

RESOLUTION 2022-082

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; APPROVING AMENDMENTS TO THE INTERGOVERNMENTAL AGREEMENT WITH THE COCHISE COUNTY BOARD OF SUPERVISORS FOR OPERATION OF THE SOUTHEASTERN ARIZONA COMMUNICATIONS CENTER; AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY, OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS, TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the City of Sierra Vista and Cochise County worked toward the goal of establishing a joint regional communications center for the benefit of both organizations, their respective residents, and the region as a whole; and

WHEREAS, regional emergency communication is a benefit to the public agencies, as well as the residents they serve; and

WHEREAS, upon the successful operation of the Southeastern Arizona Communications Center since July 2018 both organizations recognized changes to the structure of the agreement would benefit the center as a whole most recently affirmed by Resolution 2018-080; and

WHEREAS, the attached amendments to the Intergovernmental Agreement between the City of Sierra Vista and Cochise County establishes changes to the formal Joint Powers Authority structure to ensure its sustainability into the future.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

Section 1

The City Council hereby restates its established policy approving intergovernmental agreements with Cochise County as well as its commitment to public safety services that meet the needs of its residents most recently affirmed by Resolution 2018-080.

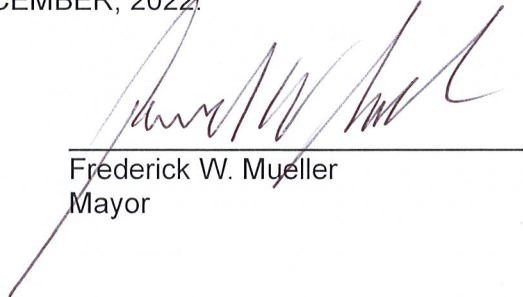
Section 2

That the City Council hereby approves amendments to the Intergovernmental Agreement establishing changes to the formal Joint Powers Authority structure to ensure its sustainability into the future.

Section 3

That the City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.

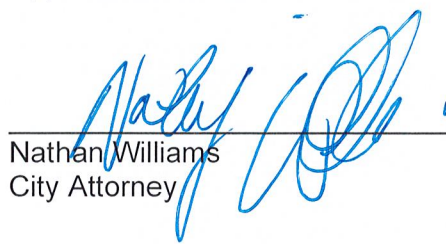
PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 8<sup>th</sup> DAY OF DECEMBER, 2022.



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Frederick W. Mueller  
Mayor

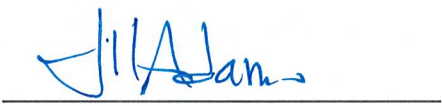
Approval as to Form:



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Nathan Williams  
City Attorney

Attest:



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Jill Adams  
City Clerk

**SECOND AMENDED  
INTERGOVERNMENTAL AGREEMENT BETWEEN  
COCHISE COUNTY ("COUNTY") AND  
THE CITY OF SIERRA VISTA ("CITY") FOR  
REGIONAL 911 COMMUNICATIONS AND ESTABLISHMENT OF THE  
SOUTHEASTERN ARIZONA COMMUNICATIONS CENTER (SEACOM)**

**WHEREAS**, dispatch services for law enforcement, fire, and emergency medical services in Cochise County are presently provided by the County and each independent municipality; and

**WHEREAS**, the parties desire to improve dispatch services in the County and minimize response time for law enforcement, fire, and emergency medical services, thus providing better public service; and

**WHEREAS**, the parties desire to improve efficiencies in how dispatch services are currently provided and achieve an economy of scale to eventually reduce the overall cost of dispatch services to multiple jurisdictions within the County; and

**WHEREAS**, the County and the City are both authorized to enter into intergovernmental agreements pursuant to A.R.S. § 11-952 for services or joint exercise of powers common to their respective jurisdictions; and

**WHEREAS**, both the County and the City are authorized to spend public monies for and in connection with the provision of 911 emergency communications and other public safety dispatching services; and

**WHEREAS**, County and the City conclude that it is in their common interest to contribute to and partner on the establishment and operation of a joint regional communication center for the benefit of both organizations and the communities they serve; and

**WHEREAS**, the County and the City desire to provide mechanisms that would allow other entities in Cochise County to utilize the joint regional communication center for 911 emergency communications and other public safety dispatching services, and

**WHEREAS**, the County and City desire to clarify and amend the governing structure of the Board of the Southeastern Arizona Communications Center (“SEACOM”) that is established pursuant to the IGA and make certain other changes.

