

INTERGOVERNMENTAL AGREEMENT FOR BRANCH LIBRARY

This Intergovernmental Agreement for Branch Library (this “Agreement”) is entered into between Cochise County Library District (the “Library”), and the Ash Creek Unified School District No. 53 (the “School”) as of the date last signed by both parties and approved by their respective governing board.

This Agreement is made with reference to the following facts:

1. Pursuant to A.R.S. 11-901 et seq., and 48-3801 et seq., the Library is a county free library district.
2. Pursuant to A.R.S. 11-909(A), the Library has authority to establish branch libraries throughout the Cochise County (the “County”).
3. Pursuant to A.R.S. 15-362(C), the School’s Governing Board may enter into a contract or agreement with the authorities of a County free library or other public library possessing facilities for rendering the desired service for the procurement of other library books or the extension services of such library.
4. Pursuant to A.R.S. 15-1105(B), the School may lease School property for an educational or civic purpose.
5. It is the desire of the parties to enter into an agreement to continue to operate the School's library and the Library's branch jointly.
6. The joint operation of the School's library and the Library’s branch library is deemed by the School Governing Board to promote the educational function of the School.
7. Pursuant to A.R.S. 11-951 et. seq., both parties are authorized to enter into this Agreement.

Therefore, the parties agree as follows:

Section 1. **License.** The School grants to the Library the right to continue to house and operate its branch library jointly with the School library, which shall be open, during branch hours, to all residents of Cochise County.

Section 2. **Space Allotted.** The joint library shall continue to be located in the historic Ash Creek School building.

Section 3. **Term.** This Agreement shall commence July 1, 2021. The initial term of this Agreement shall be for four years, and unless extended, shall terminate on June 30, 2025. The parties may extend the term of this Agreement by the written consent of both parties.

Section 4. **Utilities and Fixtures.** The School shall provide the Library with all the necessary utilities, such as light, heating, and cooling, which are needed for the operation of the branch library.

Section 5. **Equipment, Materials and Supplies.** Both the School and the Library shall purchase equipment, library materials, and supplies for the joint library, according to the needs of each party's own use group. Equipment, materials, and supplies purchased by one party remain the property of that party, and any shared use shall be determined by agreement of the parties. Otherwise, the equipment, materials, and supplies shall be labelled and stored separately.

Section 6. **Hours of Operation.** The branch library shall be allowed to be open to the public on such days and at such times as shall be agreed upon by the Library and the School.

Section 7. **Volunteers.** It is expressly understood that the branch library will be partially staffed by volunteers, who will be under the direction and supervision of a Branch Coordinator hired by the Library. In this regard, the Branch Coordinator will provide the School and the Library with a list of volunteers who will be working in the library. In operating the branch library, neither the Library nor any volunteer of the Library shall be considered an employee of the School. However, both the Library and any volunteer of the Library will at all times conform to any and all laws and School rules and regulations pertaining to the use and occupancy of the School premises. The School shall have the right to require the removal from School premises of any volunteer whose conduct shall be unsatisfactory to the School. Neither party shall be liable for the negligent or tortious acts of the other's volunteers, including during times in which the party whose volunteer is at fault does not have operational control of the premises.

Section 8. **Branch Coordinator.** The Library will hire a qualified person to perform the functions of Branch Coordinator. Among other duties, the Branch Coordinator shall arrange for the branch library to be open at all regularly scheduled hours; recruit, train, and supervise volunteers; and act as liaison with the School and any employee of the School who may be responsible for providing the services of the School library to teachers and students. The Library shall invite the School Superintendent or his/her delegate to participate in the interview process when a new Branch Coordinator is to be hired.

Section 9. **Joint Operation.** The collections of the Library and the School shall be interfiled, and the furniture, equipment, and shelving arranged, as agreed upon by the Library and the School. Procedures which affect both the School library and the branch library shall be jointly developed and agreed upon by the Library and the School. The joint library shall be a member of the Library's computer network, and the School will catalog and circulate the School library materials on this network. The School will participate as a borrower and lender in the Library's countywide and national interlibrary loan systems. The School may use its own policies on circulation, computer use, and other library services during School hours, and the branch may use the Library's policies during branch hours.

Section 10. **Obligations of the Parties.** In consideration for this Agreement, the Library shall provide, through the branch library, books and other materials for the students and faculty of the School, and for other residents of the branch library community and Cochise County, as well as library services such as reference, interlibrary loan, and access to the countywide online system. In addition, the Library will provide in-service training for volunteer staff and assistance with branch library projects. The amount, time, place and manner of provision of such services shall be determined by the Library in consultation with the School and with volunteer staff.

Section 11. **Financing.** Except as noted in the previous section, each party shall be responsible for any financing required to perform its obligations pursuant to this Agreement, and there shall be no exchange of funds between the parties.

Section 12. **Condition of Premises.** The Library shall keep the School's premises in good and sightly condition, insofar as it may be affected by the Library's operations hereunder. The School will be responsible for janitorial service, maintenance, and repair of the building.

