-up of 507 vouchers at a Per Unit Cost (PUC) of $436 and operating costs of $326,00 for the Housing Choice Voucher and HUD-VASH programs in Fiscal Year 2018-2019. HACC's additional Federal funding sources are Housing Opportunities for Persons With AIDS (HOPWA) in which an estimated $204,000 is projected for operating and program costs and the Family Self-Sufficiency Program is estimated $55,476. HACC does not receive non-Federal funding.

NO **Rent Determination.** A statement of the policies of the PHA governing rental contributions of families receiving tenant-based assistance, discretionary minimum tenant rents , and payment standard policies. (24 CFR §903.7(d))

NO **Operation and Management.** A statement that includes a description of PHA management organization, and a listing of the programs administered by the PHA. (24 CFR §903.7(e)(3)(4)).

NO **Informal Review and Hearing Procedures.** A description of the informal hearing and review procedures that the PHA makes available to its applicants. (24 CFR §903.7(f))

N/A **Homeownership Programs**. A statement describing any homeownership programs (including project number and unit count) administered by the agency under section 8y of the 1937 Act, or for which the PHA has applied or will apply for approval. (24 CFR §903.7(k))

NO **Self Sufficiency Programs and Treatment of Income Changes Resulting from Welfare Program Requirements.** A description of any PHA programs relating to services and amenities coordinated, promoted, or provided by the PHA for assisted families, including those resulting from the PHA's partnership with other entities, for the enhancement of the economic and social self-sufficiency of assisted families, including programs provided or offered as a result of the PHA's partnerships with other entities, and activities under section 3 of the Housing and Community Development Act of 1968 and under requirements for the Family Self-Sufficiency Program and others. Include the program's size (including required and actual size of the FSS program) and means of allocating assistance to households. (24 CFR §903.7(l)(i)) Describe how the PHA will comply with the requirements of section 12(c) and (d) of the 1937 Act that relate to treatment of income changes resulting from welfare program requirements. (24 CFR §903.7(l)(iii)).

NO **Substantial Deviation.** PHA must provide its criteria for determining a "substantial deviation" to its 5-Year Plan. (24 CFR §903.7(r)(2)(i))

NO **Significant Amendment/Modification**. PHA must provide its criteria for determining a "Significant Amendment or Modification" to its 5-Year and Annual Plan. Should the PHA fail to define 'significant amendment/modification', HUD will consider the following to be 'significant amendments or modifications': a) changes to rent or admissions policies or organization of the waiting list; or b) any change with regard to homeownership programs. See guidance on HUD's website at: Notice PIH 1999-51. (24 CFR §903.7(r)(2)(ii))

If any boxes are marked "yes", describe the revision(s) to those element(s) in the space provided.

**B.2** **New Activity.** If the PHA intends to undertake new activity using Housing Choice Vouchers (HCVs) for new Project-Based Vouchers (PBVs) in the current Fiscal Year, mark "yes" for this element, and describe the activities to be undertaken in the space provided. If the PHA does not plan to undertake this activity, mark "no." (24 CFR §983.57(b)(1) and Section 8(13)(C) of the United States Housing Act of 1937.

NO **Project-Based Vouchers (PBV).** Describe any plans to use HCVs for new project-based vouchers. If using PBVs, provide the projected number of project-based units and general locations, and describe how project-basing would be consistent with the PHA Plan.

**B.3** **Most Recent Fiscal Year Audit.** If the results of the most recent fiscal year audit for the PHA included any findings, mark "yes" and describe those findings in the space provided. (24 CFR §903.11(c)(3), 24 CFR §903.7(p))

**B.4** **Civil Rights Certification.** Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulation*, must be submitted by the PHA as an electronic attachment to the PHA Plan. This includes all certifications relating to Civil Rights and related regulations. A PHA will be considered in compliance with the AFFH Certification if: it can document that it examines its programs and proposed programs to identify any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with the local jurisdiction to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and assures that the annual plan is consistent with any applicable Consolidated Plan for its jurisdiction. (24 CFR §903.7(o))

**B.5** **Certification by State or Local Officials.** Form HUD-50077-SL, *Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan,* including the manner in which the applicable plan contents are consistent with the Consolidated Plans, must be submitted by the PHA as an electronic attachment to the PHA Plan. (24 CFR §903.15)

**B.6** **Progress Report.** For all Annual Plans following submission of the first Annual Plan, a PHA must include a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year PHA Plan. (24 CFR §903.11(c)(3), 24 CFR §903.7(r)(1))

**B.7** **Resident Advisory Board (RAB) comments**. If the RAB provided comments to the annual plan, mark "yes," submit the comments as an attachment to the Plan and describe the analysis of the comments and the PHA's decision made on these recommendations. (24 CFR §903.13(c), 24 CFR §903.19)

Please see attached RAB Agendas and Comments for Sierra Vista and Bisbee

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This information collection is authorized by Section 511 of the Quality Housing and Work Responsibility Act, which added a new section 5A to the U.S. Housing Act of 1937, as amended, which introduced the Annual PHA Plan. The Annual PHA Plan provides a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA's operations, programs, and services, and informs HUD, families served by the PHA, and members of the public for serving the needs of low- income, very low- income, and extremely low- income families.

Public reporting burden for this information collection is estimated to average 4.5 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

**Privacy Act Notice.** The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality

**Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan or State Consolidated Plan *(All PHAs)***

**U. S Department of Housing and Urban Development**
Office of Public and Indian Housing
OMB No. 2577-0226
**Expires 2/29/2016**

# Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan or State Consolidated Plan

I, Ann English, the Chair, Cochise County Board of Supervisors
*Official's Name* *Official's Title*

certify that the 5-Year PHA Plan and/or Annual PHA Plan of the

Housing Authority of Cochise County (AZ034)
*PHA Name*

is consistent with the Consolidated Plan or State Consolidated Plan and the Analysis of Impediments (AI) to Fair Housing Choice of the

Arizona Department of Housing
*Local Jurisdiction Name*

pursuant to 24 CFR Part 91.

Provide a description of how the PHA Plan is consistent with the Consolidated Plan or State Consolidated Plan and the AI.

Lead-based paint-Education is provided to participants. HQS Inspections monitors dangers.

Participates in Housing Needs Assessments and the Cochise Continuum of Care (COC) and Point In Time Count (PIT).

Participates in homeless outreach strategies, including making it a preference for programs.

Publishes updated income limits. Sponsors landlord briefings and Fair Housing Seminars.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

| Name of Authorized Official | Title |
|---|---|
| Ann English | Chair, Cochise County Board of Supervisors |
| Signature | Date<br>March 27, 2018 |

**COCHISE COUNTY**

# Housing Annual and Administrative Plans

July 1, 2018 to June 30, 2019

***Public Programs…Personal Service***

# Streamlined Annual Plan form HUD-50075-HCV

- Housing Needs and Strategy for addressing needs(B.1)
  - Wait List decreased from 334 to 55 families over the past year.
    - Continues to lease up vouchers, exhausting the wait list.
    - New wait list open April 2-16, 2018
    - Continues to lease HUD-Veterans Affairs Supportive Housing (HUD-VASH) vouchers
    - Housing Opportunities for Persons With AIDS (HOPWA)
    - Have Housing seminars twice a year
      - » Fair Housing
      - » Landlord outreach and program

# Streamlined Annual Plan

- New Activities (B.2)
  - HACC has no plans to undertake Project Based Vouchers
  - Most Recent FY Audit (15-16) (B.3)
    - No findings
  - Civil Rights Certification (B.4)
    - HUD Form-50077-ST-HCV-HP
      - Approve Plans and certify agreement to HUD

# Streamlined Annual Plan

- Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan or State Consolidated Plan (B.5)
  - HUD Form 50077-SL
    - State Consolidated Plan from ADOH
      - HACC provides lead-based paint education
      - Housing Quality Standards Inspections monitors health and safety
      - Participates in homeless outreach strategies

# Streamlined Annual Plan

- Progress Report from 5-Year PHA Plan (B.6)
  - Expanding HUD-VASH Program
    - From 25 to 88 voucher plus 10 Tucson Port-in
  - Fair Housing Seminars
    - 2 a year
  - Lead-base Paint Hazard Control Grant
    - Has not applied to date

# Streamlined Annual Plan

- Progress Report from 5-Year PHA Plan (B.6)
  - Increasing HCV Vouchers
    - Exhausting current wait list, opening new wait list April 2018
  - Begin entry into Homeless Management Information System for HOPWA
    - Obtained license and training. Entering data
  - Administer HOPWA
    - HACC continues this program

# Streamlined Annual Plan

- Resident Advisory Board Comments (B.7)
  - 2 meetings. 2 RAB members attended.
    - Comments
      - » Amazing the waiting list decreased by so many families
      - » Plans to attend a Fair Housing Seminar this year
      - » Glad HACC continues to offer HOPWA and HUD-VASH because the need is out there
      - » Glad the waiting list will be opening in April 2018. Will help get the word out to those who need it

| **Certifications of Compliance with PHA Plans and Related Regulations** ***(Standard, Troubled, HCV-Only, and High Performer PHAs)*** | **U.S. Department of Housing and Urban Development**<br>Office of Public and Indian Housing<br>**OMB No. 2577-0226**<br>**Expires 02/29/2016** |
|---|---|

## PHA Certifications of Compliance with the PHA Plan and Related Regulations including Required Civil Rights Certifications

*Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the___ 5-Year and/or _X_ Annual PHA Plan for the PHA fiscal year beginning __2018__, hereinafter referred to as" the Plan", of which this document is a part and make the following certifications and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the Plan and implementation thereof:*

1. The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located.
2. The Plan contains a certification by the appropriate State or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments to Fair Housing Choice, for the PHA's jurisdiction and a description of the manner in which the PHA Plan is consistent with the applicable Consolidated Plan.
3. The PHA has established a Resident Advisory Board or Boards, the membership of which represents the residents assisted by the PHA, consulted with this Resident Advisory Board or Boards in developing the Plan, including any changes or revisions to the policies and programs identified in the Plan before they were implemented, and considered the recommendations of the RAB (24 CFR 903.13). The PHA has included in the Plan submission a copy of the recommendations made by the Resident Advisory Board or Boards and a description of the manner in which the Plan addresses these recommendations.
4. The PHA made the proposed Plan and all information relevant to the public hearing available for public inspection at least 45 days before the hearing, published a notice that a hearing would be held and conducted a hearing to discuss the Plan and invited public comment.
5. The PHA certifies that it will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
6. The PHA will affirmatively further fair housing by examining their programs or proposed programs, identifying any impediments to fair housing choice within those programs, addressing those impediments in a reasonable fashion in view of the resources available and work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and by maintaining records reflecting these analyses and actions.
7. For PHA Plans that includes a policy for site based waiting lists:
   - The PHA regularly submits required data to HUD's 50058 PIC/IMS Module in an accurate, complete and timely manner (as specified in PIH Notice 2010-25);
   - The system of site-based waiting lists provides for full disclosure to each applicant in the selection of the development in which to reside, including basic information about available sites; and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types at each site;
   - Adoption of a site-based waiting list would not violate any court order or settlement agreement or be inconsistent with a pending complaint brought by HUD;
   - The PHA shall take reasonable measures to assure that such a waiting list is consistent with affirmatively furthering fair housing;
   - The PHA provides for review of its site-based waiting list policy to determine if it is consistent with civil rights laws and certifications, as specified in 24 CFR part 903.7(c)(1).
8. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
9. The PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
10. The PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.
11. The PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.

12. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
13. The PHA will provide the responsible entity or HUD any documentation that the responsible entity or HUD needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58 or Part 50, respectively.
14. With respect to public housing the PHA will comply with Davis-Bacon or HUD determined wage rate requirements under Section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
15. The PHA will keep records in accordance with 24 CFR 85.20 and facilitate an effective audit to determine compliance with program requirements.
16. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act**,** the Residential Lead-Based Paint Hazard Reduction Act of 1992, and 24 CFR Part 35.
17. The PHA will comply with the policies, guidelines, and requirements of OMB Circular No. A-87 (Cost Principles for State, Local and Indian Tribal Governments), 2 CFR Part 225, and 24 CFR Part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments).
18. The PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the regulations and included in its Plan.
19. All attachments to the Plan have been and will continue to be available at all times and all locations that the PHA Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the PHA in its PHA Plan and will continue to be made available at least at the primary business office of the PHA.
22. The PHA certifies that it is in compliance with applicable Federal statutory and regulatory requirements, including the Declaration of Trust(s).

Housing Authority of Cochise County
PHA Name

AZ034
PHA Number/HA Code

__X__ Annual PHA Plan for Fiscal Year 2018__

_____ 5-Year PHA Plan for Fiscal Years 20____ - 20____

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

| Name of Authorized Official | Title |
|---|---|
| Ann English | Chair, Cochise County Board of Supervisors |
| Signature | Date |
| | March 27, 2018 |

| | | | |
|---|---|---|---|
| | | | **Action 14.** |
| **Regular Board of Supervisors Meeting** | | | **Solid Waste** |
| **Meeting Date:** | 03/27/2018 | | |
| Free Dump Day Program changes | | | |
| **Submitted By:** | Kim Lemons, Board of Supervisors | | |
| **Department:** | Board of Supervisors | | |
| **Presentation:** | No A/V Presentation | **Recommendation:** | |
| **Document Signatures:** | | **# of ORIGINALS Submitted for Signature:** | |
| **NAME of PRESENTER:** | Marty Haverty | **TITLE of PRESENTER:** | Community Development Director |
| **Mandated Function?:** | | **Source of Mandate or Basis for Support?:** | |

**Information**

**Agenda Item Text:**

Approve changes to the Free Dump Day program and Official Certificate mailing, effective May 1, 2018 through June 30, 2019.