**NOW, THEREFORE**, the parties to this Agreement hereby resolve to act jointly and cooperatively consistent with their independent authority to consolidate dispatch services in Cochise County through the creation of a consolidated emergency services communication center to be known as the SEACOM and the operation of such as a 911 dispatch and communications center pursuant to A.R.S. § 11-952.

## **I. PURPOSE**

This Intergovernmental Agreement establishes SEACOM as a joint endeavor between the County and City, with the following objectives:

- A.** To save lives with efficient and effective emergency call processing time and protocols in order to minimize response times to emergency incidents.
- B.** To provide essential emergency and non-emergency communication services to emergency responders.
- C.** Where possible, to consolidate emergency communication and dispatching services for the County, City and other municipalities and fire districts in Cochise County in order to provide efficient and cost-effective services to all participating jurisdictions' citizenry.
- D.** To enhance emergency communication between emergency responder personnel of local governments and fire districts for the benefit of their respective citizenry.
- E.** To meet all federal and state requirements in the provision of emergency communications.
- F.** To provide for appropriate oversight of SEACOM for all participating jurisdictions.

To provide an outline for the addition or withdrawal of parties to SEACOM (with further detailed mechanisms to be set forth in the SEACOM bylaws).

## II. JOINT EXERCISE OF POWERS--PARTICIPANTS

The SEACOM shall exist as an organization consisting of the following participants, which will jointly exercise their powers pursuant to A.R.S. § 11-952:

- A. Principals.** The City and County shall be known as "Principals" as its initial signatories and shall have an ongoing responsibility for the long-term success of the consolidated dispatch operations. Both entities shall have voting-representation on the SEACOM Board of Directors as more specifically set forth in Section V of this Agreement.
- B. Partners.** Additional municipal participants shall be known as "Partners" and shall have voting representation on the SEACOM Board of Directors as more specifically set forth in Section V of this Agreement. Any governmental entity that receives 911 calls and provides comprehensive dispatching services to the employees of its agency/organization shall be eligible to participate in SEACOM as a Partner.
- C. Subscribers.**
  - a.** Tier I subscribers shall be additional governmental participants that elect by contract to receive full services from SEACOM and participate on a "fee for service" basis consistent with the policies established by the SEACOM Board of Directors. Tier I subscribers shall have voting privileges on the Operations Committee and count towards a quorum.
  - b.** Tier II subscribers shall be additional governmental participants that elect by contract to receive basic services from SEACOM under a statutorily required obligation and do not pay for such services. Tier II subscribers shall not have voting privileges on the Operations Committee, nor count towards a quorum, but are still invited to participate.
  - c.** Subscribers shall not have representation on the SEACOM Board of Directors except as expressly allowed in Section V of this Agreement.
- D. Participants.** All Principals, Partners, and Subscribers, as they may be so constituted from time to time, are herein collectively referred to as "Participants," and individually as "Participant."

- E. Board of Directors.** SEACOM shall be governed by a Board of Directors as more specifically delineated in Section V of this Agreement.

### **III. SEACOM OPERATIONS**

The operations of SEACOM will be conducted under the following general conditions, subject to more specific operational procedures and policies established and approved by the SEACOM Board of Directors:

- A. Facility.** SEACOM will be located at 1728 Paseo San Luis, Sierra Vista in a building solely owned by the County. The County will retain ownership and be responsible for ongoing maintenance of the building.

