

**INTERGOVERNMENTAL AGREEMENT between
COCHISE COUNTY and
THE ARIZONA STATE BOARD OF EQUALIZATION for
PROPERTY TAX REVIEWS AND APPEALS**

This Intergovernmental Agreement (hereinafter "Agreement") is entered into pursuant to A.R.S. §§ 11-952 and 42-16102(C) by Cochise County (hereinafter "the County"), a body politic and corporate and subdivision of the State of Arizona, and the Arizona State Board of Equalization (hereinafter "SBOE"), an independent agency of the State of Arizona, created pursuant to A.R.S. § 42-16152.

RECITALS

WHEREAS, Arizona Revised Statutes Title 42, chapter 16 governs property tax appeals and reviews; and,

WHEREAS, A.R.S. § 42-16102(A) states that "in each county with a population of less than five hundred thousand persons according to the most recent United States decennial census, the board of supervisors constitutes a county board of equalization;" and

WHEREAS, the 2020 Census conducted by the United States Census Bureau estimates the population of Cochise County to be less than five hundred thousand people; and,

WHEREAS, A.R.S. § 42-16102(C) permits a county board of supervisors to enter an agreement with the SBOE to review and hold hearings and make decisions on petitions filed under section 42-16105; and

WHEREAS, among other statutes, A.R.S. §§ 42-15105, 42-16105, 42-16252, 42-16254 and 42-19052 govern the appellate authority of the county board of equalization or the SBOE sitting as the county board of equalization; and,

WHEREAS, A.R.S. § 11-952 allows government entities, including state agencies and counties to enter into intergovernmental agreements; and

WHEREAS, the County wishes to contract with the SBOE for services as contemplated by A.R.S. § 42-16101 et seq.

NOW, THEREFORE, the County and the SBOE pursuant to the above recitals, incorporated by reference, and in consideration of the mutual promises and covenants contained herein, do mutually agree as follows:

AGREEMENT

- I. Purpose.** This Agreement shall govern the terms and conditions under which, the State Board of Equalization acting on behalf of Cochise County Board of Equalization and sitting as a County Board of Equalization pursuant to A.R.S. §§ 42-16101 through 16111, shall review, hold hearings and make decisions on petitions filed under A.R.S. §§ 42- 15105, 42-16105, 42-16252, 42-16254 and 42-19052.
- II. Term.** The term of this Agreement shall be February 28, 2023 to February 27, 2024. The parties may renew this agreement up to four (4) times, with each extension not to exceed one year. Any such extensions shall be in writing, signed by the Parties, and executed by Amendment.
- III. Modification, Revision, and Termination.**
- A. Amendment.** This document contains the entire Agreement between the Parties. The Parties cannot change Agreement cannot be changed orally. Any changes or modifications of this Agreement must be in the form of a written amendment approved by both Parties. Unless otherwise stated, any Amendment will become effective upon signature and approval by the County Board of Supervisors.
- B. Termination for Convenience.** Regardless of any other provisions contained herein, either party may terminate this Agreement at any time for its sole convenience, upon three (3) months' written notice to the other party. Any termination hereunder shall in no way affect the parties' previous obligations with respect to any expenses incurred under the Agreement until a full settlement of the agreement.
- C. Termination for Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511 regulating conflicts of interest, the pertinent provisions of which are incorporated herein by reference.
- IV. Notice.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (1) delivered to the party at the address set forth below, (2) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (3) given to a recognized and reputable overnight delivery service, to the following address:
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| <p><u>For the County:</u>
Clerk of the Board
Cochise County Board of Supervisors
1415 Melody Lane Bldg G
Bisbee, AZ 85603</p> | <p><u>For SBOE:</u>
Chairperson
Arizona State Board of Equalization
100 N. 15th Avenue, Suite 130
Phoenix, AZ 85007</p> |
|---|--|

A party may designate an alternate address and to the attention of such other person for the notice or communication if such designation is in writing. Notices are deemed received (1) when delivered to the party, (2) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (3) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day.

V. Scope of Services

A. County Obligations. The County will provide/perform all of the following:

1. Audio recording equipment and/or tape recorder with tapes as reserve equipment. The SBOE will provide the primary resource for recording hearings and will maintain recorded hearings.
2. All necessary office supplies.
3. The hearing location.
4. Send all documents and Notice of Decisions on the respective parties, including the Hearing Officer's findings of fact and conclusion of law. The SBOE will serve all Notices of Hearing on the respective parties for all appeals.
5. Require all necessary forms and information be submitted at the time of filing an appeal.
6. Forward to the SBOE, by mail, all appeals received as soon as possible. If an appeal, pursuant to §42-16252 et al; §42-16254 et al; and §42-19052, is received, the SBOE shall be immediately notified of such filing and a fax copy of the appeal shall be sent to the SBOE.