Section 13. **Community Input.** To give the community an opportunity to comment on the policies and services of the branch library, the Library will annually, or more frequently as needed, call a public meeting. This meeting may be held in conjunction with a meeting of the School's Governing Board. The time, date, and agenda for each meeting will be posted at the branch library. In addition, the Library will mail a notice of the meeting to the Superintendent of the School, if the meeting is not a joint event.

Section 14. **Indemnification.** The Library shall indemnify and hold the School, its governing board members, employees and agents harmless from any and all claims for damages of any kind whatsoever including costs and attorney's fees, arising or in any manner occasioned by the negligence or intentional torts of the Library, its board members, employees and agents, in connection with the Library's duties under this Agreement, or the Library's use and occupancy of the School premises. The Library shall indemnify the School for any acts of a Library volunteer that cause the School to be liable for damages in connection with injuries occurring on School property.

The School shall indemnify and hold the Library, its board members, employees and agents harmless from any and all claims for damages of any kind whatsoever, arising or in any manner occasioned by the negligence or intentional torts of the School, its board members, employees and agents, in connection with the School's duties under the Agreement.

The mutual indemnification provisions of this Section shall not apply with respect to the personal or real property of the parties; that is, the Library and the School hereby waive any and all right to recovery from each other for loss to personal or real property belonging to the parties, or loss of use thereof, howsoever occurring, except that any library user shall be responsible for the care and return of any item borrowed from the branch library, The Library and the School agree to notify their respective insuring companies of this mutual waiver provision.

Section 15. **Insurance.** The Library agrees to take out and keep in force during the life of this Agreement, general liability insurance in such amounts as is necessary to protect against any liability incident to the duties of the Library under this agreement, or the Library's use and occupancy of the School's premises.

It is permissible for the Library to be a self-insurer as to any required insurance. In the event that the Library elects to self-insure, any and all losses shall be paid by the Library to the extent of the Library's liability for loss, damage or otherwise.

The Library shall provide the School with proof of liability insurance for its use of School property.

The School shall maintain and provide the Library with proof of sufficient liability insurance to cover its activities and obligations pursuant to this Agreement.

Section 16. **Assignment.** This Agreement is not assignable, and any attempt to assign any of the rights, duties or obligations of this Agreement is void.

Section 17. **Prior Agreements.** This Agreement shall supersede any prior agreements between the parties with respect to the joint operation of a library.

Section 18. **Termination.** This Agreement may be terminated by either party for any reason by giving 90 days written notice thereof to the other.

Section 19. **Ownership of Property.** Each party shall remain sole owner of any property it owns at the outset of this Agreement or of any property it acquires during the duration of the Agreement; no joint purchase of property is contemplated hereunder.

Section 20. **Choice of Law.** This Agreement shall be construed under the laws of the State of Arizona and shall incorporate by reference all laws governing the mandatory contract provisions of state agencies required by statute or executive order.

Section 21. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties except for applicable state or federal law governing the relationship between the parties. Any subsequent amendment or addenda to this Agreement. must be in writing and signed by both parties.

Section 22. **Legal.** Review. Pursuant to A.R.S. 11-952(D), an attorney for the School and the Library must review this Agreement. Copies of these authorizations, labeled Exhibits A and B, respectively, are attached to this Agreement.

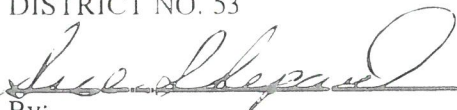
Section 23. Student Privacy. To the extent the parties interact with student records as a result of this Agreement, all written student records shall be kept confidential in accordance with the Family Rights and Privacy Act (FERPA) and regulations adopted pursuant to that Act, the Reauthorization of the Individuals with Disabilities Education Act (“IDEA”) and regulations adopted thereunder, the Health Insurance Portability and Accountability Act (HIPAA) and regulations adopted thereunder, and applicable school board policies as to the disclosure of personally identifiable information from students’ education records.

Section 24. Non-Discrimination. Pursuant to Executive Order 2009-09, the parties shall comply with all applicable Arizona and Federal employment laws, rules, and regulations which requires that all persons shall have equal access to employment and educational opportunities regardless of race, color, religion, disability, sex (including sexual orientation or gender identity), age, national origin, veteran’s status, genetic code or political affiliation during the term of this Agreement.

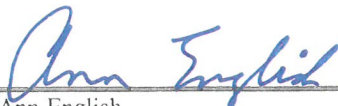
Section 25. Cancellation for Conflict of Interest. This Agreement may be canceled pursuant to A.R.S. 38-511, the applicable provisions of which are incorporated herein by reference.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

ASH CREEK UNIFIED SCHOOL
DISTRICT NO. 53



By: _____
Its: *Principal*
Dated: *June 28, 2021*

COCHISE COUNTY LIBRARY DISTRICT



By: Ann English *7-27-21*
Its: Cochise County Board of Supervisors Chair
Dated: *7-27-2021*

The foregoing Agreement has been reviewed pursuant to A.R.S. 11-952 by the undersigned counsel of the respective parties, 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 to each of the parties.

For the District


By: Dustin Cammack, Udall Shumway PLC
Dated: 28 June 2021

For the Library


Kris Carlson (Jul 22, 2021 13:05 PDT)
By: Kris Carlson, Cochise County Deputy Attorney
Dated: Jul 22, 2021