- B. Equipment, Technology and Software.**

- a.** All new equipment needed to commence and sustain the operations of SEACOM will be acquired by the County, including but not limited to computer hardware; phones and other dispatching equipment; copy/fax machines; communication towers, antennas, and repeaters; etc. All equipment existing as of the formation of SEACOM shall continue to be owned by whichever entity then owned it.
  - b.** Ownership of any equipment relocated from the City to SEACOM will continue to be owned by the City until the end of its useful life, and any equipment relocated from the County to SEACOM will continue to be owned by the County until the end of its useful life.
  - c.** SEACOM will be responsible for maintenance of all equipment used in the operation of the joint dispatching center commencing with the start date of the agreement, regardless of current ownership.
  - d.** Replacement or upgraded equipment shall be the responsibility of SEACOM.
  - e.** Acquisition, maintenance, replacement, and ownership of all equipment needed by law enforcement or other first responder personnel to participate in the joint dispatching operation from within the field is the sole responsibility of each Participant. This includes but is not limited to radios, mobile data terminals, tablets, communication towers and cellular or other telephone devices. All communication towers in place by December 1, 2016, shall remain the sole responsibility of the Participant that owns said towers.

- f. Each Participant will be responsible for integrating its record management system with SEACOM, with all jurisdiction costs for equipment and software required for integration the responsibility of each Participant.
- g. SEACOM shall use Spillman as the software system for all operations of the communications functions. Any change from the use of this vendor for SEACOM operations shall require a two thirds (2/3) vote of the Board, only following a detailed written analysis by the Director and the review and recommendation of the Operations Committee.
- h. Each Participant shall obtain, update, and maintain appropriate Spillman licenses and associated hardware required to integrate with SEACOM at the Participant's sole expense.
- i. Participants shall obtain written approval by the Director for any software enhancements to the agency's communications system that require connection to or integration with the SEACOM system or infrastructure. Such approval shall not be unreasonably withheld, but any additional costs to SEACOM associated with such Participant-requested enhancements shall be the sole responsibility of the benefitting agency.
- j. Each Participant shall retain responsibility and authority for its operational departments and for such equipment and services as are necessary at its place of operations to interconnect to SEACOM.

**C. Personnel.**

- a. SEACOM will retain all current dispatch employees of the County and City, subject to the supervision and discipline of the SEACOM Director and the oversight of the SEACOM Board. The relationship and responsibilities among SEACOM, such current employees, and their current employers, and personnel rules shall be set forth more fully in the SEACOM Bylaws.
- b. SEACOM may hire qualified personnel who currently are employed by a Participant (other than the County or City). SEACOM may hire other qualified personnel. Beginning December 24, 2018, all personnel working for SEACOM, or subsequently hired by SEACOM, shall become employees of the City as fiscal agent, and subject to the City's merit and other personnel and HR rules and regulations.

**D. Responsibilities.** SEACOM shall perform the following services along with all ancillary tasks required to provide said services:

- a. Effectively receive calls for routine and emergency assistance based on structured call intake protocols, and coordinate response resources to those calls for service through the appropriate Participant in accordance with policies and procedures established and approved by the SEACOM Board.
- b. Provide all Participants with a single contact point for the notification of emergencies and receipt of emergency assistance request, and for the control of coordinated dispatch for law enforcement, fire, and EMS.
- c. Provide the public and field response agencies with highly trained, certified and/or credentialed dispatch personnel who strive to provide the best service possible to all parties involved.

Accurately collect and preserve data from emergency calls and related information in accordance with state laws, Participant needs, and policies and procedures established and approved by the SEACOM Board.

- d. Other responsibilities as determined by operational necessity and approved by the SEACOM Board.