B. SBOE Obligations.

1 General Requirements:

- a. Any person providing services under this Agreement shall have the capability and requisite experience and expertise to conduct administrative hearings for the Cochise County Board of Supervisors sitting as the County Board of Equalization (hereinafter "the Hearing Officer").
- b. The SBOE shall provide the services described herein on an as-needed basis in accordance with the provisions of A.R.S. §42-16151 et seq.

2. Specific Requirements:
 - a. The Hearing Officer(s) shall meet with the Clerk of the Board to receive and report on hearing assignments.
 - b. The Hearing Officer shall conduct prehearing conferences, rule on prehearing motions, preside over settlement negotiations or institute any other proceedings that the hearing officer thinks shall aid in the appropriate disposition of the issues prior to the hearing.
 - c. The Hearing Officer shall conduct any legal and/or factual research necessary for a legally correct, full and fair adjudication of the issues raised during the hearing.
 - d. The Hearing Officer shall preside over hearings when assigned. In the Hearing Officer's role as presiding officer, the Hearing Officer shall rule on the admissibility of evidence and testimony and shall generally supervise the conduct of the hearing.
 - e. The Hearing Officer shall provide findings of fact, conclusions of law, and shall transmit the findings and conclusions to the County in accordance with County established formats and deadlines.
3. Qualifications of Hearing Officer
 - a. Individuals shall be selected based on their work experience and other qualifications in at least one of the following categories:
 - b. Experience in at least four of the preceding eight years in property valuation, property tax appeals or appraising real property.
 - c. A certified general appraiser pursuant to A.R.S. §32-3612.
 - d. A property valuation hearing officer or member of the State Board of Equalization, or any predecessor to the Board; for at least four of the preceding eight years.
 - e. A member of the State Bar of Arizona with at least four years of experience in property valuation or condemnation practice

VI. Compensation and Payment.

A. Rates; Adjustment. County will pay the SBOE at the rate of:

- I. Three Hundred Dollars (\$300.00) per day for professional/hearing officer services (each hearing day typically lasts seven (7) hours);

2. Two Hundred Dollars (\$200.00) per day, for professional/ hearing officer services for a partial day (minimum 4 hours or less);
 3. Two Hundred Dollars (\$200.00) per day, minimum of two days, for administrative processing of appeals database, Notice of Hearings and Notice of Decisions for the appeals filed pursuant to A.R.S. §§42-15105, 42-16105, 42-16251 et al, and/or 42-19052;
 4. Rates will remain in effect during any extension as described in Section II unless the SBOE, at least ninety (90) days before the end of the then-existing Term, or at the time the County informs the SBOE that it intends to extend the Term if that is earlier, notifies the County in writing of any adjustments to those rates, and the reasons for the adjustments.
- B. Rental Car.** The County shall reimburse rental car expenses and/or mileage pursuant to State of Arizona Employee's travel rules as related to SBOE services.
- C. Lodging.** When required to perform work that requires overnight accommodations, the County will reimburse the SBOE in accordance with the current rates specified in the Rules and Regulations applicable to State of Arizona Employees' Travel Rules. The Contractor shall itemize all per diem and lodging charges.
- D. Maximum Payment Amount.** County's total payments to the SBOE under this Agreement, including any sales taxes, may not exceed \$5,000 per year (the "NTE Amount"). A formal written amendment executed by the Parties is required to change the NTE amount. The SBOE is not required to provide any services that will cause the County's total payments under this Agreement to exceed the NTE Amount; if the SBOE does so, it is at the SBOE's own risk.
- E. Sales Taxes.** The payment amounts or rates do not include sales taxes. The SBOE may invoice County for sales taxes that the SBOE is required to pay under this Agreement. The SBOE will show sales taxes as a separate line item on invoices.
- F. Timing of Invoices.** In all instances, the County must receive invoices not more than sixty days (60) after the close of annual services. The County may refuse to pay for any product or service for which the SBOE does not timely invoice the County, and, pursuant to A.R.S. § 11-622(C), will not pay for any product or service invoiced more than 6 months late.
- G. Content of Invoices.** The SBOE will include detailed documentation in support of its invoices and assign each amount billed to an appropriate line item. After acceptance of all work performed, the County shall process the claim for prompt payment in accordance with its standard operating procedures. The respective party will submit pricing on an all-inclusive daily basis. The County will not

reimburse any item other than the all-inclusive daily rate multiplied by the number of days actually worked plus those items in paragraphs A, B, and C, above.