**Background:**

The Rate Review and Advisory Board is recommending that the Board of Supervisors approve a change to the method of service delivery for Free Dump Days. The RRAB voted unanimously that a “voucher” system be employed where each resident would be given a voucher that allows them to dispose of one load of trash per year at no cost to the resident.

The current mode of delivering the “Free Dump” day to residents is to designate one day per year at each station that residents could come to the station and dispose of their waste at no cost. This program has become very popular in each political subdivision as well as rural areas, as we have witnessed up to 500 vehicles using the facility on their designated day.

The popularity of the program has led to several issues that need to be addressed. The root cause of the problem reveals site congestion as being the key issue; which creates severe safety issues for both the public and employees, operational burdens on the system resulting in several weeks to catch up with the flow of trash, and costs that are difficult to measure resulting in an excessive overtime burden on the Solid Waste System.

This initiative intends to alleviate the congestion by allowing each resident to choose the day that they dispose of one load per year at no cost. The thought is that the residents choose the day convenient for them which spreads the use of the free day out and alleviates the congestion. In theory, the voucher system will become an individual homeowner event as opposed to a community event.

**Note:** At a 2.13.18 Work Session with the Board of Supervisors the voucher was updated to a postcard sized Certificate that would be mailed out to residents through the Treasurer’s Department. The Free Dump Official Certificate tagline is “One Trip, One Ton, One Time”.

Funds for this program have been budgeted into our disposal line items related to each cost center for the volume of projected material received. In the past this has always been an estimate, with this change we will be able to track incoming volumes and assign costs based on performance of the new initiative. County Treasurer, Cathy Traywick has volunteered to cover the costs of production of the certificates and

mailing. Estimated at $20,000. With the donation from the Treasurer we are not projecting any increase in costs.

**Department's Next Steps (if approved):**

The Department will collaborate and work with the PIO in developing and disseminating material and information to residents detailing the new initiative. This information will revolve around the tagline and inform residents of the upcoming mailing and how to use the certificate.

The Solid Waste Department will provide an electronic version of the Official Certificate, “One Trip, One Ton, One Time” to the Treasurer’s Department for bulk mailing.

The Department will train staff prior to the mailing and ensure that customer service is optimized, and their needs are met through the program.

**Impact of NOT Approving/Alternatives:**

The Free Dump Day program will not be changed and the issues described in the background of this item will continue.

**To BOS Staff: Document Disposition/Follow-Up:**

See Department’s Next Steps.

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**Budget Information**

*Information about available funds*

| | | |
|---|---|---|
| **Budgeted:** ☐ | **Funds Available:** ☐ | **Amount Available:** |
| **Unbudgeted:** ☐ | **Funds NOT Available:** ☐ | **Amendment:** ☐ |

**Account Code(s) for Available Funds**

**1:**

**Fund Transfers**

**Attachments**

Certificate Postcard

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## Free Dump Day
## *Official Certificate*
## "One Trip, One Ton, One Time"

### Certificate Instructions

1. Certificate **is transferrable**, so you may give it to someone else, perhaps a neighbor or a tenant.
2. Certificate has **no specific cash value**. It is good for **one non-commercial passenger vehicle/truck/trailer load** of refuse weighing a maximum of 1 ton. Any customer load **over 1 ton** will be charged for the additional weight at the current tipping fee rate.
3. Certificate is **valid from May 1, 2018 through June 30, 2019** and can be used at any open Cochise County refuse transfer station. For a list of locations and hours call 520-803-3770 or go to **www.cochise.az.gov**
4. Certificate may be used **one time**. The holder of this certificate must surrender it to the site's Fee Attendant at the time of the transaction. Certificate **MUST** be presented to redeem your Free Dump Day.

**Cochise County Public Works - Official Use Only:**

No Charge Weigh Ticket # _____

Solid Waste Division: 520-803-3770





Free Dump Day
*Official Certificate*
"One Trip, One Ton, One Time"

Certificate Instructions

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Solid Waste Division: 520-803-3770






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**Cochise County Public Works - Official Use Only:**

No Charge Weigh Ticket # _____

Solid Waste Division: 520-803-3770

**Cochise County Board of Supervisors and**
**Solid Waste Division**
2595 N. Sagebrush Road
Huachuca City, AZ 85616

**Free Dump Day** – ***Use this valuable certificate to help keep Cochise County beautiful.***

**Cochise County Board of Supervisors and**
**Solid Waste Division**
2595 N. Sagebrush Road
Huachuca City, AZ 85616

**Free Dump Day** – ***Use this valuable certificate to help keep Cochise County beautiful.***

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2595 N. Sagebrush Road
Huachuca City, AZ 85616

**Free Dump Day** – ***Use this valuable certificate to help keep Cochise County beautiful.***

**State and Federal Legislation 15.**

**Regular Board of Supervisors Meeting** **Board of Supervisors**

| | | | |
|---|---|---|---|
| **Meeting Date:** | 03/27/2018 | | |
| State and Federal Legislation Discussion | | | |
| **Submitted By:** | Arlethe Rios, Board of Supervisors | | |
| **Department:** | Board of Supervisors | | |
| **Presentation:** | No A/V Presentation | **Recommendation:** | |
| **Document Signatures:** | | **# of ORIGINALS Submitted for Signature:** | |
| **NAME of PRESENTER:** | na | **TITLE of PRESENTER:** | na |
| **Mandated Function?:** | | **Source of Mandate or Basis for Support?:** | |

**Information**

**Agenda Item Text:**

Discussion and possible action regarding state and federal legislative matters, including but not limited to the items in the attached County Supervisors Association Legislative Policy Committee Agenda, the Arizona Association of Counties (AACo) Committee Agenda and the proposed State budget.

**Background:**

na

**Department's Next Steps (if approved):**

na

**Impact of NOT Approving/Alternatives:**

na

**To BOS Staff: Document Disposition/Follow-Up:**

na

**Budget Information**

*Information about available funds*

**Budgeted:** ◯ **Funds Available:** ◯ **Amount Available:**

**Unbudgeted:** ◯ **Funds NOT Available:** ◯ **Amendment:** ☐

**Account Code(s) for Available Funds**

**1:**

**Fund Transfers**

**Attachments**

LPC Agenda

County Supervisors
ASSOCIATION
of arizona
1905 W. Washington St., Ste. 100, Phoenix, AZ 85009
(602) 252-5521 fax: (602) 253-3227

**COUNTY SUPERVISORS ASSOCIATION**
**LEGISLATIVE POLICY COMMITTEE**
**AGENDA**
**March 23, 2018**
**Teleconference 1-866-228-9900**
**Access Code 326208#**
Web Link
**County Supervisors Association**
**1905 W. Washington St.**
**Phoenix, AZ**

9:00 a.m. Call to Order ~ *President Anthony Smith*

A) State Budget Update

B) Other Legislative Issues
1) Safe Arizona Schools: Governor Ducey's Action Plan to Enhance the Safety of Arizona Schools & Communities

C) Legislative Bill Updates
1) HB 2497 county attorney; county sheriff; salaries (*Boyer*)
2) HB 2545 EORP; cost-of-living adjustment (*Livingston*) & HCR 2032 public retirement systems (*Livingston*)
3) HB 2501 PTSD; workers' compensation; presumption (*Boyer*)
4) HB 2579 video service; certificate of authority (*Norgaard*)
5) SB 1195 technical correction; health services; monitoring S/E application; emergency admission; nonevaluating hospitals (*Barto*)

D) CSA Legislative Agenda
1) Policy Bills
a) HB 2190 county improvement districts; repayment agreements (*Mitchell*)
b) HB 2413 public road maintenance; primitive designation (*Cook*) ***Ch. 16***
c) SB 1038 state land payments; payment method (*Griffin*) ***Ch. 18***
d) SB 1113 zoning violations; notice; service (*Fann*)
2) Budget Bills
e) HB 2274 county contributions; hospitalization; medical; repeal (*Thorpe*)
f) HB 2415 juvenile dependency proceedings fund (*Cobb*)
g) HB 2439 county contributions; committed youth; repeal (*Thorpe*)
h) SB 1410 transient lodging tax; rural counties (*Borrelli*)
i) Super Majority to Levy County Excise Taxes

E) Other Legislative Issues

F) Next Meeting Date and Time (*Friday, March 30, at 9:00 a.m.*)

G) Other Business

H) Adjourn

County Supervisors ASSOCIATION of Arizona

# Legislative Bill Updates for March 23, 2018

| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
|---|---|---|---|---|
| **HB 2497** | county attorney; county sheriff; salaries | *Boyer* | In any county with a population of 500,000 or more persons, the county board of supervisors is authorized to adjust the annual salary of the county attorney and/or the county sheriff above the statutory salary amount up to a maximum of 10 percent above the incumbent chief deputy county attorney's salary or the incumbent chief deputy county sheriff's salary, respectively. Effective January 1, 2019. | Passed House 31-29 on 2/21. Referred to Senate gov, approps. |
| **HB 2545/ HCR 2032** | EORP; cost of living adjustment/ public retirement systems | *Livingston* | For the Elected Officials' Retirement Plan, each retired member or survivor of a retired member is eligible to receive a compounding cost-of-living adjustment in the base benefit based on the average annual percentage change in the metropolitan Phoenix-Mesa consumer price index, with the immediately preceding year as the base year for making the determination, up to a maximum of two percent of the retired member's or survivor's base benefit annually. Repeals statutes governing EORP benefit increases. Conditionally enacted on the state Constitution being amended, as prescribed in an unspecified Senate concurrent resolution (blank in original), by the voters at the 2018 general election. **Comments**: 02/02/18 CSA Staff explained the legislation and recommended a position of support, noting that the bill would move the permanent benefit increase (PBI) to a cost of living adjustment (COLA) for EORP and the companion bill that would send the issue to the voters is SCR 1010. The LPC moved to **SUPPORT** the bill. 2/09/2018 CSA Staff explained the EORP package of bills no additional stance was taken legislation staff will monitor and speak to the larger EORP and cost shift issues.<br><br>The 2018 general election ballot is to carry the question of whether to amend the state Constitution to provide that the Constitutional provision prohibiting public retirement system benefits from being diminished or impaired does not prohibit certain adjustments to the Corrections Officer Retirement Plan as provided in S1442 as enacted by the 53rd Legislature, 1st Regular Session, and does not prohibit certain adjustments to the Elected Officials' Retirement Plan as provided in an unspecified House bill (blank in original). The Legislature requests the Secretary of State return SCR1023, 53rd Legislature, 1st Regular Session, to the Legislature and submit this resolution in lieu of SCR1023. **Comments**: 02/09/18 CSA Staff explained the legislation noting that there have been concerns regarding the potential for litigation due to the judges being in the system. Staff will express those concerns and is working with Legislative staff to evaluate the issue. No official position was taken by the LPC. | HB 2545 passed House 58-2. HB 2545 Referred to Senate Finance.<br><br>SCR 1010 Passed the Senate 29-0-1. SCR referred to House Banking & Insurance. |

County Supervisors ASSOCIATION of Arizona

| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
|---|---|---|---|---|
| **HB 2501** | PTSD; workers' compensation; presumption | *Boyer* | For the purpose of workers' compensation, post-traumatic stress disorder (PTSD) is presumed to be an occupational disease and deemed to arise out of and in the course of employment for a "first responder" (defined) if a list of specified conditions apply, including that a licensed mental health professional determines that the first responder has PTSD resulting from the performance of his/her job duties. The list of circumstances under which the state and political subdivisions are required to provide licensed counseling to a public safety employee is modified to include the use of deadly for or being subjected to deadly force in the line of duty regardless of whether the employee was physically injured (previously applied only to peace officers), witnessing the death of another public safety employee while engaged in the line of duty (previously applied only to firefighters), and in the case of a firefighter or peace officer, being exposed to a psychologically traumatic event or series of events in the course of employment. The list of public safety employees subject to this requirement is expanded to include a rescue or ambulance worker who is a member of any public retirement system. Employers are prohibited from requiring public safety employees receiving treatment under this program to use paid time off and are required to allow the employees to select their own licensed mental health professionals. The repeal date of January 1, 2023 for the licensed counseling requirements is deleted. **Comments**: 02/09/18 CSA Staff explained the legislation noting that ACIP is concerned with the bill and recommend opposing the bill but to allow staff the opportunity to try and work on a resolution before additional action is taken by the members. The LPC voted to **OPPOSE** the bill. **Update 3/9/18:** staff noted we continue to work towards getting the bill amended and or to hold it up in the process. | Passed House 57-2, transmitted to the Senate. Referred to the Finance and Commerce & Public Safety Committees. |
| **HB 2579** | video service; certificate of authority | *Noorgard* | The regulation and use of "video service" (defined as the provision of multichannel video programming, including cable service but excluding internet streaming and direct broadcast satellite service) are of statewide concern and are not subject to further regulation by a county or municipality except as specifically provided in statute. Beginning January 1, 2020, the Secretary of State has the exclusive authority to issue a certificate of authority to a person to provide video service and to construct and operate a video service network in any service area in Arizona. Beginning January 1, 2020, a person is prohibited from acting as a video service provider or constructing or operating a video service network without first having been issued and continuing to hold a certificate of authority. The Secretary of State is required to establish and collect fees for the purpose of administering certificates of authority for video service providers. Beginning January 1, 2020, an incumbent cable operator is permitted to either continue to operate within a service area as defined in the local license or terminate the local license by applying for and obtaining a certificate of authority. Establishes requirements to obtain a certificate of authority, lists the authorities granted by a certificate, and provides for amendment of certificates to add service areas. Much more. Effective January 1, 2020. **Comments**: CSA staff explained the bill and noted that COX has agreed to amend the bill to address concerns over permit timing, costs for restoring public highways and tightening up other language to address county concerns. The Board took a position of **NEUTRAL** pending an amendment. | Passed House 37-18. Referred to Senate Commerce & Public Safety and Government. Passed Senate Commerce & Government |
| **SB 1195** | ~~technical correction; health services; monitoring~~ S/E application; emergency admission; nonevaluating hospitals | *Barto* | The striker makes extensive changes to the involuntary commitment statutes. **Comments**: CSA Staff explained the legislation noting that there are some significant concerns from the counties on this bill including the impact the Certificate of Hold process could have on rural counties and unreasonable timing for evaluations and screenings. The Board moved to **OPPOSE** the bill. **Update:** 2/23/2018 staff advised there is a stakeholder meeting next Monday and we are working towards getting a better resolution on the bill. **Update 3/09/18:** CSA staff noted of the three main concerns, one problematic component remains in the bill and we are working on an additional amendment to be added in the House to address the concerns. Both the sponsor and the proponents have indicated they will continue to work with us on the bill to address our concerns. | Passed Senate 19-10-1.<br>Referred to House Health. |
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| **Updated on 3/15/18** | | | | |