**IV. BUDGET AND COST-SHARING**

One of the purposes in establishing SEACOM is to create additional efficiencies and, thus, cost-savings, in operating dispatch services for the County, the City, and other Participants. It is understood and acknowledged that the ability to identify and create such efficiencies and cost-savings may take time as SEACOM becomes operational. It is further understood and acknowledged that the ability to identify and establish an appropriate cost-sharing arrangement among the City, County, and other Participants until SEACOM becomes operational is very limited. Accordingly, for the period during FY2017-18 that SEACOM is operational, and very likely for FY2018-19, SEACOM will be operated financially as effectively a merger of City and County operations, with each party contributing the amount they would otherwise have budgeted for their independent dispatch operations. Any amounts not expended during FY2017-18 shall be used as a reserve for future SEACOM operations. During FY2017-18 and FY2018-19, the SEACOM Board shall determine an appropriate budget and cost-sharing arrangement for



operations beginning in FY2019-20 (or earlier, if feasible), in accordance with the following principles:

- a. The total cost of the operations, capital replacement, capital enhancement and reserve for SEACOM shall be funded entirely by the Participants.
- b. The initial investments by the County and City in establishing SEACOM, including the cost of the building, rehabilitation of the building, initial equipment and transition expenses will be excluded from the formula, and thus not charged to Participants, for recovering costs.
- c. Future capital replacement, capital enhancement, and reserve funds shall be included in the formula for recovering costs of SEACOM, in addition to ongoing operational costs.
- d. Budgeted operational costs shall include reimbursement to the County for building maintenance and for all IT equipment, services and support provided by the County.
- e. Total such costs shall be allocated to Participants through an appropriate metric that is based on workload, number of calls, population, number of radios, or a combination thereof, as the Board deems fit. The metric will be reviewed at least every two years and, if appropriate, revised accordingly. Provided, however, that the City Council must annually approve the metric for the City and its contribution to the budget and, likewise, the Board of Supervisors must annually approve the metric for the County and its contribution to the budget.
- f. The initial budgeted total costs, and the appropriate metric to cover such costs, shall commence beginning FY2019-20 (or earlier, if feasible). Such budget and metric shall be determined by the SEACOM Board; provided, however, that the determination of the budget and metric shall require the affirmative votes of both the City and the County.
- g. Fiscal Year. The fiscal year of SEACOM shall correspond with the City.

## V. SEACOM BOARD OF DIRECTORS

- A. **Membership.** SEACOM shall be governed by a Board of Directors ("Board"), which may form other committees and sub-committees to assist the Board in

the management and operation of SEACOM. Each Principal and Partner shall have one vote and shall select a representative to serve on the Board in a manner of its own choosing. The term of any such representative shall be at least one year. In addition, at such time as at least three fire districts elect to contract for services with SEACOM as Subscribers, the districts shall be entitled to one seat on the Board selected by all said fire district Subscribers jointly, with such representative to serve a term of at least one year. The Chair of the Operations Committee (see below) will also serve on the Board, ex-officio as a nonvoting member. All Members of the SEACOM Board of Directors shall serve without right of proxy and without compensation from SEACOM.

- B. Board Function.** SEACOM, through its Board and as authorized by each Participant's governing board, shall have those powers as set forth in this Agreement and as granted by the Participants, in accordance with Arizona law. The Board shall serve as the policy making body of SEACOM. Among its other duties, the Board shall:
- a. Hire and oversee the SEACOM Director who will be responsible for the management and oversight of SEACOM and who shall serve at the pleasure of the Board.
  - b. Make bylaws and establish rules and regulations governing SEACOM, except that if the Board does not adopt a specific policy, the City's policies shall apply.
  - c. Hold regular meetings for the purpose of SEACOM business, which at a minimum shall be quarterly, or as set forth in the SEACOM bylaws.
  - d. Determine the operational and capitalization needs of SEACOM.
  - e. Establish and approve an annual fiscal year budget of expenditures for a consolidated dispatch, after considering the recommendations of SEACOM's Participants and professional staff, and develop subscription rates and assessments for Principals, Partners, and Subscribers in an amount sufficient to cover needed revenues for the SEACOM.
  - f. Accept, receive, and administer grants or other funds or gifts for the purposes of carrying out the functions of this agreement.

