

**FIRST AMENDED  
INTERAGENCY GOVERNMENTAL AGREEMENT**

**BETWEEN**

**THE CITY OF SIERRA VISTA**

**AND**

**SIERRA VISTA UNIFIED SCHOOL DISTRICT #68**

**FOR**

**PARTNERSHIP BETWEEN AGENCIES**

This InterAgency Governmental Agreement (hereinafter referred to as Agreement) is entered into, in accordance with Arizona Revised Statutes, Section 11-952, retroactive to the 1st day of July, 2018, by and between the City of Sierra Vista, a municipal corporation, organized under the laws of the State of Arizona (hereinafter referred to as City) and Sierra Vista Public School District #68 (hereinafter referred to as Agency or DISTRICT).

**BACKGROUND AND INTENT**

WHEREAS, both Parties acknowledge that it is in the best interest of the local taxpayers to minimize costs and maximize benefits to both Parties; and

WHEREAS, pursuant to Arizona Revised Statutes, Section 11-952, which allows two or more public agencies to pool property by entering into an InterAgency Governmental Agreement (IGA) with City and Agency desiring to enter into an IGA.

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WHEREAS, at times the City and/or Agency may have a need for equipment, personnel, services or other assets that can be more efficiently and effectively provided through partnering with another governmental Agency that may be in possession or have access to these assets.

THEREFORE, in consideration of the mutual promises contained in this Agreement, and of the mutual benefits to result there from, Parties agree as follows:

## **SCOPE**

The City and/or Agency agrees to provide services to each other as set forth in the attached Schedules, subject to the terms and conditions set forth herein. The services pursuant to this Agreement are provided solely to the City and Agency for the purposes described herein. Each of the Schedules attached to this Agreement shall be deemed to include the each of the provisions of the overarching Agreement as if specifically written therein.

The City and/or Agency shall provide a list of items to be serviced and/or or services to be performed under this Agreement to facilitate service and accurate invoicing/billing information, when applicable. The facilities, services, and/or items that will be subject to this Agreement are listed in the attached Schedules.

The attached Schedules may be edited by the City or Agency at any time by mutual consent of both Parties. 60 days' notice shall be provided prior to instituting any changes to the fees and terms detailed in the attached Schedules.

City and/or Agency personnel will perform the services identified herein and in the attached Schedules in accordance with generally-accepted practices and procedures. Post-service disputes shall be remedied upon notice by one Party to the other that an issue exists, and both Parties agree to attempt to reach a mutually acceptable solution in a timely manner.

City and Agency agree to meet on no less than an annual basis to evaluate costs, expenses, and adjust terms, if needed, by mutual Agreement in order to ensure a mutually beneficial relationship.

## **TERM**

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The initial term of this Agreement shall be from July 1, 2018, through June 30, 2019. Thereafter, it shall be deemed renewed for successive one-year terms as of July 1 of each year, unless terminated by mutual written Agreement of both Parties, or pursuant to the conditions of this Agreement.

## **TERMINATION, DEFAULT, AND REMEDIES**

Either Party may terminate this Agreement by written notice to the other Party at least sixty (60) days prior to the date of the termination.

If either the Agency or the City fails to honor the terms of this Agreement, to include timely payment of agreed upon fees, the Party at fault shall be deemed to be in default of this Agreement.

If either Party, after written notice, fails to remedy any default within 30 days, or if the remedy requires more than 30 days or fails to begin and diligently pursue remedy of the default within 30 days, the affected Party may, at its option, terminate this Agreement by providing written notice of such termination to the other Party. The aggrieved Party may also pursue any other remedies available to it under applicable law by reason of Party's default.

### **INSURANCE**

It is understood that Agency and City are both public bodies in the State of Arizona. Each Party shall maintain worker's compensation insurance as required by statute, general commercial liability insurance, property damage insurance and automobile liability insurance with respect to its activities under this Agreement.

Except as may be required by statute, the liability insurance referred to above shall provide, as a minimum, liability coverage for not less than \$1,000,000 combined single limit.

The limits of the required insurance shall be adjusted in accordance with the maximum limit of liability imposed on political subdivisions of the State of Arizona during the term of this Agreement.

The insurance shall stipulate that the coverage shall not terminate or be canceled without thirty days written notice first being given to the Insured Party's risk manager. If the insurance is canceled or terminated prior to termination of the Agreement, the Insuring Party shall provide a new policy with the same or greater limits. The Insuring Party agrees to maintain continuous, uninterrupted coverage for the duration of the Agreement and to provide the Insured Party with evidence thereof on an annual basis.

