

**Intergovernmental Agreement
Between
Pima County and Pima County Amphitheater Schools
For Pima Early Education Program.**

This Intergovernmental Agreement ("IGA") is between Pima County ("County"), a body politic and corporate of the State of Arizona, and Pima County Amphitheater Schools *dba* Amphitheater Public Schools ("District"), a taxing district of the State of Arizona, pursuant to A.R.S. § 11-952.

1. Background.

- 1.1. County and District may contract for services and enter into agreements with one another for joint or cooperative action pursuant to A.R.S. § 11-951, *et seq.*
- 1.2. County is authorized by A.R.S. §§ 11-254.04 to appropriate and spend public monies for and in connection with activities that the County Board of Supervisors finds and determines will assist in the creation or retention of jobs or will otherwise improve or enhance the economic welfare of County inhabitants.
- 1.3. District is authorized by A.R.S. § 15-342 to enter into this IGA with County.
- 1.4. County, as part of its Economic Development Plan 2019-2021, has recognized the significance of workforce shortages and the need for reliable, high-quality, and affordable preschool programs to address barriers to parents entering and remaining in the workforce.
- 1.5. Research shows that children, particularly economically disadvantaged children and children of color, who attend preschool are better prepared for kindergarten and are less likely to need expensive special education services, and that, with continued supportive education, these benefits may result in positive longer-term outcomes for those children, their parents, employers, and taxpayers.
- 1.6. In Pima County, only 46% of third graders are minimally proficient at reading - a key educational indicator. Preschool enrollment is low, enrollment in quality preschool is even lower, half of all preschool-age children are from low-income families, a majority of preschool-age children from low-income families are children of color, and public funding and preschool capacity for those who need it is insufficient.
- 1.7. County has determined that funding preschool expansion for low-income families that wish to enroll their preschool-age children in high quality preschools will improve the economic health and welfare of those children, their parents, employers, and taxpayers.

2. Purpose.

The purpose of this IGA is to increase the number of high-quality preschool classes at District sites without cost to low-income families.

3. Term

This IGA commences on July 1, 2024, and will terminate on June 30, 2025. If the commencement date of the Term is before the date of execution, the parties will, for all purposes, deem the IGA to have been in effect as of the commencement date.

4. Party Responsibilities.

4.1 District shall provide County with the services described in the attached Exhibit A ("Program Services"). District shall obtain and maintain all applicable licenses, permits, and authority required for its performance under this IGA. District shall also identify a Liaison for this IGA by July 1, 2024.

4.2 County shall pay District for the services described in the attached Exhibit A. County shall identify a Liaison for this IGA by July 1, 2024. County shall also notify District in advance if the IGA is transferred to a third party for administration and will also identify the new Liaison.

5. Confidentiality

District acknowledges that student files and information are private and the use or disclosure of such information, when not directly connected with District's or County's responsibilities under this IGA is prohibited unless District obtains written consent from the individual or, in the case of a minor, from the responsible parent or guardian of the minor. District will allow only authorized individuals with a need for client or applicant information to have access to these files. District will comply with all state and federal statutes and regulations governing the use or disclosure of private information.

6. Monitoring

County will monitor all of District's management, fiscal, and service provision activities to ensure that District is making adequate and acceptable progress in the provision of Program Services, maintaining adequate and acceptable systems to document services and expenditures, and using the provided funds effectively and efficiently to accomplish the program purposes. District will cooperate with County in the monitoring and evaluation process and will provide County with access to all documentation required to evaluate District's performance and use of funds under this IGA.

7. Financing.

7.1. Funds for the Pima Early Education Program are provided by the City of Tucson and passed through the County. In consideration for the provision of Program Services, County shall pay District an amount not-to-exceed \$466,635.60 ("the maximum allocated amount"). District may not submit requests for payment prior to the end of the first month of Program Services and before District has completed and submitted a W-9 Taxpayer Identification Number form and registered online as a Pima County Vendor through County's Vendor Self Service System. County will only pay for services listed in Exhibit A and provided between the commencement date in Section 3 and the termination date. County shall notify District by May 31, 2025 of County's ability to fund additional Program Services in Fiscal Year 2025.