- g.** Develop a Subscribers Use Contract for services, setting forth user fees, charges for delinquencies, and the possibility of adjustments based on use of the SEACOM.
- h.** Approve policies and standard operating procedures for the operation of SEACOM in consultation with SEACOM's professional staff and the standing SEACOM Operations Committee more specifically defined in Section VI of this Agreement.
- i.** Consider and resolve questions, issues and disputes presented to the Board regarding services, operations, fees, or other issues pertaining to SEACOM.
- j.** Enter into subscription agreements with third party private ambulance companies, air transport and other private first responders for dispatch services and set rates for such entities.
- k.** Develop and approve third party contracts for goods and services necessary to fully implement the purposes of this Agreement.
- l.** After receiving a recommendation from the SEACOM Director, and the SEACOM Operations Committee, approve a staffing plan for SEACOM.
- m.** Enter into Intergovernmental Agreements with Participant agencies to allow assignment of said agency personnel to SEACOM and may allow said personnel to apply for promotional opportunities when available.
- n.** Establish the salary rates and compensation levels of SEACOM employees in consultation with the City as fiscal agent.
- o.** Acquire equipment and facilities necessary for the operation of the dispatch center.
- p.** Recognize that as public funds are the source of the SEACOM budget and that SEACOM exists to serve the taxpayers and residents of the Participants, and as such, transparency in the operations of the SEACOM is a paramount consideration. As such, the SEACOM Board shall comply with Arizona's open meeting laws and shall ensure the organization's records are maintained in accordance with the public records law of the State of Arizona.

- q. Ensure that SEACOM has sufficient liability, property, and other insurance coverage for the operations of the consolidated dispatch center with coverage and limits necessary to protect SEACOM, its Board, and Participants from legal liabilities that may result from the operations of the dispatch center.
- r. Recommend, consider, and approve the admission of any new Subscribers who formally request to join SEACOM, and determine the terms for their admission. New Subscribers shall only be approved by the Board upon a determination that it is in the best interests of SEACOM.
- s. Ensure that the SEACOM complies with all federal and Arizona laws, including the laws applicable to dissemination of criminal history records and medical records.
- t. To perform other duties as are relevant to the functions of this Agreement.

## **VI. SEACOM OPERATIONS COMMITTEE**

The Board shall establish a standing committee known as the SEACOM Operations Committee that shall meet regularly with the SEACOM Director to assess the services of SEACOM and make recommendations to the Board. The Committee shall consist of the Sheriff's Chief Deputy or designee, the chiefs of all Tier 1 police departments and fire departments of Participants; and the chiefs of all fire district Participants, all with equal voting rights in making recommendations; provided, however, that no member of the SEACOM Board can serve on the Operations Committee. The Committee shall be chaired for a one-year term by a member selected by majority vote of the Operations Committee. In the event a regular Committee Member is unable to attend a meeting, that Participant may designate an alternative Member who may appear and vote in his or her stead.

The SEACOM Operational Committee shall have the following responsibilities:

- a. Represent the needs of law enforcement, fire service and emergency medical functions and organizations served by SEACOM.
- b. Review, draft and recommend policies and standard operating procedures for the operation of SEACOM, subject to approval by the Board as delineated in SEACOM by-laws.
- c. Develop and recommend a staffing plan for the operation of SEACOM.

- d. Develop and recommend performance benchmarks, standards, and goals for the consolidated dispatch center, and monitor on an on-going basis.
- e. Develop plans and strategies for the ongoing operation, maintenance, and enhancement of the SEACOM facility and equipment.
- f. Regularly assess services and recommend operational efficiencies or changes in procedures in order to meet the needs of Participants and comply with relevant laws and requirements.
- g. Submit any concerns raised by Operations Committee members that are not addressed by the SEACOM Director to the Board of Directors for review and resolution.