### **INDEMNIFICATION**

To the fullest extent permitted by law, each Party shall defend, indemnify, and hold harmless the other Party, its agent's officers, officials and employees from and against all tortuous claims, damages, losses and expenses, including but not limited to attorney fees, court costs and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of each Party, its agents or employees. It is each Party's duty to defend, hold harmless and indemnify the other Party, its agents, officers, officials and employees shall arise in connection with any tortuous claim, damage, loss or expense that is

attributable to bodily injury, sickness, disease, death or injury to, impairment or destruction of property including loss of use resulting there from caused by either Party's acts, errors, mistakes, omissions, work or services in the performance or failure to perform under this Agreement, including any employee of either Party or any other person for whose acts, errors, mistakes, omissions, work or services either Party may be legally liable. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

**ADMINISTRATION OF AGREEMENT**

Each Party shall designate a representative or representatives, notice of the same to be provided to the other Party, who shall be jointly responsible for developing procedures to be utilized in fulfilling this Agreement and providing other administrative services as necessary. Any disputes arising under this Agreement which cannot be resolved by the above-mentioned representatives, shall be referred to the City Manager and Agency's representative for joint resolution. Disputes not resolved at this level shall be referred to binding arbitration to be conducted by a panel of three arbitrators, one selected by each Party, and the third selected by the two arbitrators.

**NOTICES**

Unless otherwise specified herein, any notice or communication required or permitted under this Agreement shall be in writing and sent to the address given below for the Party to be notified.

City

Agency

City of Sierra Vista  
1011 North Coronado Drive  
Sierra Vista, AZ 85635  
520-458-3315

Sierra Vista Unified School District #68  
3555 East Fry Boulevard  
Sierra Vista, AZ 85635  
520-515-2701

Attn: Chief Procurement Officer

Attn: Chief Procurement Officer

**ASSIGNMENT**

Neither Party shall assign the rights or duties under this Agreement to a third Party without the written consent of the other Party. Any such assignment in violation of this Agreement will be grounds for termination of the Agreement.

## **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 and State Executive Order 2009-09 which mandated all persons, regardless of race, religion, handicap, color, age, sex, political affiliation, veteran's status or national origin shall have equal access to employment opportunities. All Parties shall comply with the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap, with all federal regulations regarding equal employment opportunity, with relevant orders issued by the U.S. Secretary of Labor and with all applicable provisions of the Americans with Disabilities Act, Public Act 101-336, 42 U.S.C. Sections 12101-12213 and all applicable Federal Regulations under the Act, including 28 C.F.R. Parts 35 & 36.

## **RIGHTS OF PARTIES**

The provisions of this Agreement are intended only to define the respective rights and obligations of the Parties. Nothing expressed herein shall create any rights or duties of any nature or kind in favor of any third Party.

## **SEVERABILITY**

The provisions of this Agreement are severable to the extent any provision or application held to be invalid shall not affect any other provision or application of the Agreement, which may remain in effect without the invalid provision, or application.

## **OTHER TERMS**

1. **WORKER'S COMPENSATION:** For purposes of workers' compensation, an employee of a Party to this Agreement, who works under the jurisdiction or control of, or who works within the jurisdictional boundaries of another Party pursuant to this intergovernmental Agreement, is deemed to be an employee of both the Party who is her primary employer and the Party under whose jurisdiction or control or within whose jurisdictional boundaries they are then working, as provided in A.R.S. §23-1022(D). The primary employer of such employee shall be solely liable for payment of workers' compensation benefits for the purposes of this section. Each Party herein shall comply with the provisions of A.R.S. §23-1022(E) by posting the notice required.
2. **CONFLICT OF INTEREST.** This Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511 regarding Conflict of Interest.
3. **NO BOYCOTT OF ISRAEL.** In accordance with A.R.S. § 35-393.01, the Parties certify that they are not currently engaged in, and for the duration of this Agreement agree not to

engage in, a boycott of Israel, and will not adopt a procurement, investment, or other policy that has the effect of inducing or requiring a person or company to boycott Israel.