County Supervisors ASSOCIATION of arizona

# CSA Legislative Agenda

| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments | Status |
|---|---|---|---|---|
| **Policy Bills** | | | | |
| **HB 2190** | county improvement districts; repayment agreements | *Mitchell* | Allow a county improvement district to acquire, construct, or improve a domestic drinking water treatment and distribution system or a combination of such projects with funds from the Water Infrastructure Finance Authority. | Passed House 57-0-2-0-1<br>Passed Senate Natural Resources Energy & Water Committee, Rules and Caucus. On Senate Consent Calendar, awaiting Third Read. |
| **HB 2413** | public road maintenance; primitive designation | *Cook* | Clarify the universe of road systems that are eligible to be brought into the county roadway system and expand the number of roads that are eligible to be declared as "primitive" by a county board to include those roadways not built to county standards opened prior to June 13, 1990. | Passed House 58-0-1-0-1<br>Passed Senate Government Committee, Rules & Caucus. On Senate Consent Calendar, awaiting Third Read. Signed by governor on 3/16, Chap. 16, Laws 2018. |
| **SB 1038** | state land payments; payment method | *Griffin* | Enables the State Land Commissioner to accept additional payment options, instead of only cashier's checks, on sales and auctions of state land. | Passed Senate 30-0.<br>Passed House 57-1.<br>Signed by governor on 3/16, Chap. 18, Laws 2018 |
| **SB 1113** | zoning violations; notice; service | *Fann* | Provide more flexibility and clarity for the serving of zoning violations. Currently statute only permits the zoning inspector to serve such notices, but the Arizona Rules of Civil Procedure (ARCP) affords more flexibility. | Passed Senate 23-5<br>Passed House Local & International Affairs Committee 5-0, Rules and Caucus. Awaiting COW and Third Read. |
| **Budget Bills** | | | | |
| **HB 2274** | county contributions; hospitalization; medical; repeal | *Thorpe* | Eliminate the county Disproportionate Uncompensated Care (DUC) payments to the state. This payment costs 14 counties $2.6 million annually. | Passed House 58-0, transmitted to the Senate. Referred to Senate Health & Human Services and Appropriations Committees. |
| **HB 2415** | juvenile dependency proceedings fund | *Cobb* | Allocate financial resources to counties to assist with providing mandated attorney services for indigent defendants in juvenile dependency matters, due to recent increases in costs associated with these cases as a result of the overhaul of the child protective services system in Arizona. | Passed House 51-7, transmitted to Senate. Referred to Senate Appropriations and Judiciary Committees. |
| **HB 2439** | county contributions; committed youth; repeal | *Thorpe* | Repeals statue requiring the Department of Juvenile Corrections to annually assess a committed youth confinement cost sharing fee to each county, and the Department of Juvenile Corrections Local Cost Sharing Fund. All unexpended and unencumbered monies remaining in the Fund are transferred to the general fund on the effective date of this legislation. The amount of monies transferred is appropriated from the general fund in FY2018-19 to the Department of Administration for distribution to each county in a proportional share using population data from the most recent U.S. decennial census. | Passed House 55-3; transmitted to Senate. Referred to Senate Appropriations. On Senate Judiciary agenda. Passed Senate Jud. On 3/15 |

County Supervisors ASSOCIATION of arizona

| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments | Status |
|---|---|---|---|---|
| **SB 1410** | transient lodging tax; rural counties | *Borrelli* | Enable smaller counties, with a population of fewer than 500,000 persons, to levy a tax on transient lodging in both incorporated and unincorporated areas of the county. | Bill dropped 1/26/2018<br>Referred to Senate Finance 1/29 |
| **Folder # TBD** | supermajority to levy county excise taxes | *TBD* | Change the existing general fund one-half cent sales tax authority to allow a five-member board of supervisors to levy the tax with a super-majority vote, rather than a unanimous vote. | |
| **Updated 3/15/18** | | | | |

County Supervisors ASSOCIATION of arizona

# Ongoing LPC Bill List

| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
|---|---|---|---|---|
| **HB 2001** | indigent defense fund; distribution; purpose | *Cardenas* | The Arizona Criminal Justice Commission is required to distribute monies in the State Aid to Indigent Defense Fund each fiscal year to each county for the sole purpose of providing state aid to the county public defender, legal defender and contract indigent defense counsel for the processing of criminal cases. **Comments:** CSA Staff explained the legislation, noting that the bill passed out of the LIA committee 7-0-0 and that the sponsor offer similar proposals last year that CSA supported. The Board moved to **SUPPORT** the bill. | Passed House 42-16. Referred to Senate Judiciary & Appropriations. |
| **HB 2003** | coal mining; TPT; repeal | *Finchem* | The list of exemptions from the retail classification of transaction privilege taxes is expanded to include the gross proceeds of sales or gross income from sales of coal. The list of items that municipalities and special taxing districts are prohibited from levying a transaction privilege, use or other similar tax on is expanded to include the sale, storage, use or consumption of coal. **Comments:** Staff suggested bill be brought back to next week's BOD meeting to discuss opposition. Exploring potential fiscal impact. Members shared that this would have a negative impact on counties that rely on coal revenues. 01/18/18 - Staff explained that ADOR is still working on getting the fiscal impact and will provide an update once those are available. There was a request for clarification on the impact of the repeal. The Board moved to **OPPOSE** the bill. Note: Striker in Finance SB 1501 with same subject was held. | Passed House on 3/5/18 with a vote of 33-22-5<br>Scheduled to be heard in Senate Finance on 3/14/18. Held |
| **HB 2017** | state land department; continuation | *Mitchell* | Continues the State Land Department for an additional eight years until July 1, 2026. **Comments:** CSA Staff noted that the State Land commissioner asked for CSA's support. LPC moved to **SUPPORT** the bill. | Passed the House 57-0-2-0-1<br>Passed Senate Nat-Resources-Energy, Rules and Caucus. On Senate Consent Calendar, awaiting Third Read. Passed Senate 29-0 on 3/19 |
| ~~**HB 2033**~~ | ~~drug overdose; good Samaritan; evidence~~ | ~~*Lawrence*~~ | ~~Stipulates that a person who, in good faith, seeks medical assistance for someone experiencing a drug-related overdose and a person who experiences a drug-related overdose and who is in need of medical assistance cannot be charged with or prosecuted for the possession or use of a controlled substance or drug paraphernalia if the evidence for the violation was gained as a result of seeking medical assistance.~~ ~~**Comments:**~~ ~~Staff discussed upcoming special session that Gov. Ducey is expected to call on the opioid epidemic. CSA will bring the opioid bill to LPC once it becomes available.~~ | ~~Assigned to House Health~~ |
| **HB 2065** | public meetings; definition; penalties | *Leach* | For the purpose of open meeting laws, the definition of "meeting" is expanded to include a one-way communication by one member of a public body that is sent to a quorum of the members of a public body and that proposes legal action, and an exchange of electronic communications among a quorum of the members of a public body that involves a discussion, deliberation or the taking of legal action by the public body concerning a matter that may likely come before the public body for action. The Attorney General is authorized to commence a suit in the superior court against an individual member of a public body for a knowing violation of open meeting law. The maximum civil penalty for a second and subsequent violation of open meeting law is increased to $5,000, from $500. **Comments**: 1/26/2018 CSA Staff explained the legislation, noting that the AG's office is planning on amending the bill, we will monitor and recommend connecting with civil deputies. | Passed House 55-2. Passed Senate GOV on 3/7, awaiting Rules<br>Stricken from Senate consent calendar by Borrelli on 3/19 |
| **HB 2116** | limitations of actions; dedicated property | *Kern* | Municipalities and counties are prohibited from instituting or maintaining an action or arbitration based on a required permit against a person who develops or develops and sells real property or who completes other construction activities on an improvement to real property that is dedicated to the municipality or county more than eight years after "substantial completion" (defined) of the improvement to real property. **Comments:** 02/02/18 CSA Staff explained the legislation and recommended a neutral position on the bill pending an amendment that would change the starting date for the 8 years to the date the property is taken into the county maintenance system instead of upon "substantial completion" . The LPC moved to have a position of **NEUTRAL** on the bill. | Passed House 39-21. Referred to Senate Judiciary. |

County Supervisors ASSOCIATION of arizona

| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
|---|---|---|---|---|
| **HB 2156** | legislative vacancy; appointment; time frame | *Coleman* | For a legislative vacancy where the vacant seat was represented by an organized political party with fewer than 30 elected precinct committeemen from precincts in the legislative district and in the county in which the vacancy occurred or where the vacant seat was not represented by an organized political party, the Secretary of State is required to notify the appropriate county LPC of supervisors, and the time frames for appointing a person to fill the vacancy are modified. The LPC of supervisors is required to appoint a citizens panel within 7 business days, increased from 3 business days. The citizens panel is required to submit to the LPC the names of three qualified electors to fill the vacancy within 21 days after the panel is appointed or within 5 days if the Legislature is in regular session, instead of within 7 business days. The deadline for the LPC of supervisors to appoint one person from the list to fill the vacancy within 5 business days is eliminated. **Comments:** 1/26/2018 CSA Staff explained the legislation, noting that the committee discussed the potential of adding a timeframe the BOS would be required to act when filling a vacancy. The LPC noted that the lack of a timeframe could prevent the nominated candidates for a vacant position from being considered. The LPC moved to **SUPPORT** the bill. | Passed House 48-12; ready for Senate. Passed Senate Judiciary Committee, Rules & Caucus. On Senate Consent Calendar, awaiting Third Read. |
| **HB 2162** | disability parking spaces | *Campbell* | The specially designated and marked parking spaces for persons with physical disabilities that state agencies and political subdivisions with jurisdiction over street parking or publicly owned and operated parking facilities are required to provide must be a van accessible space that is at least 11 feet wide and that has an access aisle that is at least 5 feet wide. **Comments**: 1/26/2018 CSA Staff explained the legislation, no action was taken. | Passed the House 51-6-2-0-1<br>Referred to Senate rules only on 2/15<br>Referred to Senate trans-tech on 3/14 |
| **HB 2165** | county excise tax for transportation | *Campbell* | The board of supervisors of any county is permitted to submit to the voters a transportation plan funded by an excise tax. The board is required to present the issue on the ballot as a single question for approval of both the transportation plan and the tax. If approved by the voters, the county is required to levy and the Department of Revenue is required to collect the tax beginning January 1 or July 1, whichever occurs first after voter approval, on the same tax base that applies to other excise taxes in the county. The tax must be levied at a rate that, together with any other county transportation excise taxes, will not exceed a total of one percent of the gross proceeds of sales or gross income derived from a business subject to the tax. In its initial submission to the voters, the board of supervisors must either set a termination date for the tax or provide that the tax will be perpetual, subject to termination only by a subsequent countywide vote. **Comments:** CSA Staff explained this bill for informational purposes. Discussion regarding the clarity of the time frame within the legislation. **1/26/2018** CSA Staff explained SB 1147 & HB 2165, noting that the legislation will give additional tools in the toolbox for counties related to transportation. The Board noted the desire for an amendment allowing for the revenue to be excluded from expenditure limitations. The Board moved to **SUPPORT** the bill. | Referred to the House Ways & Means & Transportation and Infrastructure Committees.<br>Scheduled to be heard 1/30/2018<br>Failed House Transportation and Infrastructure on 1/31;4-4 & Held on 2/7/18 |
| **HB 2166** | vehicle fees; alternative fuel VLT | *Campbell* | Repeals the separate vehicle license tax classification for motor vehicles powered by alternative fuels. Establishes a highway safety fee in an amount to be determined by the Director of the Department of Transportation annually. The fee will be collected on new applications and registration renewals. The fee is required to fully fund 110 percent of the Department of Public Safety Highway Patrol budget for each fiscal year. **Comments:** CSA Staff explained the bill for informational purposes. 1/18/2018 - Staff explained that like Senator Worsley's bill SB 1146 from 2017, alternative fuel vehicles will have the same vehicle license tax as gasoline and diesel powered vehicle and that it is in line with the resolution urging investment in transportation passed by the CSA Board. **1/26/2018** CSA Staff explained the legislation and mirror bill 1146, noting that the legislation aligns with the CSA Boards Transportation Resolution and will put additional funds into HURF. The Board moved to **SUPPORT** the bill. | Passed House 35-24; ready for Senate on 2/20 |