7.2. County will pay District a per-class base reimbursement rate. The rates in 7.2.1 below are based on the following per child amounts to be paid by the County: \$8,641.40 per child

per 10-month program. Because the total cost per child is estimated at \$10,391.40, the parties understand that District is making an in-kind contribution of \$1,750 per child in addition to the \$8,641.40 per child paid by the County:

- 7.2.1 Up to \$155,545.20 per 18-child class per 10-month program (3-year-old class or mixed 3–5-year-olds not eligible for Kindergarten).
- 7.3. District shall maximize existing financial assistance for preschools and utilize County funding as a last-dollar-in approach. District shall ensure other financial assistance has been applied and accepted if awarded. Examples include but are not limited to Arizona Department of Economic Security (“DES”) childcare subsidies and Quality First scholarships. District also shall not invoice County for costs that are paid by another fund source(s) and District shall allocate expenses between other fund sources, as allowable. District shall document receipt of alternative funding for costs which would otherwise be subject to payment under this IGA as part of the monthly invoice to the County under Section 7.6 below. District must have an accounting manual describing its financial procedures in sufficient detail to allow a reasonable understanding of District's financial practices.
- 7.4. The rates paid by County to District, in addition to the in-kind contribution by District, are intended to fully cover the cost of providing high quality preschool. Districts shall not charge eligible families any fees. District may only charge fees for before or after preschool care. In the event that the total reimbursable expenses under this IGA exceed the costs of services, District shall use such monies to improve the quality of preschool programming.
- 7.5. The rates paid by County account *or* District's in-kind contributions to this program including classroom space, utility costs, custodian services, security, and administrative overhead (Human Resources, Information Technology, payroll processing, etc.), valued at approximately \$1,750 per 10-month program per child.
- 7.6. District shall submit invoices and performance reports to County within 30 days from the end of the service month using the form in Exhibit B. The invoice will include the following information: (1) number of new classes in operation under this IGA multiplied by the per class base reimbursement rate for that age group, (2) the dollar amount of other financial assistance received by the school district that month for the children in the class(es), (3) the dollar amount received by the school district that month for private-pay children in the class(es), and (4) the total reimbursable amount for that month. The performance report will include (1) the total number of children enrolled per class for that month as of the last day of the month, (2) number of children receiving other financial assistance that month to attend class(es), and (3) number of children funded under private pay to attend class(es). An authorized representative of District shall approve and sign all invoices and performance reports.
- 7.7. County will reimburse District at the per class base reimbursement rate regardless of enrollment, less other financial assistance, and less private pay received for children in the class(es). For example, two classes of 18 children each at the per class base reimbursement rate of \$155,545.20 each (\$311,090.40), minus DES subsidy received for five children, minus private pay received for two children = total reimbursement amount.

7.8. If District's invoices include adequate and accurate documentation, County will generally pay District within 30 days from the date County receives the invoice. Before paying District, County may first determine the acceptability and progress of work performed and determine the resulting entitlement to payment of each request for payment. In addition, County may liquidate funds available under this JGA for costs incurred by County on behalf of District. County may also deny reimbursement completely for requests for payment made later than six months after the last item of the account accrues. County may question any payment made under this Section 7.8 and require reimbursement by setoff or otherwise for payments that County determines were improper. District shall reimburse County for improper, unallowable, or unsubstantiated costs discovered as a result of audit or otherwise within 30 days following demand for reimbursement by County.