4. **DISPUTE RESOLUTION.** The Parties mutually agree that any disputes arising pursuant to the Agreement shall be resolved through informal dispute resolution.
5. **COMPLIANCE WITH 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.
6. **INSPECTION AND AUDIT.** The Parties agree to keep all books, accounts, reports, files, and other records relating to this Agreement 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.
7. **PUBLIC RECORDS LAW.** Notwithstanding any other provision of the Agreement, the Parties understand that all of the other Parties are public entities and, as such, are each subject to Arizona's public records law, A.R.S. § 39-121 et. seq.
8. **JURISDICTION AND APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of Arizona and shall incorporate by reference all laws governing the mandatory contract provisions of public agencies required by statute or executive order. Jurisdiction and venue for any action under this Agreement shall be in Cochise County, Arizona.
9. **SURRENDER OF EQUIPMENT.** If this Agreement is terminated for any reason, Agency and City shall surrender any equipment provided by either to the other for the purposes of utilizing products or services pursuant to this Agreement.
10. **AUTHORITY OF PARTIES.** The persons executing this Agreement on behalf of the Parties hereby represent and guarantee that they have been authorized to do so, on behalf of themselves and the entity they represent. Further representation is made that due diligence has occurred, and that all necessary internal procedures and processes, including compliance with the open meeting law where necessary, have been satisfied in order to legally bind the entity to the terms of this Agreement.
11. **COUNTERPARTS.** This Agreement may be executed in multiple counterparts, each of which shall constitute an original and together shall constitute the Agreement.

IN WITNESS WHEREOF, two identical counterparts of this Agreement, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Parties hereinabove named on the dates indicated below.

Dated this 27 day of Feb, 2020

CITY OF SIERRA VISTA:

By: [Signature]  
FREDERICK W. MUELLER, Mayor

STATE OF ARIZONA, County of Cochise

On this 27th day of February, 2020, personally appeared before me Frederick W. Mueller, known by me to be the person whose name is subscribed the foregoing instrument, and acknowledged that he/she executed the same for the purpose and consideration therein expressed.

(Signature of Notary Public) [Signature]

My Commission Expires: 02-18-23



SIERRA VISTA UNIFIED SCHOOL DISTRICT NO. 68

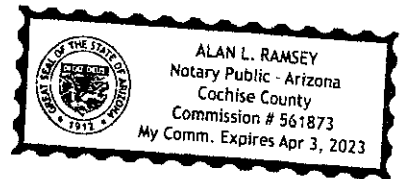
By: [Signature]  
Barbara Williams  
President, Governing Board

STATE OF ARIZONA, County of Cochise

On this 24 day of MARCH, 2020, personally appeared before me Barbara Williams, known by me to be the person whose name is subscribed the foregoing instrument, and acknowledged that he executed the same for the purpose and consideration therein expressed.

(Signature of Notary Public) [Signature]

My Commission Expires: 04-03-2023



APPROVAL AS TO FORM:

[Signature]  
NATHAN WILLIAMS  
City Attorney

APPROVAL AS TO FORM:

[Signature]  
CANDYCE B. PARDEE  
UDALL SHUMWAY, PLC  
On Behalf of Sierra Vista Unified  
School District

## **Schedule A**

**CITY OF SIERRA VISTA  
DEPARTMENT OF PUBLIC WORKS  
PEDRO CASTRO GOVERNMENT MAINTENANCE CENTER**

### **FUELING AND ACCESS RULES**

#### **FUEL CHARGES**

The City operates a fuel management program that uses smart key technology. Each Agency vehicle will be assigned a smart key that will be used when dispensing fuel. The operator will insert the key at the fuel island and enter the current vehicle odometer reading to activate the system and dispense fuel.

The City will charge Agency for fuel dispensed by Agency pursuant to this Agreement at a rate of which is comprised of the City's actual delivered cost for said fuel, including applicable taxes. In the event the City recoups any gas taxes as a result of the fuel used in student bus transportation, or is able to remove the taxes before charging the school district, this savings will be passed onto the District. Nothing in this Agreement shall preclude the Agency from independently seeking rebates for gas taxes should the City be unable to do so on behalf of the Agency.

The City's fuel management system will charge Agency's established fuel account with the City for each fueling transaction. Billing for fuel dispensed will occur monthly via invoice from the City. All invoices must be paid by the Agency within 30 calendar days of receiving the invoice. Invoices shall be paid to:

City of Sierra Vista  
Attn: Finance/Fuel Billing  
1011 North Coronado Drive  
Sierra Vista, AZ 85635

#### **NON-AVAILABILITY OF FUNDS**

Every payment obligation of the Agency under this Agreement is contingent upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the Agency at the end of the period for which funds are available. No liability shall accrue to the Agency in the event this provision is exercised, and the Agency shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.



## **HOURS OF OPERATION**

The fueling site is operated on a 24-hour/7 day schedule.

## **WORKING HOURS CONTACT**

Monday through Friday from 7:00 a.m. to 3:30 p.m., except holidays, the local phone contact is 520-458-5775.