County Supervisors ASSOCIATION of arizona

| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
|---|---|---|---|---|
| **HB 2207** | public meetings; audiovisual recordings; posting | *Grantham* | All public bodies are required to provide for a complete audiovisual recording of all their meetings except executive sessions, and are required to post the audiovisual recording of a meeting on its website within five days after the meeting and retain the recording on its website for at least five years. **Comments:** CSA Staff explained this bill for informational purposes. Discussion addressed the positive aspects of making meetings more accessible to the public, while noting the potential negative cost impact or "unfunded mandate." Further clarification regarding definition of a "public body" in the bill. 1/18/2018 staff explained that public body would include the legislature, all boards, commissions of the state, political subdivisions, multimember governing bodies of departments, agencies, etc. The CSA Board moved to **OPPOSE** the bill. Note: the strike everything amendment took counties out of the bill. | Passed House 46-14; ready for Senate. Passed Senate Commerce & Public Safety, awaiting Rules. |
| **HB 2290** | expenditure limitations; waiver of penalties | *Cobb* | Waives statutory penalties for excess expenditures of local revenues by La Paz County in FY 2014 through FY 2018, and prohibits La Paz County from seeking a legislative waiver of penalties for excess expenditures of local revenues for a minimum of five years after the effective date of this legislation. **Comments:** CSA Staff explained the bill. La Paz County explained that they are going to the voters to pass a base limit increase to their annual expenditure limit and would appreciate the board's support. The CSA Board moved to **SUPPORT** the bill. | Passed House 51-8-1. Referred to Senate Finance. On Senate Appropriations agenda. Passed Senate appropriations on 3/14 |
| **HB 2320** | development agreements; prohibited agreements | *Livingston* | Counties and municipalities are prohibited from requiring development agreements to contain a provision requiring the wages paid by the contractor or subcontractor to be no less than the prevailing rate of wages for work of a similar nature. Counties and municipalities are prohibited from requiring in any development agreement that a contractor, subcontractor or material supplier become a party to a "project labor agreement" (defined), enter into a "neutrality agreement" (defined) with a labor organization, or participate in an apprenticeship program. **Comments**: 02/09/18 CSA Staff explained the legislation noting this would prohibit development agreements from specifying a specific wage be paid by the contractor or subcontractor and noted there was a significant amount of testimony during committee. No official position was taken by the LPC. | Referred to House Commerce on 1/18<br>Passed out of House Commerce with a 5-4-0 vote. |
| **HB 2333 & ~~SB 1175~~** | home-based businesses; local regulations | *Weninger & Farnsworth* | A county or municipality cannot prohibit the operation of a "no-impact home-based business" (defined) or otherwise require a person to obtain any permit, license or other prior approval to operate a no-impact home-based business. Establishes a list of factors that qualify a residential property for use as a no-impact home-based business. Counties and municipalities are permitted to establish reasonable regulations on a home-based business if the regulations are narrowly tailored for specified purposes, including protecting public health and safety. Comments: CSA Staff explained the bill and clarified it for informational purposes only. County professional staff have started to weigh in on the bill and have noted that with SB1001 the LPC voted to oppose on 1/2/18 there could be significant impacts to counties' ability to regulate business activities in the home unless amended. 02/02/18 CSA Staff explained the legislation and recommended an oppose position. The LPC moved to OPPOSE the bill. **Updated: 03/09/18** CSA Staff explained some of our major concerns noting this is being driven by special interest groups and while the proponents feel they have provided ways to address our concerns county professional staff and attorneys do not agree. | Passed House 36-20. Referred to Senate Government.<br>Passed Senate Commerce & Public Safety Committee 5-3, awaiting Rules. |
| **HB 2356** | juvenile court; jurisdiction; age | *Bowers* | On petition of the county attorney, the juvenile court is authorized to retain jurisdiction over an adjudicated delinquent juvenile until the juvenile reaches 19 years of age. Allows a person to be detained in a juvenile detention center until the juvenile reaches 19 years of age. On petition of the state, the juvenile court must provide probation supervision and treatment services until the person reaches 19 years of age. The court is permitted to terminate probation supervision or treatment services after the person reaches 18 years of age if the court determines that continued treatment is not required or the person commits a new offense after reaching 18 years of age. **Comments:** 2/23/2018 Staff explained the bill and it was noted the Arizona Department of Corrections, Pima County Attorney's office and Maricopa County Attorney's office are in support of the legislation, the LPC took a position of **SUPPORT**. | Passed House 56-0. Passed Senate Judiciary, Rules & Caucus. Awaiting floor action. |

County Supervisors ASSOCIATION of arizona

| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
|---|---|---|---|---|
| **HB 2371** | mobile food vendors; state licensure | *Payne* | The Department of Health Services is required to adopt rules to establish health and safety licensing standards for "mobile food vendors" (defined) that apply on a statewide basis. The licensing standards must include three categories of mobile food vendors that are based on the type of food dispensed and the amount of handling and preparation required. Other requirements for the licensing standards are specified. The Dept. is required to establish statewide inspection standards for use by county health departments. The business of operating a mobile food vendor is added to the restaurant classification of transaction privilege taxes. Municipalities and other taxing jurisdictions are authorized to levy a transaction privilege, sales, use or other similar tax or fee on a person engaging in business as a mobile food vendor if the adopted tax meets a list of specified requirements. Municipalities and counties are authorized to impose a list of specified restrictions on mobile food vendors and are prohibited from imposing another list of restrictions. **Comments**: 02/02/18 CSA Staff explained the legislation noting that the bill created a statewide regulation process for mobile food vendors, which was modeled on Maricopa County's ordinances. Staff noted that we will work with the sponsor to amend the bill to address our concerns. The LPC moved to **OPPOSE** the bill. **Update:** 2/23/2018 staff gave an update on the amendment to the bill so far and advised next the changes will be reviewed during the ACDEHSA meeting. **Update: 3/09/18** CSA Staff noted we have been working with the sponsor of this bill, Representative Payne, to address county concerns. It was amended on the House floor two weeks ago, to make a number of changes to address county and city concerns. There are some additional changes that the sponsor has indicated he is open to an amendment to the bill. | Passed House 45-11. Passed Senate Commerce with amendment, on Senate Public Safety and Finance agenda. Passed Senate Finance with amendment on 3/15 |
| **HB 2383** | authorize emergency vehicles; probation officers | *Clodfelter* | For the purpose of transportation statutes, the definition of "authorized emergency vehicle" is expanded to include a probation officer's vehicle. **Comments**: 02/09/18 CSA Staff explained the legislation noting that there have been concerns from the county sheriffs and other law enforcement personnel regarding the lack of training for operating as an emergency vehicle and that transport vehicles are not currently equipped with proper lights posing additional safety risks. The LPC voted to **OPPOSE** the issue. **Update: 3/09/18** CSA Staff noted this bill is also being opposed by the County Sheriffs (AACo).<br>Additionally, the Department of Public Safety raised concerns with the legislation though they are technically neutral. | Passed House 33-26. Referred to Senate Government and Judiciary. |
| **HB 2386** | notice of claim; requirements | *Rivero* | A claim filed against a public entity, public school or public employee is required to contain a specific amount and the facts supporting that amount. Payment in full of the amount releases the public entity, public school or public employee from any further liability for the claim. A cause of action accrues when the damaged party realizes he or she has been damaged by a final official act of the public entity, public school or public employee. Applies to claims filed against a public entity, public school or public employee after July 1, 2016. Retroactive to April 1, 2018. **Comments**: 02/02/18 CSA Staff explained the legislation and recommended an oppose position, noting that there is a significant amount of case law already and the language adds ambiguity that could open the county up to additional costs. ACIP has expressed concern as well. The LPC moved to **OPPOSE** the bill. | Referred to House Judiciary and Public Safety on 1/18<br>Passed JPS on 1/31;7-2<br>Passed House Rules on 2/5;9-0<br>Stricken from House Consent Calendar (Rep. Friese) 2/6<br>Retained on House COW calendar |
| **HB 2389** | syringe access programs; authorization | *Rivero* | Counties, municipalities, and/or nongovernmental organizations are authorized to establish and operate a needle and hypodermic syringe exchange program. A program is required to offer a list of specified services, including disposal of used needles and hypodermic syringes, injection supplies at no cost, access to kits that contain an opioid antagonist or referrals to programs that provide an opioid antagonist, and personal consultations concerning mental health or addiction treatment. An employee, volunteer or participant in the program cannot be charged with or prosecuted for possession of a needle, hypodermic syringe or other injection supply item obtained from or returned to a program or a residual amount of a controlled substance contained in a used needle, hypodermic syringe or injection supply item obtained from or returned to a program. **Comments**: 2/23/2018 Staff explained the bill and it was noted that Pima County supported the bill; the LPC took a position of **SUPPORT**. | Passed House 56-0. On Senate Government agenda for 3/14/18. Passed Senate gov with amendment. |

County Supervisors ASSOCIATION of arizona

| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
|---|---|---|---|---|
| **HB 2396** | property; subdivision; size; requirements | *Thorpe* | Private property in a rural county or municipality may contain up to one single-family residence per acre that is occupied by a full-time or part-time resident or vacation rental occupant and may contain any of a yurt, Hogan, recreational vehicle, prefabricated home, or single-family residence that complies with all applicable state and local construction, health and safety laws and that is occupied by a full-time or part-time resident or vacation rental occupant. For the purpose of municipal zoning regulations and state real estate regulations, "subdivision" or "subdivided lands" does not include the division of land into lots or parcels of five acres or less if the size of the lots or parcels after the division is at least as large as the average lot or parcel size within five miles. County LPCs of supervisors are required to allow the division of land into lots or parcels of five acres or less if the size of the lots or parcels after the division is at least as large as the average lot or parcel size within five miles. **Comments:** 1/26/2018 CSA Staff explained the legislation and recommended opposing the bill, noting that the feedback from the counties all expressed opposition. The LPC moved to **OPPOSE** the bill. | Referred to House Federalism, Property Rights and Public Policy Held on 2/6 |
| **HB 2479 ~~& SB 1392~~** | TPT; digital goods & services | *Ugenti-Rita/D. Farnsworth* | The business of selling licensing for use of "prewritten computer software" (defined), regardless of delivery method, and selling "specified digital goods" that are "transferred electronically" (both defined) are added to the retail classification of transaction privilege taxes. The sale of prewritten computer software and specified digital goods must be sourced to the seller's business location if the seller receives the order at a business location in Arizona, and to the purchaser's location in Arizona if the seller receives the order at a business location outside Arizona. For the purpose of transaction privilege and use taxes and local excise taxes, gross income, gross receipts or gross proceeds from selling, leasing or licensing "specified digital services" and "specified digital goods" that are remotely accessed by a customer and not transferred electronically to the customer, are excluded from tax. Contains a legislative intent section, which states that this legislation is not intended to affect, and may not be cited or applied in, any administrative or judicial action pending on the effective date of this legislation that considers the construction, interpretation or application of any statutory or administrative provision regarding the taxation of digital goods and services. **Comments**: 02/09/18 CSA Staff explained the legislation noting that this arose from the business community due to the Department of Revenue currently uses the definition of rental of personal property to guide their actions the goal is to move it to a retail classification and staff is working to ensure that county sales tax rates apply when the sate tax rates apply. No official action was taken by the LPC. **Update**: 2/23/2018 CSA staff advised that this will impact state sales TPT an estimated reduction in 30-50 million annually. Issue relates to moving from the personal property classification to the retail classification. **Update 3/9/18**: staff noted that staff has signed in opposed to the legislation but are backing away from the use tax argument due to Leadership was tying that to the ongoing budget conversations. | HB passed House 39-19, ready for Senate. |
| **HB 2490** | contracts; licensure requirement waivers | *Rivero* | In a contract between two or more private parties, the parties are permitted to agree to waive any state, city, town or county laws relating to licensure, certification, registration or other authorization to act for the purposes of the contract if a list of specified conditions applies, including that the subject of the contract is substantially delivered by electronic means and that the waiver does not clearly harm or damage public health or safety. **Comments:** 2/23/2018 staff explained the bill and it was noted that we have reached out to the Department of Revenue to get clarification on if this would exempt these contracts from TPT, the LPC **OPPOSED** the bill until further clarification is obtained. | Passed House 31-27. Referred to Senate Judiciary and Commerce & Public Safety Committees. Held on 3/19. |
| **HB 2500** | real estate signs; cities; counties | *Grantham* | Counties and municipalities cannot prohibit an owner of real property or the owner's agent from displaying on the property and/or in an area within a public or private right-of-way a sign advertising that the property is for sale or rent, an open house, the owner or agent's name and contact information, and directions to the property. **Comments:** 2/23/2018 staff explained the bill it was noted that there is a potential to clutter the public right away, the bill does allow for regulating based on public health, safety and welfare, the LPC adopted a **NEUTRAL** position and authorized staff to work towards an amendment to address concerns. | Passed House 39-20. Passed Senate Government, awaiting Rules. |