8. Audit Requirements

District shall establish and maintain a separate and identifiable account of all funds provided by County under this IGA. District shall also provide financial statement audits as required by law. Upon written notice from County, District shall provide a program-specific financial statement. The notice will identify the period to be covered by the statement and the deadline for District to complete and submit the statement. District shall ensure that any audit conducted pursuant to this IGA is performed by an independent certified public accountant and submitted to County within six months of completion of District's fiscal year unless a different time is specified by County. The audit submitted must include District's responses, if any, to audit findings. District is responsible for all costs for any audit required or requested pursuant to this Section 8.0, unless the cost was specifically included in the approved budget(s) under this IGA. District shall timely submit the required or requested audit(s) to:

Nicole Scott
Program Manager
Pima County Community & Workforce
Development
2797 E. Ajo Way 3rd Floor
Tucson, AZ 85713

9. Insurance.

9.1. District will procure and maintain at its own expense insurance policies (the "Required Insurance") satisfying the below requirements (the "Insurance Requirements") until all of its obligations under this Contract have been met. The below Insurance Requirements are minimum requirements for this Contract and in no way limit District's indemnity obligations under this Contract. The County in no way warrants that the required insurance is sufficient to protect the District for liabilities that may arise from or relate to this Contract. If necessary, District may obtain commercial umbrella or excess insurance to satisfy the Insurance Requirements.

9.2. Insurance Coverages and Limits:

9.2.1. Commercial General Liability (CGL): Occurrence Form covering liability arising from premises, independent contractors, personal injury, bodily injury, broad form contractual liability and products-completed operations with minimum limits not less than \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate.

9.2.2. Business Automobile Liability: Coverage for any owned, leased, hired, and/or non-owned autos assigned to or used in the performance of this Contract with minimum limits not less than \$1,000,000 Each Accident.

9.2.3. Workers' Compensation (WC) and Employers' Liability:

9.2.3.1. Workers' Compensation with Employers Liability limits of \$1,000,000 each accident and \$1,000,000 each employee - disease. Workers' Compensation statutory coverage is compulsory for employers of one or more employees.

9.2.3.2. Note: The Workers' Compensation requirement does not apply if District is exempt under A.R.S. § 23-901, and has executed the appropriate Pima County Sole Proprietor (Independent Contractor) Waiver form.

9.3. Additional Coverage Requirements:

9.3.1. Insurer Financial Ratings: Coverage must be placed with insurers acceptable to the County with A.M. Best rating of not less than A- VII, unless otherwise approved by the County.

9.3.2. Additional Insured: The General Liability policy must be endorsed to include Pima County and all its related special districts, elected officials, officers, agents, employees and volunteers (collectively "County and its Agents") as additional insureds with respect to liability arising out of the activities performed by or on behalf of the District. The full policy limits and scope of protection must apply to the County and its Agents as an additional insured, even if they exceed the Insurance Requirements.

9.3.3. Waiver of Subrogation: Commercial General Liability and Workers' Compensation coverages must each contain a waiver of subrogation in favor of County and its Agents for losses arising from work performed by or on behalf of the District.

9.3.4. Primary Insurance: The Required Insurance policies, with respect to any claims related to this Contract, must be primary and must treat any insurance carried by County as excess and not contributory insurance. The Required Insurance policies may not obligate the County to pay any portion of a District's deductible or Self Insurance Retention (SIR).

9.3.5. Subcontractors: District must either (a) include all subcontractors as additional insureds under its Required Insurance policies, or (b) require each subcontractor to separately meet all Insurance Requirements and verify that each subcontractor has done so, District must furnish, if requested by County, appropriate insurance certificates for each subcontractor. District must obtain County's approval of any subcontractor request to modify the Insurance Requirements as to that subcontractor.

9.4. Verification of Coverage:

9.4.1. Insurer or Broker of District must evidence compliance with the Insurance Requirements by furnishing certificates of insurance executed by a duly authorized representative of each insurer. Each certificate must include:

- 9.4.1.1. The Pima County tracking number for this Contract, which is shown on the first page of the Contract, and a project description, in the body of the Certificate,
 - 9.4.1.2. A notation of policy deductibles or SIRs relating to the specific policy, and
 - 9.4.1.3. Certificates must specify that the appropriate policies are endorsed to include additional insured and subrogation waiver endorsements for the County and its Agents.
- 9.4.2. Each Required Insurance policy and appropriate endorsements must be in effect not less than fifteen (15) days prior to commencement of work under this Contract. A renewal certificate must be provided to County not less than fifteen (15) days prior to the policy's expiration date to include actual copies of the additional insured and waiver of subrogation endorsements. Failure to maintain the Required Insurance, or to provide evidence of renewal, is a material breach of this Contract.
- 9.4.3. County reserves the right to, at any time, require complete copies of any or all Required Insurance policies.
- 9.4.4. Cancellation Notice: District's insurance policies and endorsements shall not be permitted to expire, be cancelled, suspended or materially changed from the agreed upon Insurance Requirements for any reason without thirty (30) days advance written notice to the County of the policy cancellation, suspension or material change. District must provide written notice to County within two (2) business days of receipt of notice. For cancellation of non-payment, Insurer is to provide County with written notice ten (10) days prior to cancellation of policy.