## **AFTER HOURS CONTACT**

After hours, weekends, or holidays, the emergency phone contact is 520-227-4713 or the Sierra Vista Police Department at 520-458-3311. The Police Department will dispatch personnel to respond to problems with access to the site or fueling operations.

## **AREA MAINTENANCE**

The City shall maintain the area as the City's budget provides funding.

**Pavement:** The City will provide pavement maintenance, striping and sweeping as needed. The City will provide weed control within the paved areas.

**Lighting:** The City will maintain the lighting system as needed.

**Trash:** The City will provide a location for deposit of trash and litter.

**Fencing:** The City shall maintain the fencing system and block walls.

**Damage:** Agency will be responsible for any damage to fence line, pavement, lights, gates, landscaping, fueling equipment, walls or other fixtures located within the area that is caused by actions of the Agency's employees or guests.

**Fuel Spills:** Agency staff shall report any fuel spills that occur in the area within one (1) hour after the spill has occurred. It is the responsibility of the Agency to reimburse the City for the removal, cleanup, and repair of the pavement or dirt/landscape area where the spill has occurred.

## **SECURITY**

The City does not provide security for the site other than existing fencing and lighting.

## **SITE ACCESS**

The City's access system controls access to the fueling site. Upon request, access cards will be provided to Agency for afterhours fueling. Agency shall be responsible for maintaining access card assignments and accountability.

The City will provide access to a City facility for Agency staff, with workspace availability and an internet connection.

### **FUELING ACCESS**

Access to the fueling system is controlled by the City. Access to the fueling system is available to each Agency employee with authority to fuel Agency vehicles.

The City will issue individual vehicle smart keys to the Agency. The Agency shall be responsible for proper management of the issued smart keys and shall provide the City the following vehicle information: Vehicle number, make, model, year, type of fuel and fuel capacity.

### **LOST OR DAMAGED SMART KEYS**

It is the responsibility of the Agency to report any lost or damaged smart keys to the City immediately. The City will replace, at no cost, any smart key that does not work due to normal wear and tear. Agency will be responsible for the cost of any damaged smart keys. The cost of replacing a damaged or lost smart key is \$25.

**Schedule B**  
**Service Agreement**  
**between**  
**The Sierra Vista Unified School District #68**  
**and**  
**The City of Sierra Vista**

**PROVISIONS**

1. **PURPOSE.** The purpose of this Agreement is to outline the purpose and responsibilities of each Party with respect to The School Resource Officer (SRO) Program.
2. **COMPOSITION.** The SRO Program will consist of full-time Sierra Vista Police Department (SVPD) personnel who are Peace Officers for the State of Arizona and who meet all requirements as set forth by SVPD rules and regulations. SVPD will assign one officer to Buena High School and two officers to Joyce Clark Middle School.
3. **SUPERVISION.** The day-to-day operation and administrative control of the SRO Program will be the responsibility of SVPD. Responsibility for the conduct of SRO personnel shall remain with SVPD.
4. **JURISDICTION.** SROs are vested with the authority to enforce and investigate violations of State law. The City of Sierra Vista vests authority in SVPD officers to enforce all City ordinances.
5. **DUTIES.** An illustrative list of each SRO's responsibilities is contained in Appendix A.
6. **OFFICER AVAILABILITY.** Each SRO will be assigned to a Sierra Vista school during normal school hours and while school is in session. SVPD reserves the right to reassign any SRO to patrol duties at any time and without advance notice to the District if the need for the officer's law enforcement services arises. In such a situation, SVPD will first attempt to utilize services of officer(s) assigned to Joyce Clark Middle School. At its earliest opportunity, SVPD will notify the District of the officer reassignment, the expected duration of the reassignment, and whether the reassignment is temporary or permanent.
7. **WORK SPACE.** The District shall provide office space for the SROs. The office(s) shall include the necessary equipment (e.g., telephone, desk, and chair) for the SROs to effectively perform their duties.
8. **RECORDS.** SVPD will review SRO performance of services in an annual year-end report.
9. **FINANCES.** SVPD's SRO services are provided in the course of its normal law enforcement duties and are not rendered to the District for any fee.

**10. CHAIN OF COMMAND.** Communications by SVPD to the District will begin with the school principal, and if necessary, progress to the Superintendent. Communications by the District to SVPD will begin with the SRO supervisor, and if necessary, progress to the Chief of Police and/or City Manager.