County Supervisors ASSOCIATION of arizona

| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
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| **HB 2501** | PTSD; workers' compensation; presumption | *Boyer* | For the purpose of workers' compensation, post-traumatic stress disorder (PTSD) is presumed to be an occupational disease and deemed to arise out of and in the course of employment for a "first responder" (defined) if a list of specified conditions apply, including that a licensed mental health professional determines that the first responder has PTSD resulting from the performance of his/her job duties. The list of circumstances under which the state and political subdivisions are required to provide licensed counseling to a public safety employee is modified to include the use of deadly for or being subjected to deadly force in the line of duty regardless of whether the employee was physically injured (previously applied only to peace officers), witnessing the death of another public safety employee while engaged in the line of duty (previously applied only to firefighters), and in the case of a firefighter or peace officer, being exposed to a psychologically traumatic event or series of events in the course of employment. The list of public safety employees subject to this requirement is expanded to include a rescue or ambulance worker who is a member of any public retirement system. Employers are prohibited from requiring public safety employees receiving treatment under this program to use paid time off and are required to allow the employees to select their own licensed mental health professionals. The repeal date of January 1, 2023 for the licensed counseling requirements is deleted. **Comments**: 02/09/18 CSA Staff explained the legislation noting that ACIP is concerned with the bill and recommend opposing the bill but to allow staff the opportunity to try and work on a resolution before additional action is taken by the members. The LPC voted to **OPPOSE** the bill. **Update 3/9/18:** staff noted we continue to work towards getting the bill amended and or to hold it up in the process. | Passed House 57-2, transmitted to the Senate. Referred to the Finance and Commerce & Public Safety Committees. |
| **HB 2503** | building code exemptions; public notice | *Barton* | If the owner of property classified as class 2 agricultural property for property tax purposes that is exempt from county building codes desires to change the agricultural use of all or part of the property, the owner is required to apply to the county planning and zoning commission to change the agricultural use. The commission is required to notify adjacent property owners and other potentially affected citizens and provide an opportunity for them to express any issues or concerns regarding the exemption or change in use. After notice, the commission is required to hold a public hearing. When deciding whether to grant or deny the application to change the agricultural use or exemption request, the commission is required to consider whether the exemption or change in agricultural use would conserve and promote the public health, safety, convenience and general welfare. **Comments:** 2/15/2018 CSA Staff provided an overview of the legislation and noted some of the initial feedback from counties that this creates a public hearing process on a process that is exempt and it has a zoning feel. The CSA Board did not move to take action on the bill. | Passed House 58-0. On Senate Government agenda 3/14/18. Held. |
| **HB 2514** | HURF distribution; cities, towns, counties | *Cook* | Beginning in FY2019-20 and each FY thereafter, the Department of Transportation is required to allocate and the State Treasurer is required to distribute $18 million from revenues of the Arizona Highway User Revenue Fund (HURF) to small counties and municipalities. Of the $18 million, $9 million must be distributed to counties with a population of less than 250,000 persons and $9 million must be distributed to municipalities with a population of less than 7,500 persons. Effective July 1, 2019. **Comments**: 2/15/2018 CSA Staff explained that the bill redistributes $18 M of existing HURF funds. There was significant discussion among the membership, noting appreciation for the good intention of the bill but that there is a need for additional funds into the system, and concerns over making winners and losers amongst the membership. There was some discussion that rural counties need to come together on this issue. President Smith held the vote on the bill for an upcoming LPC meeting. | Passed House 36-20. Referred to Senate Transportation & Technology and Appropriations. |
| **HB 2518** | ~~prosecution expenses; county reimbursement; repeal~~ tech correction; prisoners | *Kern* | Repeals statute requiring the Department of Corrections to reimburse a county for court costs and fees incurred by the county for the prosecution and for the costs of confining a prisoner who was arrested for any crime committed in or adjacent and related to a Dept. correctional facility or committed while escaped from a Dept. correctional facility or from the custody of Dept. officials or employees while away from the correctional facility. **Comments**: 2/15/2018 CSA Staff provided an overview of the legislation. It was noted that this could be a huge cost to the counties. The CSA Board moved to **OPPOSE** the bill. 2/22/18 CSA amended the bill on the floor of the House to remove the portion that impacts counties. Based on it no longer impacting counties, CSA is now **NEUTRAL**. | Passed House 33-23. Referred to Senate Government. |

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| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
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| **HB 2529 & SB 1465** | sober living homes; certification | *Campbell/ Brophy McGee* | The Department of Health Services is required to contract with an "approved certifying organization" that is affiliated with an "approved national organization" (both defined) to certify each sober living home in Arizona and investigate and address complaints. The Dept. is required to approve the standards to certify sober living homes, and provisions that must be included in the standards are listed. Each sober living home in Arizona is required to be certified, and a person operating a sober living home within certification is subject to a civil penalty of up to $1,000 for each violation. The Dept. is required to establish fees for certification. Repeals statutes authorizing counties and municipalities to adopt standards for structured sober living homes that comply with state and federal fair housing laws and the Americans with Disabilities Act. **Comments**: 02/09/18 CSA Staff explained the legislation noting that there so far we have found that no counties have implemented ordinances regarding Sober Living Homes and that there is expected to be a significant amendment to the bill in the coming days due to concerns the Department of Health Services has with the current legislation. No official action was taken by the LPC. | HB 2529 Passed House 55-0. On Senate Health & Human Services agenda 3/14/18. Passed on 3/15. SB 1465 passed Senate 29-0, referred to House Health. |
| **HB 2538** | U.S. House vacancy; special election | *Coleman* | A special primary election to fill a vacancy in the office of Representative in Congress is required to be held 95 to 105 days after the occurrence of the vacancy, instead of 80 to 90 days after. The clerk of the county board of supervisors of each county that is required to participate in the special election is required to post a notice with the special primary election dates on a county-operated website, instead of being required to publish a copy of the election proclamation in an official county newspaper. **Comments:** 2/23/2018 staff explained the bill it was noted that this was a holdover from when Arizona only had one Congressional District; the LPC took a position of **SUPPORT**. | Passed House 57-2. Referred to Senate Government. |
| **HB 2579** | video service; certificates of authority | *Norgaard* | The regulation and use of "video service" (defined as the provision of multichannel video programming, including cable service but excluding internet streaming and direct broadcast satellite service) are of statewide concern and are not subject to further regulation by a county or municipality except as specifically provided in statute. Beginning January 1, 2020, the Secretary of State has the exclusive authority to issue a certificate of authority to a person to provide video service and to construct and operate a video service network in any service area in Arizona. Beginning January 1, 2020, a person is prohibited from acting as a video service provider or constructing or operating a video service network without first having been issued and continuing to hold a certificate of authority. The Secretary of State is required to establish and collect fees for the purpose of administering certificates of authority for video service providers. Beginning January 1, 2020, an incumbent cable operator is permitted to either continue to operate within a service area as defined in the local license or terminate the local license by applying for and obtaining a certificate of authority. Establishes requirements to obtain a certificate of authority, lists the authorities granted by a certificate, and provides for amendment of certificates to add service areas. Much more. Effective January 1, 2020. **Comments**: CSA staff explained the bill and noted that COX has agreed to amend the bill to address concerns over permit timing, costs for restoring public highways and tightening up other language to address county concerns. The Board took a position of **NEUTRAL** pending an amendment. | Passed House 37-18. Referred to Senate Commerce & Public Safety and Government. Passed Senate Commerce & Government |
| **HB 2588** | appropriations; essential county services | *Cook* | Appropriates $1,650,150 in FY2019 to be equally distributed among counties with population between 200,000 and 900,000. Appropriates $8,000,000 from the State GF in FY2019 for one-time distribution to counties to be used to maintain essential county services. **Comments**: 02/09/18 CSA Staff explained the legislation noting that this addresses a number of our budget priorities and recommended supporting the bill. The LPC voted to **SUPPORT** the bill. | Passed House 50-10. Referred to Senate Government and Appropriations. |
| **HB 2602** | running nodes; blockchain; regulation prohibition | *Weninger* | Counties and municipalities cannot prohibit or otherwise restrict an individual from "running a node on blockchain technology" (defined) in a residence. **Comments:** 2/23/2018 staff explained the bill and advised it was for informational purposes only. It was noted that blockchain is the technology that allows for digital currencies to be created, traded and tracked but has other applications including insurance, government and health care but staff has not heard of a county or municipality regulating the activity. | Passed House 55-4. Passed Senate Transportation & Technology, Rules and Caucus. Awaiting COW & Third Read. Senate COW approved on 3/15 |
| **HB 2632** | public roadways; disposition | *Rivero* | In addition to quitclaim deed, a governing body may authorize the Department of Transportation to sell and convey the land within a roadway or portion of a roadway by another appropriate instrument. If "abutting owners" (defined) that comprise more than 50 percent of the land that is the subject of the sale provide written notice to the clerk or secretary of the governing body or the Dept, stating that the abutting owners elect that the land be auctioned, the sale must be conducted. | Passed House 38-18-4 Assigned to Senate Transportation and Technology |

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| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
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| ~~**HCR 2015**~~ | ~~municipal and county tax limitations~~ | ~~*Thorpe*~~ | ~~The 2018 general election ballot is to carry the question of whether to amend the state Constitution to require, beginning January 1, 2017, any increase in the ad valorem tax levy of a county or municipality greater than 1 percent more than the levy in the preceding year to be approved by the voters of the county or municipality, and to require any increase of any amount in the ad valorem tax levy of a county or municipality in any three consecutive years to be approved by the voters of the county or municipality. Also to require, beginning January 1, 2017, a county or municipality that initiates the levy or increases the rate of a transaction privilege or other similar excise tax to distinctly state the amount of the tax or rate increase and the specific purpose for which the revenues may be spent, and to submit the tax or tax rate increase and the purpose to the voters of the county or municipality for approval. If approved by the voters, this resolution is retroactive to January 1, 2017.~~ ~~**Comments:** CSA Staff explained the bill. The CSA Board moved to **OPPOSE** the bill.~~ | ~~Referred to House Ways and Means on 1/30~~ |
| ~~**SB 1001**~~ | ~~home-based businesses; regulations restrictions~~ | ~~*Farnsworth*~~ | ~~Specifies that county ordinances cannot restrict or otherwise regulate the owner of a home-based business that holds a valid license from using 50 percent or less of the square footage of the primary residential dwelling to conduct home-based business activity, or from using a 400 square foot or smaller "accessory structure" (defined) or garage for home-based business activity.~~ ~~**Comments:** CSA Staff explained the legislation, noting that the sponsor offer similar proposals last year that CSA opposed. The LPC moved to **OPPOSE** the bill.~~ | ~~Referred to Senate Government; Senate Commerce & Public Safety Passed Senate Commerce & Public Safety 1/29; 5-3-0~~ |
| **SB 1022** | DHS; homemade food products | *D. Farnsworth* | Establishes requirements for the preparation and packaging of cottage food products. The Department of Health Services is required to establish an online registry of food preparers that are authorized to prepare "cottage food products" (defined as a food that is not potentially hazardous as defined by Dept rule and that is prepared in a home kitchen by an individual who is registered with the Dept) for commercial purposes. A registered food preparer is required to renew the registration every three years and must provide any updated registration information to the Dept within 30 days after any change. Cottage food products must be packaged at home with an attached label that clearly states the name and registration number of the food preparer and that includes the statement "This product was produced in a home kitchen that may process common food allergens and is not subject to public health inspection."**Comments:** 1/26/2018 CSA Staff explained the legislation, noting that feedback from the counties was mixed. No action was taken by the LPC. | Passed Senate 30-0. Passed House Health, Rules and Caucus. On House Consent Calendar, awaiting Third Read. Passed House 55-2 |
| **SB 1043** | county recorder; recording fees | *Kavanagh* | The fees received by the county recorder are modified as follows: $30 for recording papers required or authorized by law, instead of $5 for the first 5 pages plus $1 for each additional page, and $15 for recording papers to which a government entity is the requesting party, instead of $3 for the first 5 pages plus 50 cents for each additional page. Separate fee amounts for recording deeds affecting interest in real property and deeds of trust or mortgage are eliminated. Additional fees such as the special recording surcharge, the fee for real estate transfers, and the fee for an affidavit of annual work, are included in the total fee instead of being charged separately. **Comments:** CSA Staff explained the bill, sharing that it would be brought to the full BOD next week. Discussion explored concerns that this favors companies over individuals. | Passed Senate 23-5-2<br>Passed House Local and International Affairs, and Rules. Awaiting Caucus. |
| **SB 1052** | county flood control districts; easements | *Griffin* | The list of conditions under which a county flood control district may authorize the grant of an easement on or a lease of district real property without a public auction is modified to specify that the reimbursement to the district, instead of to the county, for the easement granted or lease executed is not less that the appraised value as determined by the district, instead of by the county. **Comments:** 1/26/2018 CSA Staff explained the legislation, noting that this was a clean up bill from 2017 and recommended support. The LPC moved to **SUPPORT** the bill. | Passed Senate 30-0 2/5<br>Passed House Land, Agriculture & Rural Affairs, Rules and Caucus. On House Consent Calendar, awaiting Third Read. Passed House 58-0 on 3/15 |