9.5. Approval and Modifications:

The Pima County Risk Manager may approve a modification of the Insurance Requirements without the necessity of a formal Contract amendment, but the approval must be in writing. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from the District, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

10. Indemnification

Each party (as Indemnitor) agrees to indemnify, defend and hold harmless the other party (as Indemnitee) from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") for bodily injury of any person (including death) or property damage, but only to the extent that such injury or damage is caused or alleged to be caused by a negligent or intentionally wrongful act or omission of the Indemnitor, or of any of its officers, officials, agents, employees, or volunteers.

11. Suspension

County reserves the right to suspend District's performance and payments under this IGA

immediately upon notice delivered to District's designated agent in order to investigate District's activities and compliance with this Agreement. In the event of an investigation by County, District will cooperate fully and provide all requested information and documentation. At the conclusion of the investigation, or within 45 days, whichever is sooner, District will be notified in writing that the IGA will be immediately terminated or that performance may be resumed.

12. Termination

- 12.1. Without Cause: Either party may terminate this IGA at any time, without cause, by notifying the other party, in writing, at least 30 days before the effective date of the termination. In the event of such termination, the County's only obligation to District will be payment for services rendered prior to the date of termination.
- 12.2. With Cause: Either party may terminate this IGA at any time without advance notice and without further obligation if either party finds the other party to be in default of any provision of this Agreement.
- 12.3. Non-Appropriation: Notwithstanding any other provision in this IGA, this IGA may be terminated if for any reason the Pima County Board of Supervisors or the District does not appropriate sufficient monies for the purpose of maintaining this IGA. In the event of such cancellation, the parties will have no further obligations under this IGA other than for payment for services rendered prior to cancellation.

13. Compliance with Laws

The parties will comply with all federal, state and local laws, rules, regulations, standards and Executive Orders. The laws and regulations of the State of Arizona will govern the rights of the parties, the performance of this IGA and any disputes. Any action relating to this IGA will be brought in a court in Pima County.

14. Non-Discrimination

The parties shall not discriminate 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. The parties will comply with all provisions and requirements of Arizona Executive Order 2009-09 including flow down of all provisions and requirements to any subcontractors.

15. Americans with Disabilities Act

The parties shall comply with Title II of the Americans with Disabilities Act (Public Law 110-325, 42 U.S.C. §§12101-12213) and the federal regulations for Title II (28 C.F.R. Part 35).

16. Cancellation for Conflict of Interest

This IGA is subject to cancellation for conflict of interest pursuant to ARS § 38-511, the pertinent provisions of which are incorporated into this IGA by reference.

17. Severability

If any provision of this IGA, or any application of a provision to the parties or any person

or circumstance, is found by a court to be invalid, that invalidity will not affect other provisions or applications of this IGA that can be given effect without the invalid provision or application.

18. Legal Authority

Neither party warrants to the other its legal authority to enter into this IGA. If a court, at the request of a third person, should declare that either party lacks authority to enter into this IGA, or any part of it, then the IGA, or parts of it affected by such order, will be null and void, and no recovery may be had by either party against the other for lack of performance or otherwise.

19. Worker's Compensation

Each party will comply with the notice of A.R.S. § 23-1022 (E). For purposes of A.R.S. § 23-1022, irrespective of the operations protocol in place, each party is solely responsible for the payment of Worker's Compensation benefits for its employees.

20. No Joint Venture

It is not intended by this IGA to, and nothing contained in this IGA will be construed to, create any partnership, joint venture or employment relationship between the parties or create any employer-employee relationship between a party and the employees of the other party. Neither party will 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.