**11. CONFIDENTIALITY.** The Parties understand and agree that information secured by SVPD, even when secured in conjunction with an investigation being simultaneously conducted by school personnel, is not subject to the Family Rights and Privacy Act (FERPA), even though that information may result from an investigation conducted by SVPD on District property and involving District students. Similarly, information gathered solely by District personnel may be subject to FERPA and, in those instances, the District shall work with SVPD and the County Attorney's office to secure the necessary subpoenas and/or releases to best assist SVPD in its mission and in its duties under this Agreement.

**12. MANDATORY REPORTING.** SVPD understands and agrees that District personnel are subject to mandatory reporting requirements, including, but not limited to: A.R.S. §§13-3620, 13-3411, 15-341 (A)(33), and 15-828, which shall require District personnel to make reports to SVPD. SVPD will, therefore, make note of such reports in whatever manner deemed appropriate under existing SVPD protocols for purposes of proof of compliance by District personnel, even though SVPD may have no reason, or at times even the legal ability to act upon those reports.

**13. FINGERPRINTING.** SVPD warrants and agrees that its officers or other employees working directly with District students have complied with the fingerprinting requirements of A.R.S. §15-512 throughout the term of this Agreement.

## Schedule C

### FACILITY USE AGREEMENT

between

**The Sierra Vista Unified School District #68**

and

**The City of Sierra Vista**

#### I. AGREEMENT TO USE:

A. Subject to the availability of facilities, needs of the Parties, and terms and conditions contained herein, the District will allow the City to use the following District facilities for public recreation purposes at no cost.

- a. Rothery Center: Conference room, training room, multipurpose room, courtyard & ramadas, band room, and restrooms.
- b. Joyce Clark Middle School: Gym, classrooms, multipurpose room, library, courtyard & ramadas, band room, locker rooms, choir room, art room, and restrooms.
- c. District Elementary Schools (Bella Vista; Carmichael; Huachuca Mountain; Pueblo del Sol; Town & Country; Village Meadows): Classrooms, playgrounds, multipurpose room, library, restrooms and parking lot.
- d. Buena High School: Gymnasium(s), classrooms, cafeteria, commons, patio area, outside athletic facilities and parking lot

B. Subject to the availability of facilities, needs of the Parties, and terms and conditions contained herein, the City will allow the District to use at no cost the following City facilities in the interest of the community, to support District educational, recreational, intramural and interscholastic uses:

- a. Athletic Facilities: Brown Field, Howard Field, Stone Sports Complex, Domingo Paiz Sports Complex, Cole Field, Pat Arbenz Field, Roberts Field, soccer and football configurations, Cyr Center sports fields and adjacent parking lots.
- b. Oscar Yrun Community Center: Conference room, auditorium, classrooms 1&2, and "lobby" multipurpose room.
- c. Ethel H. Berger Center: Main room, meeting room 1 and meeting room 2.
- d. Sierra Vista "Cove" Aquatics Center: Main pool, diving well and "Pier" meeting space, along with such specialized lifesaving staff as may be needed to insure the safety of participants, staff, parents, visitors and their guests.
- e. Veterans Memorial Park: Ramadas #1, #2, and #3, children's play structures
- f. Len Roberts Park: Ramadas #4, #5, water feature
- g. Tompkins Park: Ramadas #6, #7
- h. Sierra Vista Activity Center: Entire facility, classroom, or any indoor/outdoor activities.

i. Centennial Pavilion: entire facility

C. In exchange for the use of the facilities as described in Paragraph A, the City agrees to share 20% of the profits from the Before/After-School, Summer, and Break programs, and any other program operated by the City in a District-owned facility for which the City charges a fee, with the District.

Funds owed to the District shall be remitted by the City on a regular basis, as determined by mutual Agreement.

The City agrees to rebate \$28,000 annually to the District through the most expedient method determined by the City.

The use of the Klein Center for the Performing Arts (KCPA), and special events that require substantial KCPA support, are not included in this rate and will be billed separately based on the number and type of services that are rendered at a Class II rate per EXHIBIT KF-EB under Policy KF and KF-EA. District staffing charges shall be billed to the City according to the event, the City's need and the use of the facilities by the City as published in the District Policy for wage-cost recovery.

D. The District agrees to allow the City to assume the operational and maintenance costs, and to invest in the improvement of the following facilities for the next 10 years with no lease cost to the City:

- All recreational fields and vacant land located behind the District Administrative Building and Rothery Educational Center
- Tennis courts located behind the Rothery Center
- Rothery Center outdoor basketball courts
- Sierra Vista Activity Center
- Rothery Gymnasium (gym, loft(s), locker rooms, restrooms, adjacent storage shed)

The City agrees to pay all utilities, labor, and maintenance costs for the above described facilities. The District may receive preference for scheduling its school activities at no cost on any available sports facility owned and/or operated by City, inclusive of lining/field preparation.