## **VII. SEACOM DIRECTOR**

- A. The SEACOM Board shall hire a Director who shall be responsible for the operation, management, hiring, and employee supervision of the staff of the SEACOM dispatch center. The Director shall serve at the pleasure of the Board and can be dismissed for cause or without cause at any time. The Director shall report to the Board, and shall work closely with the Board, the Operations Committee and any other committees as may be established by the Board regarding all operational issues impacting the dispatch services provided by SEACOM.
- B. Responsibilities delegated to the Director by the Board shall include:
  - a. Serving as the administrative head of SEACOM, responsible for day-to-day operations.
  - b. Hiring, supervising, disciplining, and terminating employees; developing performance standards and ensuring personnel are appropriately trained, supervised and evaluated.
  - c. Preparing a proposed budget for Board approval annually, in coordination with the designated Fiscal Agent.
  - d. Effectively managing SEACOM operations within the approved annual budget.

- e. Procuring services, equipment and supplies as needed for the operation of SEACOM, in accordance with the City's procurement policies and rules and working through the City as Fiscal Agent.
- f. Overseeing all SEACOM activities related to call-taking, dispatching, records (custodian), recording, staffing, training, technology, and security.
- g. Serving as the designated representative of SEACOM with Participants to resolve issues.
- h. Identifying and working with potential future partners and subscribers to enhance participation in SEACOM when advantageous.
- i. Participating in a non-voting capacity in meetings of the Board, Operations Committee and any other committees as may be established by the Board; providing advice and/or specific recommendations to the board/committees as may be requested or needed on matters of dispatch operations, administrative and technical (computer and communications systems) issues, and overall management and operations of SEACOM as a joint dispatch center.
- j. Developing appropriate long-range plans for consideration by the Operations Committee and Board.
- k. Performing all other duties as may be assigned by the SEACOM Board.
- l. Follow the SEACOM bylaws, operational policies, procedures, protocols, and other actions established by the Board of Directors.
- m. Posting meeting notices, advising on open meeting law requirements, and maintaining all records for SEACOM in accordance with State Retention Schedules.

#### **VIII. FISCAL AGENT**

The City shall serve as the Fiscal Agent for SEACOM. The Fiscal Agent will assist in managing the financial affairs of SEACOM, in coordination with its Director and Board. The City agrees to perform all customary administrative responsibilities including:

- a. Serving as the designated employer of the SEACOM Director, beginning December 24, 2018. The Director will be subject to City rules and regulations governing employment while serving SEACOM and will be eligible for all benefits of City employment.
- b. Beginning December 24, 2018, serving as the designated employer of SEACOM staff, administering and managing payroll and employee benefits.

Providing financial management and accounting. SEACOM will be treated as an agency fund of the City for accounting, financial reporting, and audit purposes. All financial records maintained by the City shall be available for inspection and review by all Participants.

- c. Contracting on behalf of SEACOM, in accordance with the City Procurement Policy and Procurement Department. The Fiscal Agent shall be responsible for incurring all liabilities and paying all bills of SEACOM. Persons or entities contracting with SEACOM cannot rely upon, or seek payment from, any Participant or its assets.
- d. Acquiring property on behalf of SEACOM.
- e. When necessary, suing on behalf of SEACOM, and defending any suit brought against it.
- f. Purchase Errors and Omissions insurance to provide coverage for the SEACOM Board of Directors.
- g. Assisting the SEACOM Director and Board with:
  - i. Preparation of an annual budget
  - ii. Day to day fiscal management
  - iii. Billing and receiving user fees from participants
  - iv. All other related support that is customarily provided to a joint agency as fiscal agent
- h. However, notwithstanding the foregoing, the County shall provide IT support and maintenance of the SEACOM facility.

## **IX. LEGAL REPRESENTATION**

Legal representation of SEACOM shall be provided by an attorney hired by the SEACOM Board. The cost of such representation shall be shared by the Participants in accordance with the membership/fee structure established for the operation of SEACOM.