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| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
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| **SB 1059** | lottery; additional game; revenue allocation | *Borrelli* | Authorizes the Lottery Commission to establish a lottery game called the Arizona Copper Star Game that must be conducted at four-minute intervals. A player may purchase a single ticket for 1-5, 10, 20, 50 or 100 consecutive draws and may purchase up to 10 numbers between 1 and 80. A player is eligible for payment of prizes if the player's numbers match any of the twenty numbers drawn.<br><br>The total annual revenues from the Arizona Copper Star Game are allocated 50 percent for the payment of prizes and 50 percent to the general fund. Of the revenues allocated to the general fund, the Legislature is required to annually appropriate 40 percent to the Department of Public Safety, 40 percent to provide funding for kindergarten programs in public schools, 5 percent to the Attorney General for deposit in the Internet Crimes Against Children Enforcement Fund, 5 percent divided equally among the counties, and 10 percent retained in the general fund for any purpose prescribed by law. **Comments:** CSA Staff explained the legislation, discussion from the LPC indicated that there may be concerns with how it impacts the Arizona Tribal-State Compacts and the need for new funding to go towards long term dept. such as EOPR and PSPRS. The LPC recommended monitoring the bill and no action was taken. | Senate Government 1/24/2018 - Held<br>Failed Senate Government 3-4 |
| **SB 1065** | ~~communication service information; technical correction~~ commercial vehicles; ports of entry; axel fees | *Brophy McGee* | Allows the ADOT to establish an axle fee in rule for all commercial vehicles that enter Arizona from Mexico through an international port of entry in counties with a population with fewer than 190,000 persons or greater than 250,000 persons. Starting July 1, 2018 ADOT is required to deposit collected axle fees in the State Highway Fund and spend collected single trip excess weight permit and axle fee monies on qualifying transportation facilities proportionally based on the amount collected through each international port of entry located within 20 drivable miles of the international port of entry. **Comments**: CSA Staff explained the legislation and noted an adopted amendment took Yuma out of the bill due to concerns regarding the loss of truck traffic to Calexico. The funds will be used to modernize State Route 189 and Ruby Road off I-19 in partnership with ADOT. The Board took a position of **SUPPORT.** | Passed Senate 20-10-0. On House Transportation and Infrastructure agenda on 3/14/18. Held |
| **SB 1076** | assault; public safety contractors; workers | *Barto* | For the purpose of statute allowing public safety employees or volunteers to petition the court for an order authorizing testing of another person for certain diseases if there is probable cause to believe that the person bit, scratched, spat or transferred blood or other bodily fluid on or through the skin of the employee or volunteer who was performing an official duty, the definition of "public safety employee or volunteer" is expanded to include a contractor of a state or local law enforcement agency or correctional facility, any employee or volunteer of a correctional facility, and any other person who is authorized to perform official duties or be present within a correctional facility. **Comments:** CSA Staff explained the bill and advised it was coming from Maricopa County. Staff will follow-up on a question regarding state liability if a contractor is infected with a disease. The CSA Board moved to **SUPPORT** the bill. | Passed Senate 30-0<br>Passed House 59-0, ready for Governor. Signed by governor Chap. 22, Laws 2018 |
| **SB 1089** | purple heart day | *Borrelli* | Declares that August 7 in each year is Purple Heart Day, which is not a legal holiday. **Comments:** CSA Staff explained the legislation, noting that all Arizona Counties are Purple Heart Counties. The LPC moved to **SUPPORT** the bill. | Passed Senate 28-0-2<br>Passed House 59-0, ready for Governor. Signed by governor. Chap. 22, Laws 2018. |
| **SB 1144** | conservation easements; notice; valuation | *Griffin* | The holder of a conservation easement is required to provide for the recording of the easement and its acceptance, and to prepare and provide the information required for the registry of real property burdened by conservation easements to the county assessor for each county in which any portion of the real property is located. The information that must be included in the registry for each parcel is expanded to include the name of the holder of the conservation easement, the name of any governmental body or charitable corporation with a third-party right of enforcement, and the full cash value of the property as determined for the year in which the conservation easement is recorded. **Comments**: 1/26/2018 CSA Staff explained the legislation for informational purposes, noting the original requirements for the online registry went into effect 1/1/2017. | Passed Senate 29-0-1<br>Passed House Land, Agriculture and Rural Affairs, Rules and Caucus. On House Consent Calendar, awaiting Third Read. |

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| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
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| **SB 1146** | vehicle fees; alternative fuel VLT. | *Worsley* | Repeals the separate vehicle license tax classification for motor vehicles powered by alternative fuels. Establishes a highway safety fee in an amount to be determined by the Director of the Department of Transportation annually. The fee will be collected at the time of application for vehicle registration. The fee is required to fully fund 110 percent of the Department of Public Safety Highway Patrol budget for each fiscal year.<br>Discussed mirror bill HB 2166 vehicle fees; alternative fuel VLT (Campbell) on 1/18/2018 **Comments**: 1/26/2018 CSA Staff explained the legislation, noting that the legislation aligns with the CSA Boards Transportation Resolution and will put additional funds into HURF. The LPC moved to **SUPPORT** the bill. | Passed Senate Transportation and Technology with amendment; 7-0<br>Passed Senate rules on 2/19<br>Senate COW approved with amend and floor amend on 2/22 |
| **SB 1147** | county excise tax for transportation. | *Worsley* | The board of supervisors of any county is permitted to submit to the voters a transportation plan funded by an excise tax. The board is required to present the issue on the ballot as a single question for approval of both the transportation plan and the tax. If approved by the voters, the county is required to levy and the Department of Revenue is required to collect the tax beginning January 1 or July 1, whichever occurs first after voter approval, on the same tax base that applies to other excise taxes in the county. The tax must be levied at a rate that, together with any other county transportation excise taxes, will not exceed a total of one percent of the gross proceeds of sales or gross income derived from a business subject to the tax. In its initial submission to the voters, the board of supervisors must either set a termination date for the tax or provide that the tax will be perpetual, subject to termination only by a subsequent countywide vote.<br>**Comments**: Discussed mirror bill HB 2165 county excise tax for transportation (Campbell) on 1/12/2018 1/26/2018 CSA Staff explained the legislation, noting that the legislation will give additional tools in the toolbox for counties related to transportation. The LPC noted the desire for an amendment allowing for the revenue to be excluded from expenditure limitations. The LPC moved to **SUPPORT** the bill. | Passed Senate 24-6. Referred to House Ways & Means. Passed House Transportation & Infrastructure. |
| ~~**SB 1153**~~ | ~~fire flow requirements; rural applicability~~ | ~~*Allen*~~ | ~~In a county with a population of less than 500,000 persons (all but Maricopa and Pima), any requirement to provide water and/or fire flow for fire protection under a fire code adopted by the state or a county, municipality or fire district does not apply to single-family residential properties or subdivisions with lot dimensions equal to or greater than 1/2 acre in size if the current "adjacent public water distribution system" (defined) or a private well does not meet the requirements to provide water and/or fire flow. Contains a legislative intent section. **Comments:** 1/26/2018 CSA Staff explained the legislation, noting that the legislation is similar to a bill last year that the LPC opposed. The LPC moved to **OPPOSE** the bill.~~ | ~~Referred to Senate Natural Resources, Energy and Water Scheduled to be heard 1/29/2018; Held~~ |
| **SB 1195** | ~~technical correction; health services; monitoring~~ S/E application; emergency admission; nonevaluating hospitals | *Barto* | The striker makes extensive changes to the involuntary commitment statutes. **Comments**: CSA Staff explained the legislation noting that there are some significant concerns from the counties on this bill including the impact the Certificate of Hold process could have on rural counties and unreasonable timing for evaluations and screenings. The Board moved to **OPPOSE** the bill. **Update:** 2/23/2018 staff advised there is a stakeholder meeting next Monday and we are working towards getting a better resolution on the bill. **Update 3/09/18:** CSA staff noted of the three main concerns, one problematic component remains in the bill and we are working on an additional amendment to be added in the House to address the concerns. Both the sponsor and the proponents have indicated they will continue to work with us on the bill to address our concerns. | Passed Senate 19-10-1. Referred to House Health. |
| **SB 1201** | county treasurer; electronic records; liens | *Worsley* | The county treasurer is authorized to keep an account of the receipt and expenditure of monies in electronic books provided for that purpose and to issue either an electronic receipt or hard copy receipt for all monies received. **Comments**: 02/09/18 CSA Staff explained the legislation noting that is an efficiency bill of AACo's. The LPC voted to **SUPPORT** the bill. | Passed Senate 30-0. On House Local & International Affairs Agenda 3/14/18. |
| ~~**SB 1202**~~ | ~~countywide elections; vote by mail~~ | ~~*Worsley*~~ | ~~On approval of the county LPC of supervisors, a county is authorized to conduct a mail ballot election for all elections administered by that county, including elections for federal and state offices and measures, and elections for county, municipal, school district and special districts. Counties that conduct mail ballot elections are required to report specified information about the election to the Legislature by January 1 of each year following a mail ballot election. **Comments:** 1/26/2018 CSA Staff explained the legislation, noting that this is an AACO bill, permissive and a potential cost saving measure. The LPC moved to **SUPPORT** the bill.~~ | ~~Referred to Senate Judiciary~~ |

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| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
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| **SB 1207** | lease authority; airports; air terminals | *Pratt* | Any county, instead of only a county with a population of less than 400,000 persons, is permitted to extend the existing lease for airport or airport terminal purposes with a person, corporation or political subdivision, after notice and a public hearing. Lease extensions may be for an additional period of up to 50 years, increased from 40 years. The reimbursement to a county for an executed lease cannot be less than the appraised rental value of the real property as determined by the county, except that the county is allowed to consider any capital improvements by the lessee in determining the final reimbursement rate of the lease. **Comments:** 02/02/18 CSA Staff explained the legislation and recommended support, noting that it is an important tool for Pinal County and would allow flexibility for rural counties that have a lessee that wants to make long term improvements in the airport. The LPC moved to **SUPPORT** the bill. | Passed Senate 27-2<br>Passed House 47-12, ready for Governor. Signed by governor, Chap. 26, Laws 2018. |
| ~~**SB 1216**~~ | ~~advanced certification; assessor personnel; compensation~~ | ~~*Allen*~~ | ~~A person who is employed by the Department of Revenue or a county and who successfully completes the advanced certification for assessors and appraisers provided by the Dept. may be approved to receive additional compensation. **Comments:** 1/26/2018 CSA Staff explained the legislation, noting it is the same language as a bill last the LPC opposed last year. The LPC moved to **OPPOSE** the bill.~~ | ~~Referred to Senate Finance<br>Passed FIN on 2/14/18 with a vote of 4-3-0<br>On Senate consent calendar; passed Senate rules on 2/19<br>Stricken from consent calendar by Yarbrough on 2/19<br>Failed Senate 13-17 on 2/21~~ |
| **SB 1274** | public monies; recovery; illegal payments | *Peterson* | The Attorney General is authorized to bring an action to recover illegally paid public monies against any person who received the illegal payment, the public body or public officer acting in his/her official capacity who ordered or caused the illegal payment, the public official, employee or agent who ordered or caused the illegal payment. A public official, employee or agent of the state, a political subdivision, or a budget unit who is charged with collecting, receiving, safekeeping, transferring or disbursing public monies may be held personally liable for an illegal payment of public monies. Comments: 02/02/18 CSA Staff explained the legislation and recommended opposing the bill as written, noting that the AG's office agreed to amend the bill to ensure the same standards for state employees are subject at all levels of state government. The LPC moved to OPPOSE the bill. Update: 2/23/2018 staff noted the bill as amended was reviewed with the Civil Deputies and they were comfortable with the changes and staff recommended moving the position from oppose to neutral, the LPC adopted a NEUTRAL position on the bill. | Passed Senate 30-0 2/21<br>On House Government agenda 3/15/18. Passed House gov on 3/15 |
| **SB 1281** | street lighting improvement districts; consolidation | *Kavanagh* | Municipalities are authorized to consolidate two or more existing street lighting improvement districts upon receipt of a petition signed by the majority of the real property owners in each of the districts that are proposed to be consolidated. The districts must be contiguous and new territory may not be included. Establishes a process for consolidation, including public notice and a public hearing. The consolidation must take effect on July 1 immediately following the timely filing of notice of the consolidation with the Department of Revenue. To be eligible to levy a tax within a consolidated district, the municipality is required to notify the Dept., the county assessor and the county treasurer of the district consolidation no later than June 1 immediately preceding the effective date of the consolidation. **Comments**: 02/09/18 CSA Staff explained the legislation noting that this is a League bill that will allow for potential efficiencies for the Treasurer and Assessor's office, some discussion regarding the potential for adding this type of language for county street lighting districts. The LPC did not take any action on the bill. | Passed Senate 29-0-1<br>Passed House Government, Rules and Caucus. Awaiting COW and Third Read. |