The City will obtain approval by the District for all infrastructure improvement plans made on District property prior to the work taking place.

II. USE OF FACILITIES

- A. **USE BY THE PARTIES:** Both the City and the District may obtain the use of each other's facilities by executing the appropriate reservation form, hereinafter referred to as a "Use Agreement". The City will be given first priority for use of available District facilities, and the District will be given first priority for all available City facilities after the leasing Parties' own use.
- B. **SCHEDULING OF USES:** Both the City and the District shall endeavor to schedule planned uses as far in advance as is practical. Both Parties shall execute the

appropriate use document prior to the anticipated date of use unless otherwise agreed by the two Parties.

- C. **TERMINATION OR AMENDMENT OF USE AGREEMENTS:** Both the City and the District shall endeavor to accommodate scheduled uses of each other's facilities. Both the City and the District reserve the right to terminate or amend Agreements for facility use for good cause. Due to scheduling demands, notice of an amendment for other than health or safety issues shall require five (5) business days' notice. Terminations shall require consultation between the City Manager and District School Superintendent or their authorized representatives.

III. **ADMINISTRATION OF USE AGREEMENT:** Each Party shall designate representatives who shall be jointly responsible for developing procedures necessary to effectuating this lease, processing use Agreements and providing other administrative services. Disputes arising under this Agreement, which cannot be resolved by the authorized representatives, shall be referred to the City Manager and District School Superintendent for joint resolution.

IV. **CONTROL OF FACILITIES USE:** The City and Agency shall be responsible for determining use policies for their respective facilities. Both Parties shall be responsible for providing written copies of relevant use policies where applicable. If violations of use policies are committed, each Party will be responsible for notifying the other in writing. The City and the Agency must identify a single point of contact (POC) that is responsible for reporting and resolving issues. The City POC is the Leisure Services Manager; Agency POC is Duane Chun, School Community Manager. The Parties agree that they shall not use or permit the leased premises be used in any manner that is not in conformity with all federal, state, county, and municipal laws, rules, and regulations, and the City shall not use or permit District premises to be used in any manner that is not also in conformity with District policies. District policies and Arizona state law include, but are not limited to, a prohibition against smoking (KFAA, A.R.S. §§15-341(A) (25), 36-798.03), drinking or possession of alcoholic beverages (GBECB), drug use or possession of drugs (GBECB, A.R.S. §§13-3411, 15-841), and possession of firearms on school property (JICI, A.R.S. §§13-3102 (A)(12), 15-341(A) (23), 15-841). District policies may be accessed via the internet at <http://lp.ctspublish.com/asba/public>

~~V. **CONDITION OF PREMISES AT END OF USE PERIOD:** At the completion of a use period, both Parties shall return the facilities to the same condition, as when the period began, allowing for reasonable wear, with the exception of special events where prior arrangements have been made. Both Parties are responsible for any damages caused in excess of reasonable wear.~~

VI. **SCOPE OF USE:** Exclusive use of facilities in accordance with this Agreement shall be limited to the period of time set forth in the use Agreement, and the activities specified in such an Agreement. Other restrictions as to the nature and scope of use may be part of any use Agreement.

VII. **ALTERATIONS, ADDITIONS, SUPPLIES AND MAINTENANCE, ADVERTISING**

- A. **PURCHASE AND INSTALLATION OF EQUIPMENT:** The purchase and installation of equipment in leased facilities, by either Party, is predicated on joint consultations and the

approval of City Council and the District Governing Board, if required. In the event that equipment and fixtures are installed on the premises of the other Party, such equipment and fixtures become the property of the owning Party. The Party removing the same will be responsible for repairing any damage caused by that removal.

- B. MAINTENANCE AND OPERATIONS COSTS: Both Parties are responsible for the routine maintenance and operating costs of their respective facilities unless maintenance and operating costs are specifically addressed elsewhere in this Agreement. Additional services will be charged at the current published rate agreed upon by mutual consent.
- C. SUPPLIES AND EQUIPMENT: Both Parties are responsible for all incidental supplies required in conjunction with use of each other's facilities, with the exception of facilities used by the City for the before/afterschool programs and special break camps, where the City agrees to provide supplies as requested by the District. If either Party requests the other to provide supplies, a method of payment shall be specified in the use Agreement.
- D. ADVERTISING: Both Parties may request promotion of each others' activities, programs, and services through the advertising medium(s) that makes the most sense to the other Party, and as deemed appropriate by the approving Party.
- E. LOCAL EMERGENCIES: In the event of a local emergency that requires the City to set up and operate shelters for evacuees, the City and Agency will jointly plan the use of school facilities.