21. No Third-Party Beneficiaries

Nothing in this IGA is intended to create duties or obligations to or rights in third parties not parties to this IGA or *affect* the legal liability of either party to the IGA by imposing any standard of care with respect to the maintenance of public facilities different from the standard of care imposed by law.

22. Notice

Any notice required or permitted to be given under this IGA must be in writing and served by delivery or by certified mail upon the other party as follows (or at such other address as may be identified by a party in writing to the other party):

County

Nicole Scott
Program Manager
Pima County Community & Workforce
Development
2797 E. Ajo Way 3rd Floor
Tucson, AZ 85713

District:

Lisa Anne Smith
Associate to the Superintendent and
General Counsel
Amphitheater Public Schools
701 W. Wetmore Road
Tucson, AZ 85705

23. Counterparts

The parties may execute this IGA in any number of counterparts, each counterparts considered an original, and together such counterparts constitute one and the same instrument.

24. Entire Agreement

This document, and any exhibits attached to it, constitutes the entire agreement between the parties pertaining to the subject matter addressed, and all prior or contemporaneous agreements and understandings, oral or written, are superseded and merged into this IGA. This IGA may not be modified, amended, altered or extended except through a written amendment signed by the parties.

SIGNATURE PAGE TO FOLLOW

In Witness Whereof, County has caused this Intergovernmental Agreement to be executed by the Chair of its Board of Supervisors, upon resolution of the Board, and attested to by the Clerk of the Board, and District has caused this Intergovernmental Agreement to be executed by the Governing Board President upon resolution of the Governing Board and attested to by Governing Board Clerk.

PIMA COUNTY:

DISTRICT:

Chair, Board of Supervisors

Governing Board President

ATTEST

ATTEST

Clerk of the Board

Governing Board Clerk

Approval

The foregoing Intergovernmental Agreement between County and District has been reviewed by the undersigned and is hereby approved as to content.

Jan Leshner, Pima County Administrator

Intergovernmental Agreement Determination

The foregoing Intergovernmental Agreement between County and the District has been reviewed by the undersigned, each of whom has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the party he or she represents.

PIMA COUNTY:

DISTRICT

 05/15/2024

Rachelle Barr, Deputy County Attorney

General Counsel

Exhibit A – Program Services

PIMA EARLY EDUCATION PROGRAM (“the Program”)

- 1. Family Eligibility:** To be eligible for the Program, families must have children ages three to five years old not eligible for Kindergarten, with a household income at or below 300% of the Federal Poverty Level.
- 2. District Eligibility:**
 - 2.1.** District shall (1) operate preschool classes at least six hours a day for 10 months of the year, (2) be contracted with DES to accept child care subsidies for DES eligible children, and (3) be considered “high-quality” meaning they have a Quality First rating of 3-5 stars, be a Head Start program, or be Nationally Accredited by one of the following organizations considered by DES as high-quality: National Association for the Education of Young Children, American Montessori Society, Association for Christian Schools International, National Accreditation Commission for Early Care and Education Programs, National Early Childhood Program Accreditation. District shall provide County with a copy of the District’s current certification by DES prior to submitting District’s first invoice.
 - 2.2.** If a District site is not rated high-quality, but District operates preschool classes at other District sites that are rated high-quality, the new classes shall be designed and operated to replicate those existing high-quality classes and District shall submit proof of application for Quality First or another eligible high-quality accreditation prior to submitting District’s first invoice.
- 3. Program Locations:** District shall provide the Program at the following locations:
 - 3.1.** Keeling Elementary School: 2837 N Los Altos Ave, Tucson, AZ 85705 (1 class)
 - 3.2.** Prince Elementary School: 125 E Prince Rd, Tucson, AZ 85705 (1 class)
 - 3.3.** Rio Vista Elementary School: 1351 E Limberlost Dr, Tucson, AZ 85719 (1 class)
- 4. District Responsibilities:** District shall:
 - 4.1.** Commence operation of new preschool classes of up to 18 children each, dependent on age, by August 31, 2023, or at the latest by January 10, 2025.
 - 4.2.** Operate the new classes according to the High Quality standards as defined by the preschool’s applicable accreditation.
 - 4.3.** Market the classes to eligible families.
 - 4.4.** Confirm age, birthdate, and income eligibility for all children. Income eligibility shall be based on household income and size. The income eligibility check is only required when the child first enters the preschool program. If family income increases after that, the child is still eligible and may continue to attend.
 - 4.5.** For families with incomes at or below 165% of the Federal Poverty Level, (1) request the family apply for DES childcare subsidy, (2) provide the family with information about how to apply, and (3) require the family to accept the subsidy if awarded and to notify the District of the award.
 - 4.6.** Provide families with a Family Award Notification Letter when enrollment is complete, provide County with a copy, and keep a copy on file (sample letter attached as Attachment A-1, to include attestation for age and income eligibility, race and ethnicity,