County Supervisors ASSOCIATION of arizona

| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
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| **SB 1292** | EORP; cost-of-living adjustment | *D. Farnsworth* | For the Elected Officials' Retirement Plan, each retired member or survivor of a retired member is eligible to receive a compounding cost-of-living adjustment in the base benefit based on the average annual percentage change in the metropolitan Phoenix-Mesa consumer price index, with the immediately preceding year as the base year for making the determination, up to a maximum of two percent of the retired member's or survivor's base benefit annually. Repeals statutes governing EORP benefit increases. Conditionally enacted on the state Constitution being amended, as prescribed in an unspecified Senate concurrent resolution (blank in original), by the voters at the 2018 general election. **Comments:** 02/02/18 CSA Staff explained the legislation and recommended a position of support, noting that the bill would move the permanent benefit increase (PBI) to a cost of living adjustment (COLA) for EORP and the companion bill that would send the issue to the voters is SCR 1010. The LPC moved to **SUPPORT** the bill. | Passed Senate 29-0-1<br>Referred to House banking and insurance on 2/19 |
| **SB 1296** | government communications; emergency response interpreters | *Bowie* | The state, counties and municipalities are each required to ensure that its communications with persons with disabilities, including online communications and emergency communications, are equally as effective as its communications with persons without disabilities. The state, counties and municipalities are each required to provide auxiliary aids and services with needed to communicate effectively with persons with communication disabilities. The state, counties and municipalities are each required to establish a protocol to secure a licensed emergency response interpreter to interpret emergency communications that are presented live to the media for broadcast or delivered through a live online communication, including an official government statement or press conference relating to an emergency situation. Does not prevent the state, a county or a municipality from communicating to the public during an emergency situation if an emergency response interpreter is unavailable. **Comments**: CSA Staff explained the legislation and a question on if there was funding connected to the legislation arose. Staff explained that there was no funding associated with the legislation. The CSA Board did not take any action on the bill. | Passed Senate Government, Rules and Caucus. Awaiting COW and Third Read. Passed Senate 30-0. referred to House gov. |
| ~~**SB 1374**~~ | ~~state law; local government violations~~ | ~~*Brophy McGee*~~ | ~~For a legislator to be eligible to request an investigation of a county or city action that allegedly violates state law or the state Constitution, all or part of the county or municipality must be located in the legislator's legislative district. Prior to investigating the alleged violation, the Attorney General is required to notify the county or municipality and allow at least 30 days for a response before making a determination. Counties and municipalities have 60 days, increased from 30 days, to resolve violations after notice from the Attorney General, or may appeal the determination by filing a special action in the Supreme Court to resolve the issue. If the Supreme Court determines that there is no violation, the State Treasurer is required to reimburse the county or municipality for reasonable fees and costs incurred to respond to the request. The reimbursement amount cannot exceed an unspecified amount (blank in original) for each determination.~~ ~~**Comments:** 02/02/18 CSA Staff explained the legislation, noting this was for information only at this point. The bill makes changes to SB1487 (2016) regarding complaints by a legislator alleging a municipality or county took legal actions that violate state statute or the Arizona Constitution.~~ | ~~Referred to Senate Government on 2/6~~<br>~~Scheduled to be heard in Senate~~<br>~~Failed in the GOV Committee on 2/14/18 with a vote of 3-4-0.~~ |
| **SB 1400** | aggravated DUI; sentence; county jail | *Smith* | County sheriffs of counties with a population of less than 500,000 persons are authorized to establish an aggravated driving under the influence jail program. If the county sheriff establishes a program, the program cannot be implemented until the Department of Corrections enters into an agreement with the county board of supervisors to facilitate the program. If a violation of aggravated driving under the influence occurs in a county with a program or a county contiguous to a county with a program and the person is placed on probation, the mandatory term of incarceration that the person would otherwise serve in prison may be served in a county jail. Beginning January 1, 2019, the Arizona Criminal Justice Commission is required to submit an annual recidivism report to the Legislature that compares the recidivism rate for a person who serves the mandatory incarceration in a county jail under a program and a person who serves the mandatory incarceration in prison. **Comments**: 02/02/18 CSA Staff explained the legislation, noting that additional information on the bill will be sent out and feedback will be requested. | Passed Senate 30-0. Passed House Judiciary & Public Safety, Rules and Caucus. On House Consent Calendar, awaiting Third Read. |

County Supervisors ASSOCIATION of arizona

| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
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| ~~**SB 1404**~~ | ~~occupational regulation; municipalities; counties~~ | ~~*Smith*~~ | ~~Counties and municipalities are prohibited from imposing any "occupational fee" or "licensing requirement" (both defined) on any occupation, trade or profession if that county or municipality does not already impose it on the effective date of this legislation. If the state imposes a new occupational fee or licensing requirement on any occupation, trade or profession that has not been previously regulated by the state but that has been regulated by the county or municipality, the county or municipality is prohibited from continuing to impose any occupational fee or licensing requirement on that occupation, trade or profession on or after the effective date of the statute or rule. Beginning on the effective date of this legislation, a county or municipality is prohibited from increasing the amount of any occupational fee on any occupation, trade or profession that is currently subject to the occupational fee. **Comments**: 2/23/2018 staff explained the bill it was noted that this bill does not allow for the need to license based on future areas that may need oversight such as industry connected to future technology or if the state was to allow recreational marijuana, the LPC **OPPOSED** the bill.~~ | ~~Failed Third Read in the Senate on 3/5/18 12 17 1~~ |
| **SB 1452** | dependency; kinship care; aggravated circumstances | *Barto* | The Department of Child Safety is required to determine the placement of a child in Dept. custody based on the best interests of the child, and to give preference to an adult relative over a nonrelative caregiver when determining the child's placement. If a child is taken into temporary custody, the Dept. is required to use due diligence to identify and notify adult relatives of the child within 30 days after the child is taken into temporary custody, including contracting with private investigators if necessary, and file the results of the search with the court. If the Dept. identifies an adult relative who is a suitable placement for the child and the placement of the child with the adult relative would be in the best interests of the child, the child must be placed with the adult relative within 30 days if the placement is in Arizona, or within 90 days if the placement is outside Arizona. A list of factors the court is required to consider when determine whether a placement is in the best interests of the child is established. If a child has been in foster placement for six months or more, the presumption exists that remaining in the placement is in the child's best interests unless there are confirmed safety or welfare concerns for the child. If a child who was taken into temporary custody is under three years of age, the Dept. is required to determine if an "aggravating circumstance" (defined elsewhere in statute) exists, and file a notice with the court within 14 days that states either that the Dept. finds, does not find or is unable to determine that an aggravating circumstance exists. If the Dept. finds the existence of an aggravating circumstance, the Dept. is required to file a petition for termination of parental rights within 10 days after the notice is filed. If the Dept. is unable to determine if an aggravating circumstance exists, the court is required to hold a hearing within 48 hours after the notice is filed to determine the existence of an aggravating circumstance, and must make the determination within three days after the hearing. By July 1, 2019, the Dept. is required to develop a system to track on an individual and aggregate basis infants who are taken into the custody of the department as a result of in utero controlled substance exposure. **Comments**: CSA Staff explained the legislation. The CSA Board did not take action on the bill. | Passed Senate Health and Human Services with a vote of 4-3-0-0. Passed Rules. |
| **SB 1466** | voting centers; board of supervisors | *Gray* | Only on a specific resolution of the county board of supervisors, the board is permitted to authorize the county recorder or other officer in charge of elections to use additional types of voting locations in addition to polling places, including voting centers, early voting centers, and early voting drop-off centers. **Comments**: 02/09/18 CSA Staff explained the legislation noting, before making a decision it would be discussed again after the recorders have had an opportunity to seek an amendment. The Board moved to OPPOSE the bill and work towards an amendment. Update an agreement has been reached on this bill with the Recorders and Elections Officers. | Passed Senate 3/8/18 with a vote of 29-0-1. Referred to House Government. |

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| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
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| ~~**SB 1492**~~ | ~~payment in lieu of taxes~~ | ~~*Griffin*~~ | ~~A local government that receives federal payments in lieu of taxes is required to distribute those monies to the school districts where the nontaxable federal lands are located and that generated those federal payments.~~ ~~**Comments**: 02/09/18 CSA Staff explained the legislation noting, that this could cost counties $35 million in revenues. The LPC voted to **OPPOSE** the bill.~~ | ~~Referred to Senate Finance and Senate Education on 1/31 Scheduled to be heard in Senate Education on February 15, 2018 Held in ED~~ |
| **SB 1503** | delinquent restitution; monthly report; hearing | *Smith* | The clerk of the court is required to transmit a monthly report to the probation department and to each supervising court that includes the name and case number of every defendant who has been placed on probation, who is supervised by that court and who is delinquent in the payment of restitution or of any installment as ordered by the court. If a defendant fails to make three or more consecutive payments as required by a condition of probation, the supervising court is required to conduct a review hearing within 30 days after receiving notice of the delinquency to determine whether there is cause to find the defendant in contempt and impose a sanction. **Comments:** 2/23/2018 staff explained the bill it was noted that the Arizona Office of the Courts, Superior Court Clears are in opposition to the bill. Staff recommended opposing the bill due to potential cost impacts and the current lack of capacity to expand the court case load in this way. Discussion identified support for the underlying reason for the bill, supporting victims getting paid in a timely manner but the LPC **OPPOSED** the bill based on potential cost impacts to counties. | Passed Senate 17-13. Referred to House Judiciary & Public Safety. |
| **SCM 1007** | rural schools; reauthorization; urging Congress | *Griffin* | The Legislature urges the U.S. Congress to immediately reauthorize Secure Rural Schools and Community Self-Determination Act funding for fiscal years 2019 and 2020 and work toward a long-term solution for rural communities and schools in and around national forests. The Secretary of State is directed to transmit copies of this memorial to the President of the U.S. Senate, the Speaker of the U.S. House and each member of Congress from Arizona. **Comments**: 02/09/18 CSA Staff explained the legislation encouraging Congress and the President to create a long term SRS solution. The LPC voted to **SUPPORT** the bill. | Passed Senate 30-0. Referred to the House Education Committee. |
| ~~**SCM 1018**~~ | ~~payments in lieu of taxes~~ | ~~*Griffin*~~ | ~~The Legislature urges the U.S. Congress to provide full long-term funding for the Payment in Lieu of Taxes (PILT) program to help create financial stability within Arizona's counties, and to work with the State of Arizona and county governments to identify and implement policies to promote economic development on, or associated with, federally managed lands. The Secretary of State is directed to transmit copies of this memorial to the President of the U.S., the President of the U.S. Senate, the Speaker of the U.S. House and each member of Congress from Arizona.~~ ~~**Comments**: 02/09/18 CSA Staff explained the legislation encouraging Congress and the President to create a long term PILT solution. The LPC voted to **SUPPORT** the bill.~~ | ~~No action~~ |
| **SCR 1010** | public retirement systems | *D. Farnsworth* | The 2018 general election ballot is to carry the question of whether to amend the state Constitution to provide that the Constitutional provision prohibiting public retirement system benefits from being diminished or impaired does not prohibit certain adjustments to the Corrections Officer Retirement Plan as provided in S1442 as enacted by the 53rd Legislature, 1st Regular Session, and does not prohibit certain adjustments to the Elected Officials' Retirement Plan as provided in an unspecified Senate bill (blank in original). The Legislature requests the Secretary of State return SCR1023, 53rd Legislature, 1st Regular Session, to the Legislature and submit this resolution in lieu of SCR1023. **Comments**: 02/02/18 CSA Staff explained the legislation and recommended position of support, noting that this is the companion bill to SB 1292 and would submit to the voters a request to move the PBI to a COLA adjustment for EORP & CORP. The LPC did not take action on the bill. | Passed Senate 29-0<br>Referred to House banking and insurance on 2/19 |