VIII. SUPERVISION OF PROGRAMS AND ACTIVITIES: Both Parties shall provide qualified leaders, supervisors, coaches and instructors as appropriate and necessary to ensure the safety and health of program participants.

IX. TERMINATION/CANCELLATION OF FACILITY USE AGREEMENT:

- A. TERMINATION IF HEALTH OR WELFARE IS COMPROMISED: If either Party has reason to suspect that any aspect of activities undertaken pursuant to this Agreement presents a risk to the health or safety of children, that Party may request a meeting to be convened between the Parties within forty-eight (48) hours with said meeting to be promptly confirmed in writing. In such circumstances, the Parties to the Facility Use Agreement will attempt to reconcile differences or abate the risk to the health or safety of children within three (3) working days of being notified of such risk. If reconciliation is not achieved or the risk to the health or safety of children is not abated within the three (3) working day period, the Facility Use Agreement will automatically be suspended. Within three (3) working days, each Party shall submit three names to the other Party of a possible third Party to investigate the claim that either Party has identified as a risk to the health or safety of children until such time as a third Party agreed upon by the Parties can review the situation which either Party believes involves a risk to the health or safety of children. If the Parties can agree upon one of the names submitted by either Party, that individual shall be selected as a third Party to review the issue. If a third Party cannot be determined by this process, each Party shall be entitled to strike one name from the other Parties list. The names of the remaining individuals shall be placed on individual folded strips of paper in a container and the representative of the City may draw one name. The person whose name is drawn shall be deemed to be the third Party agreed upon to investigate the claim and attempt to secure a reconciliation. The third Party shall, within



the three (3) working days after having been selected, investigate the situation. If the third Party finds that there is a risk to the health or safety of children, the third Party shall so notify the Parties and, within five (5) working days, set a date and time to meet with the Parties to attempt to reconcile the situation. If no reconciliation is achieved, then the Facility Use Agreement shall automatically terminate. The Party advocating the position not upheld by the third Party shall be required to pay all charges, costs and expenses of bringing in the third Party. If the third Party finds both Parties in error, then each Party shall pay half of the charges, costs and expenses of the third Party. Both Parties agree to be fully bound by the decisions of the third Party regarding the safety of children and regarding payment of charges.

B. In the event the Agency desires to end the facility use agreement for those properties detailed in Section I, Part D prior to the expiration of the agreement, the Agency agrees to compensate the City as follows:

- a. The Agency will compensate the City equal to the increased appraisal value of the property if the Agency sells the property prior to one year after the termination of the facilities use agreement.
- b. The City shall be entitled to receive compensation equal to the remaining life of the asset(s) for any improvements completed on the properties.
- c. The Agency will allow the City to have first right of refusal to purchase the property at market value if the Agency is willing and able to legally sell the property to the City.

X. ASSIGNMENT: Neither Party shall assign any rights nor duties under this Facility Use Agreement to a third Party without the written consent of the other Party. Any such assignment in violation of this Facility Use Agreement shall be grounds for termination of the Agreement.

XI. ACCESS: Parties agree that each of the facilities is accessible under the Americans with Disabilities Act to the full extent required by law for municipal facilities and school district facilities respectively.

XII. COMPLIANCE WITH CONCUSSION PROTOCOLS: Pursuant to A.R.S. § 15-341 (A) (24) (b), City shall guarantee that any individuals, groups, or organizations using District property or facilities for athletic activities under the terms of this Agreement shall comply with the concussion guidelines and protocols required by law.

**Schedule D**  
**Service Agreement**  
**between**  
**The Sierra Vista Unified School District #68**  
**and**  
**The City of Sierra Vista**