## **X. DURATION AND TERMINATION**

- A. Term.** This Agreement took effect on September 1, 2017. This Amended IGA shall take effect when approved by both the Sierra Vista City Council and the Cochise County Board of Supervisors. It shall remain in effect through June 30, 2022.
- B. Voluntary Withdrawal.** Thereafter, this IGA will renew automatically from year to year unless terminated, with or without cause by any Participant at least six (6) months prior to the start of the next fiscal year. Because the SEACOM budget will be based on Participant's membership in SEACOM, such termination will not take effect until the end of the fiscal year in which the notice was provided, and the terminating Participant's obligations under this IGA shall continue through the end of the fiscal year. Termination by any Participant does not affect the continuation or validity of this Agreement among other Participants.
- a.** Time is of the essence in giving notice of termination and/or withdrawal. The termination notice must be approved by the governing board of the terminating Participant. The termination must be in writing and sent by both email and hardcopy to the SEACOM Director and Chair of the SEACOM Board, received by both of them before six (6) months prior to the start of the next fiscal year.
- b.** Notwithstanding the foregoing, a Principal's participation may be terminated by the SEACOM Board at any time for delinquencies of at least 180 days in payments of user fees.
- c.** A terminating and/or withdrawing Principal is deemed to forfeit any and all rights it may have to SEACOM's personal or real property, unless otherwise provided by the Board; provided further that this forfeit of rights shall not apply to personal property on loan to the SEACOM from the terminating or withdrawing Principal. Upon termination, the terminating Participant shall



promptly return any and all SEACOM equipment or other assets in its possession.

- d. The termination and/or withdrawal of a Participant shall not discharge or relieve any Participant of its obligations to SEACOM to pay user fees owed up to the time of the effective date of termination or withdrawal.
- e. SEACOM Subscriber Use Contracts or subsequent Agreements shall provide for similar notice and conditions for termination and withdrawal.

**C. Termination of Participants.** Any Participant that meets one or more of the conditions listed below shall be considered to have involuntarily withdrawn from SEACOM and their participation may be terminated.

- i. Nonpayment of fees for more than ninety (90) days
- ii. The refusal to be bound by any of its obligations under this IGA or the Bylaws
- iii. The refusal to be bound by policies, procedures, written directives, or standard operating procedures approved by the Board

**D.** The SEACOM Board, by majority vote, shall determine whether to terminate a Participant. The Board shall provide a ninety (90) day written notice to the defaulting Participant sent via certified mail and email to the Participant's Board representative or, if the Participant has no Board representative, to the Chair of the Participant's governing body. If the defaulting Participant is represented on the SEACOM Board, that representative shall count for purposes of the quorum but shall not be entitled to vote on termination.

**E.** The SEACOM Board of Directors will convene a meeting within thirty (30) days after the termination notice has been sent and, after giving the Participant an opportunity to be heard, shall make a final determination of termination. If the defaulting Participant is represented on the SEACOM Board, that representative shall count for purposes of the quorum but shall not be entitled to vote on termination.

**F.** After termination, the terminated Participant shall continue to be responsible for:

- i. Payment of its share of operational costs through the end of SEACOM's current fiscal year on the effective date of its termination

- ii. Continuing compliance with any contractual obligations it has separately signed with SEACOM
- iii. The prompt return of any and all SEACOM assets and equipment in its possession

#### **XI. WAIVER**

Waiver, or the failure of either party at any time to require performance by the other, of any provision herein, shall in no way affect the party's subsequent rights and obligations under that provision. Waiver by either party of any breach or any provision herein shall not be taken or held to be a waiver of any succeeding breach of such provision or waiver of such provision itself.

#### **XII. ENTIRE AGREEMENT**

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

#### **XIII. RIGHTS OF THE PARTIES ONLY**

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

#### **XIV. INDEMNIFICATION**

Each Principal and the SEACOM Board ("Indemnitor") shall indemnify, defend, and hold harmless the other Principals and the SEACOM Board (as "Indemnitee") from and against any and all claims, losses, liability, damages, costs or expenses (including reasonable attorney's fees) (collectively referred to as "Claims") arising out of employment claims, bodily injury of any person (including death) or property damage, but only to the extent that such Claims are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The obligations under this section shall survive termination of this Agreement. If a Claim or Claims becomes subject to this Indemnity section, the Principals or SEACOM Board, through its Director, that are parties to the Claim(s) shall expeditiously meet to

discuss a common and mutual defense including proportional liability and payment of possible litigation expense and money damages. Nothing herein shall be construed to modify the gross negligence standard applicable to emergency medical technicians or paramedics as otherwise set forth in statute.