- H. Scheduled Work. The SBOE shall perform work on an as needed, if needed basis. The County does not guarantee any minimum number of hours.
- I. Invoice Adjustments. The County may, at any time during the Term question any payment under this Agreement. If County raises a question about the propriety of a past payment, the SBOE will cooperate with County in reviewing the payment. County may set-off any overpayment against amounts due to the SBOE under this Agreement. The SBOE will promptly pay to County any overpayment.
- J. Parties to this agreement will appropriate funds to meet all obligations for this agreement. The affected party may terminate this agreement at the end of the period for which funds are not available. In the exercise of this agreement, no liability shall accrue to the affected party if funds are not appropriated, allocated and available or if the legislature changes the appropriation resulting in funds no longer being available for the continuance of this agreement.

VII. Insurance. The parties agree to secure and maintain insurance coverage for all risks that may arise out of the terms, obligations, operations, and actions as set forth in this Agreement, including but not limited to public entity insurance. The parties to this Agreement shall exchange certificates of insurance or self-insurance, if requested. By signing this Agreement, the SBOE avows that it has verified that it and all Hearing Officers employed by the SBOE, is/are fully insured by the State of Arizona. The SBOE promises that only SBOE members shall provide services under this Agreement. The SBOE may provide hearing officers upon agreement with the county.

VIII. Indemnification.

- A. Mutual Indemnity. To the extent permitted by law and notwithstanding any liability insurance or other conditions of this Agreement, each party hereby covenants and agrees to indemnify, defend and hold harmless the other party, its officials, officers, employees, contractors and agents for, from and against all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature relating to this Agreement to the extent arising out of any act or omission of the indemnifying party, its officials, officers, employees, contractors, agents and/or anyone acting under its direction or control whether intentional or negligent, in connection with or incidental to this Agreement..
- B. Cooperation and Term. If a claim or claims by third parties become subject to this indemnity provision, the Parties to this Agreement shall expeditiously meet to discuss a common and mutual defense, including possible proportionate liability and payment of possible litigation expenses and damages. The

obligations under this Section shall survive the termination of this Agreement.

- IX. Operation after Expiration of Term.** The Parties agree that in the event the SBOE has County matters pending at the time the IGA expires, the SBOE shall complete the matter on the same terms and conditions as set forth in this Agreement.
- X. Construction and Interpretation.** This Agreement shall be construed pursuant to the laws of the State of Arizona. All provisions of this Agreement shall be construed to be consistent with the intention of the parties as expressed in the Recitals hereof.
- Captions and headings.** The headings used in this Agreement are for convenience only and are not intended to affect the meaning of any provision of this Agreement.
- XI. Retention of Records and Audit.** As required by A.R.S. § 35-214, both sides shall keep all records related to this Agreement for a period of five (5) years after the termination of the Agreement. The SBOE shall also make all books, accounts, reports, files and other records relating to this Agreement available for inspection and audit by the County.
- XII. Public Record.** Under Arizona law, all Agreements for services are public records and must be retained and open to public inspection and copying after execution, except for such offers or sections thereof determined to contain proprietary or confidential information. Under Arizona law, if the SBOE believes that information in its offer or any resulting Agreement should not be released in response to a public record request, the SBOE shall indicate the specific information deemed confidential or proprietary and submit a statement detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise from disclosure. The County will not defend any claim of confidentiality made by the SBOE in response to a public record request.
- XIII. Compliance with Laws.** Parties shall comply with all applicable Federal, State and local laws, rules, and regulations. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Agreement, and any disputes hereunder. Any changes in the governing laws, rules and regulations during the term of this Agreement shall apply but do not require an amendment.
- a. **E-Verify.** The parties mutually warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge that they and their sub-agreementors, if any, warrant their compliance with A.R.S. § 41-4401, and all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214, subsection A and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer.
- b. **Non-Discrimination.** The SBOE agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09, including flow down of all provisions and requirements to any sub-agreementors. Executive Order-09, supersedes Executive Order-4, amends Executive Order-5, and is hereby incorporated into this Agreement as if set forth in full herein. During the

performance of this Agreement, CCP shall not discriminate against any employee, client, or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability, or national origin. (Arizona Executive Order 2009-09 can be downloaded from the Arizona Memory Project at http://azrncmorv.azlibrary.gov/cdmlsingl_citcm/col_lection/cxecorders/id/680/rec/1)