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| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
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| **"Fair Justice Initiative"** | | | | |
| **HB 2169** | driving violations; restricted licenses; penalties | *Boyer* | A restriction on a person's driver license or permit to drive as a result of a conviction for a violation of Title 28 (Transportation) may limit the person's privilege to drive to and from specified locations during specified periods of time. The sentencing options for various transportation-related violations are expanded to include that the court may order that the person's driving privilege be restricted. A person who is convicted of driving on a suspended class D or M license before January 1, 2011 may apply for a restricted privilege to drive if the person meets specified requirements. A judge is authorized to mitigate any civil penalty required by Title 28 (Transportation) if the person ordered to pay the penalty demonstrates that the payment would be a hardship on the person or his/her immediate family. Factors the court must consider when determining whether to mitigate a civil penalty are listed. Effective January 1, 2019. "Fair Justice" Initiative Legislation. **Comments**: 1/26/2018 CSA Staff explained the legislation, noting that this is for information only and it may be brought to a future LPC for consideration. 02/02/18 CSA Staff explained all the "Fair Justice" Initiatives. The LPC made a motion to **SUPPORT** all the "Fair Justice" Initiatives. | Passed the House 56-0-3-0-1<br>Passed Senate Transportation and Technology, Rules and Caucus. |
| **HB 2259** | juvenile court facilities; shelters; use | *Carter* | If appropriate facilities are available to the juvenile court, the presiding judge of the superior court is permitted to authorize juvenile court staff to provide services within the facilities. "Fair Justice" Initiative Legislation. **Comments:** 1/26/2018 CSA Staff explained the legislation, noting that this is for information only and it may be brought to a future LPC for consideration. 02/02/18 CSA Staff explained all the "Fair Justice" Initiatives. The LPC made a motion to **SUPPORT** all the "Fair Justice" Initiatives. | Passed House 60-0; ready for Senate.<br>Passed Senate Judiciary Committee, Rules and Caucus. On Senate Consent Calendar, awaiting Third Read. |
| **HB 2312** | setting aside conviction; requirements | *Farnsworth E.* | If a person is sentenced to imprisonment in the Department of Corrections, the person cannot apply to the court to have the judgment of guilt set aside until two years after the date of the person's absolute discharge from imprisonment. The clerk of the court is prohibited from charging a filing fee for an application to have a judgment of guilt set aside. Establishes a list of factors the court must consider when determining whether to set aside a conviction. A conviction that is set aside may be used as a prior conviction. Modifies the list of offenses that disallow a person convicted of those offenses from applying to have the judgment of guilt set aside. Effective January 1, 2019. "Fair Justice" Initiative Legislation. **Comments:** 1/26/2018 CSA Staff explained the legislation, noting that this is for information only and it may be brought to a future LPC for consideration. 02/02/18 CSA Staff explained all the "Fair Justice" Initiatives. The LPC made a motion to **SUPPORT** all the "Fair Justice" Initiatives. | Passed House 56-0; ready for Senate.<br>Passed Senate Judiciary, Rules, Caucus. On Senate Consent Calendar, awaiting Third Read. |
| **HB 2313** | sentencing; monetary obligations; fine mitigation | *E. Farnsworth* | Decreases the surcharge levied on every fine, penalty, forfeiture and civil penalty imposed to 42 percent, from 47 percent. Levies an additional penalty assessment of $9 on every fine, penalty, forfeiture and civil penalty imposed. Of the assessment collected, 62.4 percent is deposited in the Victims' Rights Fund and 37.6 percent is deposited in the Victim Compensation and Assistance Fund. Modifies the distributions from the Criminal Justice Enhancement Fund to eliminate the distributions to the Victims' Rights Fund and the Victim Compensation and Assistance Fund and to raise the percentage distributions to all other beneficiaries accordingly. Statutory consequences, including wage garnishment, for nonpayment of fines and fees are applied to surcharges and assessments. If the court or LPC of Executive Clemency finds that a defendant has willfully failed to pay a fine, surcharge, fee, assessment, restitution or incarceration costs or finds that a defendant has intentionally refused to make a good faith effort to obtain the monies required for payment, the court is authorized to revoke the defendant's probation and sentence the defendant to prison. Judges are authorized to mitigate a fine if the defendant demonstrates that the payment would work a hardship on the defendant or the defendant's immediate family. Factors the court must consider in determining whether to mitigate a fine are listed. Effective January 1, 2019. "Fair Justice" Initiative Legislation. **Comments**: 1/26/2018 CSA Staff explained the legislation, noting that this is for information only and it may be brought to a future LPC for consideration. 02/02/18 CSA Staff explained all the "Fair Justice" Initiatives. The LPC made a motion to **SUPPORT** all the "Fair Justice" Initiatives. | Passed House 56-0.<br>Passed Senate Judiciary Committee awaiting Rules |

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| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
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| **HB 2314** | misdemeanor sentence; authorized disposition | *E. Farnsworth* | If a person is convicted of a misdemeanor and not granted a period of probation, the court may impose a sentence to a term of community restitution or education or treatment. If the court imposes a sentence to perform community restitution for a misdemeanor, the court is required to determine or fix the number of hours required. If the court imposes a sentence for a term of education or treatment for a misdemeanor, the term cannot exceed the term of probation as determined by statute. "Fair Justice" Initiative Legislation. **Comments**: 1/26/2018 CSA Staff explained the legislation, noting that this is for information only and it may be brought to a future LPC for consideration. 02/02/18 CSA Staff explained all the "Fair Justice" Initiatives. The LPC made a motion to **SUPPORT** all the "Fair Justice" Initiatives. | Passed House 58-1-1<br>Passed Senate Judiciary, Rules and Caucus. On Senate Consent Calendar, awaiting Third Read. |
| **HB 2315** | intensive probation; employment wages; monitoring | *E. Farnsworth* | A probation officer is required to monitor a person on intensive probation's wages to ensure the collection of restitution, probation fees, fines and other payments. Previously, the person on intensive probation's wages were required to be paid directly to an account established by the probation officer, and the probation officer was required to make payments for restitution, probation fees, fines and other payments. "Fair Justice" Initiative Legislation. **Comments**: 1/26/2018 CSA Staff explained the legislation, noting that this is for information only and it may be brought to a future LPC for consideration. 02/02/18 CSA Staff explained all the "Fair Justice" Initiatives. The LPC made a motion to **SUPPORT** all the "Fair Justice" Initiatives. | Passed House 58-1-1<br>Passed Senate Judiciary, Rules and Caucus. On Senate Consent Calendar, awaiting Third Read. |
| **Water Bills** | | | | |
| **HB 2512 & SB 1507** | water program amendments | *Bowers/Griffin* | Various changes to statutes relating to water. The Department of Water Resources (DWR) is required to prepare a desalination action plan that includes specified provisions and submit the initial plan to the Governor and the Legislature by September 30, 2019. Requires legislative approval, in addition to DWR approval, for a person to transport water out of Arizona. Requires DWR to adopt rules to calculate extinguishment credits in the Pinal Active Management Area (AMA) by January 1, 2019. Declares that the use of groundwater to water plants in containers on or above the surface of the ground is a non-irrigation use and establishes requirements for the use of groundwater for this purpose. The Director of DWR is required to adopt a management plan for each initial AMA no later than January 1, 2023 for the sixth management period, 2025 to 2035. DWR is required to include in the management plans a non-per capita conservation program for municipal providers that requires a municipal provider regulated under the program to implement one or more water conservation measures in its service area. Responsibility for oversight of natural resource conservation districts is transferred to the Department of Forestry and Fire Management, from the State Land Department, and session law provides for the transfer and succession of all matters, property and records. Much more. Several sections of statute amended by this legislation are effective from and after an unspecified date (blank in original). **Comments**: 2/09/2018 CSA Staff explained the legislation, currently this is just for informational purposes noting that there are a lot of moving pieces, the hearings at the legislature have provided a lot of discussion and this is something that will be discussed in greater detail in future meeting. | HB 2512 Passed House 33-27. Referred to Senate Natural Resources, Energy & Water.<br><br>SB 1507 Passed Senate Natural Resources, Energy & Water and Rules. SB 1507 Failed on 3rd Read 15-15 |
| **SB 1515** | adequate water supply; county review | *Griffin* | For a county that is not in an Active Management Area, the county board of supervisors is required to review the provision for adequate water supply for a subdivision and after review may by unanimous vote readopt the provision up to 5 years after the effective date of this legislation and every 5 to 10 years thereafter. The board is required to give written notice of any vote not to readopt the provision to the Director of the Department of Water Resources, the Director of the Department of Environmental Quality and the State Real Estate Commissioner. The vote not to readopt the provision is effective and the provision has no further force if a list of specified conditions apply at the time of the vote. **Comments**: 2/15/2018 CSA Staff explained the bill and requested the members evaluate what the water bills mean to each county and what it would mean going forward and to provide feedback to CSA next week. The Board did not take any action on the bill. | Passed Senate 17-13. Referred to House Energy, Environment & Natural Resources. |
| **SB 1516** | central Arizona project; sovereign immunity | *Griffin* | A multi-county water conservation district is prohibited from asserting the defense of immunity under the 11th amendment of the U.S. Constitution in litigation brought by a water user to enforce the terms of a Central Arizona Project water delivery contract or subcontract. **Comments**: 2/15/2018 CSA Staff provided an overview of the legislation. It was noted by the membership that this could impact Mohave County's ability to challenge the decision by the CAP to purchase of water from the Mohave Valley Irrigation and Drainage District. The CSA Board moved to **OPPOSE** the bill at the January 18th board meeting. | Referred to Senate Natural Resources, Water, and Energy on 1/31<br>The bill passed out of NREW (DPA) on 2/15/18 with a 6-2-0 vote. |

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| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
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| ~~**HB 2608**~~ | ~~well reporting; Mohave; La Paz basins~~ | ~~*Cobb*~~ | ~~Creates reporting requirements for wells in Hualapai Valley basin, the Sacramento Valley basin, the Renegras Plain basin, the McMullen Valley basin or the Butler Valley basin if : 1. the well was drilled on or after January 1, 2012; 2. the well has a pump with a maximum capacity of more than one hundred gallons per minute. Repeals the section from and after December 31, 2020. **Comments**: 2/09/2018 CSA Staff explained the legislation, currently this is just for informational purposes noting the goal of this bill was to get a very narrowly tailored bill for monitoring in La Paz and Mohave counties this will be part of the discussion for future meetings regarding water issues.~~ | ~~Assigned to Land, Agriculture and Rural Affairs~~ |
| **Pension Bills** | | | | |
| **HB 2357** | EORP; employer contributions | *Livingston* | Beginning July 1, 2018, each Elected Officials' Retirement Plan employer is required to make contributions on a level percent of compensation basis for all member employees sufficient under an actuarial valuation to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over a closed period of 20-30 years. In any fiscal year, an employer's contribution to EORP in combination with member contributions may not be less than the actuarially determined normal cost for that fiscal year. **Comments:** 2/15/2018 CSA Staff provided an update on the EORP bill and the efforts to wrap this into efforts to remove state costs shifts and find funding to pay for EORP. 1/18/2018 CSA Staff explained the bill and that the judge issued a ruling on January 8, 2018 that either increased employer contributions or another funding source must be identified by July 1, 2018. The CSA Board moved to **OPPOSE** the bill at the January 18th board meeting. | Passed House on reconsideration 45-15. Referred to Senate Finance. |
| **HB 2545 & SB 1292** | EORP; cost-of-living adjustment | *Livingston/ D. Farnsworth* | For the Elected Officials' Retirement Plan, each retired member or survivor of a retired member is eligible to receive a compounding cost-of-living adjustment in the base benefit based on the average annual percentage change in the metropolitan Phoenix-Mesa consumer price index, with the immediately preceding year as the base year for making the determination, up to a maximum of two percent of the retired member's or survivor's base benefit annually. Repeals statutes governing EORP benefit increases. Conditionally enacted on the state Constitution being amended, as prescribed in an unspecified Senate concurrent resolution (blank in original), by the voters at the 2018 general election. **Comments**: 02/02/18 CSA Staff explained the legislation and recommended a position of support, noting that the bill would move the permanent benefit increase (PBI) to a cost of living adjustment (COLA) for EORP and the companion bill that would send the issue to the voters is SCR 1010. The LPC moved to **SUPPORT** the bill. 2/09/2018 CSA Staff explained the EORP package of bills no additional stance was taken legislation staff will monitor and speak to the larger EORP and cost shift issues. | HB 2545 passed House 58-2. HB 2545 Referred to Senate Finance. SB 1292 Passed the Senate 29-0-1. SB 1292 Referred to House Banking & Insurance. |
| **HB 2564** | court fees; EORP; state contribution | *Livingston* | Statutory fee amounts received by the clerk of the superior court and justices of the peace are increased by 9 to 16 percent. Of the monies received from the fees that are not kept by the court pursuant to statute, the county treasurer or justice of the peace is required to transmit 6 percent to the Elected Officials' Retirement Plan Fund for the purpose of funding a portion of the state employers' contributions. The percentages of the monies that are transmitted to various other funds are all decreased. Due to a potential increase in state revenue, this legislation requires the affirmative vote of at least 2/3 of the members of each house of the Legislature for passage, and becomes effective on signature of the Governor. **Comments**: 02/09/18 CSA Staff explained the legislation noting that there the adjustment helps the state with their EORP issue but does not help the counties. No official position was taken by the LPC. | Passed House 49-11. Referred to Senate Judiciary. |

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| Bill Number | Short Title | Prime Sponsor | Summary/LPC Comments & Position | Status |
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| **HCR 2032 & SCR 1010** | public retirement systems | *Livingston/ D. Farnsworth* | The 2018 general election ballot is to carry the question of whether to amend the state Constitution to provide that the Constitutional provision prohibiting public retirement system benefits from being diminished or impaired does not prohibit certain adjustments to the Corrections Officer Retirement Plan as provided in S1442 as enacted by the 53rd Legislature, 1st Regular Session, and does not prohibit certain adjustments to the Elected Officials' Retirement Plan as provided in an unspecified House bill (blank in original). The Legislature requests the Secretary of State return SCR1023, 53rd Legislature, 1st Regular Session, to the Legislature and submit this resolution in lieu of SCR1023. **Comments**: 02/09/18 CSA Staff explained the legislation noting that there have been concerns regarding the potential for litigation due to the judges being in the system. Staff will express those concerns and is working with Legislative staff to evaluate the issue. No official position was taken by the LPC. | HCR 2032 Passed House 57-0. HCR 2032 Referred to Senate Finance. SCR 1010 Passed the Senate 29-0-1. SCR referred to House Banking & Insurance. |
| **Special Session** | | | | |
| **HB 2001 & SB 1001** | controlled substances; regulation; appropriation | *Mesnard; Yarbrough* | The governor's 68 page bill with policy changes intended to combat the opioid crisis in Arizona. **Comments**: 1/26/2018 CSA Staff explained the legislation from the Special Session, noting that the bill passed out of the both chambers unanimously.<br><br>Link to the House Fact Sheet<br><br>Link to CSA Summary of relevant county provisions. | Referred to Senate Health and Human Services; House Health Scheduled Senate Health and Human Services on 1/24<br>Passed House Health 8-0-1 on 1/23<br>Passed both House & Senate (SB1001)<br>Signed by Governor 1/26 |