**PROVISIONS**

- 1. PURPOSE.** The purpose of this Agreement is to outline the purpose and responsibilities of each Party with respect to the Agency accessing the services of the City heating, ventilation and air conditioning (“HVAC”) technician on an “emergency” basis. In the future, should Agency hire its own HVAC technician, then to outline the purpose and responsibilities of each Party with respect to sharing the services of each Party’s HVAC technicians in emergency situations. For purposes of this Agreement, an “emergency” situation shall include when an HVAC system shuts down during the normal work/school day when the environmental factors are such that failure to return the HVAC system to working order may result in work/school having to be cancelled because of the potential for danger to the health and safety of those in the facility without a working HVAC system.
- 2. COMPOSITION.** The HVAC service program will consist of the City sharing the use, and cost, of the full-time City HVAC technician with the Agency in emergency situations. In the event the Agency is able to hire an HVAC technician, then it will also consist of the City and Agency sharing the use and costs of full-time City and Agency HVAC technicians in emergency situations.
- 3. SUPERVISION.** The day-to-day operation and administrative control of the HVAC Service Program will be the responsibility of City. Responsibility for the conduct of the HVAC technician shall remain with City. Should Agency secure an HVAC technician, then the responsibility for the day-to-day operation, administrative control and responsibility for the conduct of the HVAC technician will remain with the HVAC technician’s employer.
- 4. DUTIES.** The CITY HVAC technician will use the best of his/her skills and training to provide emergency care and repairs to Agency HVAC systems.

  - a. When an Agency HVAC system is in need of emergency repairs in order to operate properly, the Agency’s facilities manager shall submit an emailed request to the City’s facilities manager at the City Public Works Department explaining the HVAC service emergency and requesting the City HVAC service technician respond to the emergency location.
  - b. If City is able to do so, City facilities manager shall dispatch the HVAC technician as soon as possible, but not more than one calendar day after the request, to the Agency designated location. The City HVAC service technician shall:

- perform necessary repairs to return the Agency HVAC to proper working conditions, as long as the estimated labor and parts costs to perform the repair are equal to or less than one thousand dollars (\$1,000.00), or
  - if the estimated labor and parts costs to repair the HVAC unit will exceed one thousand dollars (\$1,000.00), in which case the City HVAC service technician will explain the costs of the repair to the Agency Facilities Director. Repairs will not proceed until the City HVAC service technician receives an email from the Agency approving of the repair in writing, or
  - advise Agency of the need to secure more specialized service to deal with the issue(s) causing the HVAC problem or
  - advise Agency of need to replace HVAC system at the Agency location.
- c. If City is unable to dispatch the HVAC technician to the Agency location, the City Facilities Direct shall immediately advise Agency of its inability to provide the HVAC technician within the time provided in 4 (b) above.
- d. City shall maintain records of the emergency repairs performed on each Agency HVAC system, including the date of the emergency call, the issue(s) discovered, the actions taken to remediate the problem, and the parts necessary to remediate the problem.

**5. FINANCE.** Agency and City agree to the following method of financing the shared use of the HVAC technician:

- a. Agency shall pay for the costs of the materials and parts needed to carry out the emergency repair of the Agency HVAC system(s). Prior to any major repair, the HVAC technician shall notify the Agency of the estimated cost so that the Agency may weigh the cost benefit of the repair as opposed to replacement of the HVAC system, taking into account the age and life expectancy of the unit. "Major repair" shall be deemed any repair in which the cost of the necessary parts and labor to carry out the repair are estimated to cost more than one thousand dollars (\$1,000.00). Technician shall not carry out a major repair until given written instructions to do so. "Written instructions" shall include e-mail to the e-mail address provided by City.
- b. In addition to the cost of materials and parts as listed above, Agency shall also pay City for the hourly labor cost of the HVAC technician, including overtime, if such time is brought about by the actions of Agency, for time spent carrying out the duties listed above.
- c. **City shall bill Agency for the costs of the parts, materials and labor within not less than thirty (30) days of the services being accessed by Agency.** Billing for materials, parts and services will occur monthly via invoice from the City. All invoices must be paid by the Agency within 30 calendar days of receiving the invoice. Invoices shall be paid to:

City of Sierra Vista  
 Attn: Finance/HVAC Billing  
 1011 North Coronado Drive  
 Sierra Vista, AZ 85635

**6. RECIPROCITY.** If Agency hires an HVAC service technician during the term of the Agreement, the Parties agree that Schedule D shall allow for mutual aid and reciprocity under the terms listed above.

- a. City and Agency HVAC technicians may each request the assistance of the other if an emergency situation would be more expeditiously handled with the assistance of another HVAC service technician.
- b. Similarly, if the one HVAC technician is away from his/her job duties due to sickness, vacation, family emergencies, or other leave situations when the emergency occurs, the employing Party may call upon the HVAC technician employed by the other Party.
- c. The emergency email request procedures, HVAC technician responses, and HVAC technician financing in paragraphs 4 and 5 above shall be the same when the City needs to make an emergency request to Agency for the services of the Agency HVAC service technician, other than that the invoices shall be paid to:

Sierra Vista Unified School District #68  
Attn: Finance Department-HVAC Billing  
3555 E. Fry Blvd.  
Sierra Vista, AZ 85635