- XIV. **Assignment of Rights.** Neither party to this Agreement shall assign its rights under this Agreement to any other party without written permission from the other party to this Agreement.
- XV. **No Third Party Beneficiaries.** Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties that are not parties to this Agreement or to affect the legal liability of either party to the Agreement by imposing any standard of care different from that imposed by law.
- XVI. **No Joint Venture.** It is not intended by this Agreement to, and nothing contained in this Agreement shall be construed to, create any partnership, joint venture, or employment relationship between the parties or create any employer-employee relationship between any County employees and any SBOE employees. Neither party shall be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other party's obligation to withhold Social Security and income taxes for itself or any of its employees.
- XVII. **Worker's Compensation.** Each party shall comply with the notice of A.R.S. §23-1022(e). For purposes of A.R.S. §23-1022, each party shall be considered the primary employer of all personnel currently or hereafter employed by that party, irrespective of the operations of protocol in place, and said party shall have the sole responsibility for the payment of Worker's Compensation benefits or other fringe of said employees.
- XVIII. **Severability.** If any provision of the Agreement or application thereof to any party, person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Agreement, which can be given effect without the invalid provision or application, and to this end, the provisions of the Agreement are declared severable.
- XIX. **Non-Waiver.** The failure of either party to insist upon the complete performance of any of the terms and provisions of this Agreement by the other party, or to take any action permitted as a result thereof, shall not constitute a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time shall not constitute an accord and satisfaction.
- XX. **Force Majeure.** A party shall not be in default under this Agreement if it does not fulfill any of its obligations under this Agreement because it is prevented or delayed in doing so because of uncontrollable forces. The term "uncontrollable forces" shall mean, for the purpose of this Agreement, any cause beyond the control of the party affected, including but not limited to, failure of facilities, breakage or accident to

machinery or transmission facilities, weather conditions, flood, earthquake, lightning, fire, epidemic, war, riot, civil disturbance, sabotage, strike, lockout, labor dispute, boycott, material or energy shortage, casualty loss, acts of God, or action or non-action by governmental bodies in approving or failing to act upon applications for approval or permits which are not due to the negligence or willful action of the parties, order of any government officer or court (excluding orders promulgated by the parties themselves), and declared local, state, or national emergency, which, by exercise of due diligence and foresight, such party could not reasonably have been expected to avoid. Either party rendered unable to fulfill any obligations because of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

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

To the extent applicable, the Parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518.

XXII. Entire Agreement. This instrument constitutes the entire Agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous Agreements and understandings, oral or written, are hereby superseded and merged herein. This Agreement incorporates all exhibits herein by reference.

IN WITNESS WHEREOF, this Agreement has been passed and approved by the Board of Supervisors of Cochise County on the _____ day of _____

COCHISE COUNTY
Cochise County Board of Supervisors

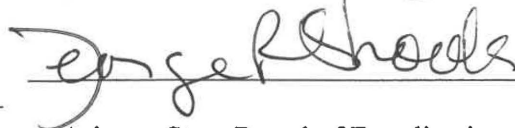
ATTEST:

APPROVE TO FORM:

Timothy Mattix
Clerk of the Board

Deputy County Attorney

IN WITNESS WHEREOF, this Agreement has been approved by the Statutory Agent or Executive Officer for the Arizona State Board of Equalization on February 28, 2023



Arizona State Board of Equalization

APPROVE TO FORM:

Assistant Attorney General

Attorney General Approval as to Form Attached on Separate Form



OFFICE OF THE ARIZONA ATTORNEY GENERAL

KRISTIN K. MAYES
ATTORNEY GENERAL

STATE GOVERNMENT DIVISION
AGENCY COUNSEL SECTION

INTERGOVERNMENTAL AGREEMENT DETERMINATION

Attorney General Contract No. ACS-KR-2023-0004 which is an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General, who has determined that it is in the proper form and is within the powers granted under the laws of the State of Arizona to those Parties to the Agreement represented by the Attorney General.

Dated this 23rd day of February, 2023.

KRISTIN K. MAYES
ATTORNEY GENERAL

Mayorie Beckel
Assistant Attorney General

DOCUMENT NUMBER: _____