other data used for program evaluation, DES eligibility and attestation language, and acknowledgement of Pima County funding).

- 4.7.** Have a written attendance policy in place and provide the policy to families.
- 4.8.** Make a good faith effort to fill class vacancies within 30 calendar days.
- 4.9.** Offer to provide snacks and meals to all children in the class, regardless of whether they qualify for free or reduced lunch.
- 4.10.** Attend quarterly coordination meetings with County and other Districts.
- 4.11.** If District's site provides infant/toddler care, District's site may not reduce the number of classes for that age group.

END OF EXHIBIT A

ATTACHMENT A-1 (2 Pages)
SAMPLE FAMILY AWARD NOTIFICATION LETTER



[ADD SCHOOL DISTRICT LOGO]

Pima Early Education Program/ [ADD SCHOOL DISTRICT NAME]
Family Award Notification Letter

Thank you for enrolling your child in a high quality preschool class! This class is funded by Pima County and your school district, as part of the Pima Early Education Program (PEEP). The PEEP mission is built on research which shows that children who attend high quality preschool programs are better prepared for kindergarten. There are long term benefits, too: Children are more likely to graduate high school, have higher incomes, and have better health. High quality preschool benefits not only children, but also families, schools and our community as a whole. Congratulations on your decision to participate!

[District] has confirmed that your child is age and income eligible to attend this class for free, and the school is only allowed to charge you for before or after school care.

The following section is to be completed by School Personnel, with a copy provided to parents/guardians, Pima County, and kept on file by the School.

Today's Date _____

Name of Child _____

Anticipated date child will start preschool _____

Child is age eligible for this class? Yes or No

Child's family income is 300% or below the Federal Poverty Level. Yes or No

2024 Federal Poverty Levels (FPL)							
Supplied by the U.S. Department of Health and Human Services							
Family Size	2	3	4	5	6	7	8*
300% of FPL	\$61,320	\$77,460	\$93,600	\$109,740	\$125,880	\$142,020	\$158,160

*For each person over family size of eight (8), add \$16,140

Child's family income is 165% or below the Federal Poverty Level. Yes or No

2024 Federal Poverty Levels (FPL) Supplied by the U.S. Department of Health and Human Services							
Family Size	2	3	4	5	6	7	8*
165% of FPL	\$33,726	\$42,603	\$51,480	\$60,357	\$69,234	\$78,111	\$86,988

*For each person over family size eight (8), add \$8,877

If yes, please provide family with DES Childcare Application or information on where to access the application. [How to Apply for Child Care Assistance | Arizona Department of Economic Security \(az.gov\)](https://www.az.gov/child-care)

Child's Race (please select all that apply):

- ☐ White
- ☐ Black or African American
- ☐ American Indian or Alaska Native
- ☐ Asian
- ☐ Native Hawaiian or other Pacific Islander

Child's Ethnicity:

- ☐ Hispanic or Latino
- ☐ NOT Hispanic or Latino

School District Name _____

School Name _____

School Address _____

Form completed by – please print and sign

Date

Contact Phone number

PIMA COUNTY INVOICE AND PERFORMANCE REPORT
Pima County Department of Community & Workforce Development-ARPA Treasury **CSLFRF**

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