#### **XV. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

- A.** To the extent required by law, the parties shall comply with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, and State Executive Order No. 75-5 which mandated that all persons, regardless of race, religion, handicap, color, age, sex, political affiliation, or national origin shall have equal access to employment opportunities.
- B.** Both parties shall comply with (1) 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; (2) all applicable federal regulations regarding equal employment opportunity and relevant orders issued by the U.S. Secretary of Labor; and (3) all applicable provisions of the Americans Disabilities Act (Public Law 101336, 42 U.S.C. §§ 12101-12213) and all applicable Federal Regulations under the Act including 28 CFR Parts 35 & 36.

#### **XVI. DISPUTE RESOLUTION**

- A.** The laws of the State of Arizona shall govern this Agreement, and, in the event of litigation, venue shall be in Cochise County, Arizona.
- B.** In the event a party initiates action to enforce its rights hereunder, the substantially prevailing party shall recover from the non-prevailing party its expenses, court and/or arbitration costs, including taxed and untaxed costs, and reasonable attorneys' fees.
- C.** Time shall be of the essence for all performance required hereunder.
- D.** Notwithstanding the foregoing, if a dispute arises out of or relates to the Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree to first try to settle the dispute through mediation before resorting to arbitration, litigation, or some other dispute resolution procedure. In the event that the parties cannot agree upon the selection of a mediator within seven (7) days, either party may request the

presiding judge of the Superior Court of Cochise County to assign a mediator from a list of mediators maintained by the Arizona Municipal Risk Retention Pool.

## **XVII. NOTICES**

Any notices required under this Agreement shall be mailed, by first class mail to, and be effective upon actual receipt by:

### **A. FOR THE COUNTY OF COCHISE:**

County Administrator  
1415 Melody Lane, Bldg. G  
Bisbee, AZ 85603

### **B. FOR THE CITY OF SIERRA VISTA:**

City Manager  
1011 N. Coronado Drive  
Sierra Vista, AZ 85635

**XVIII.** This Agreement may be cancelled as provided in A.R.S. § 38-511, pursuant to the terms of that statute.

**XIX.** 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.

**XX.** 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.

**XXI.** 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.

## **XXII. APPROVAL OF THE PARTIES**

Before the Agreement shall become effective and binding upon the parties, it must be approved by the COUNTY Board of Supervisors and the CITY Council. This Agreement may be executed in counterparts and with electronic signatures, which shall have the

same effect as though signed in pen and ink. In the event that either party fails or refuses to approve this Agreement, it shall be null and void and of no effect whatsoever.

**IN WITNESS WHEREOF**, the **COUNTY** has caused this instrument to be executed by Chairman of its Board of Supervisors and attested to by the Clerk of said Board; and the **CITY** has caused this Agreement to be executed by its Mayor and Council and attested to by the Clerk of said Council on the dates set forth below.

**THIS AGREEMENT IS ENTERED INTO** this 8<sup>th</sup> day of December, 2022, by:

**APPROVED:**

**APPROVED:**

COUNTY OF COCHISE:

CITY OF SIERRA VISTA:

By: Ann English 12-13-22  
Ann English, Chair Date  
Board of Supervisors

By: Frederick W. Mueller  
Frederick W. Mueller, Mayor Date  
City of Sierra Vista

**ATTEST:**

**ATTEST:**

By: Tim Mattix 12/13/2022  
Tim Mattix, Clerk Date  
Board of Supervisors

By: Jill Adams  
Jill Adams, City Clerk Date  
City of Sierra Vista

In accordance with A.R.S. § 11-952, undersigned counsel have determined that this Intergovernmental Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

By: Christine J. Roberts 12/28/22  
Christine J. Roberts  
Chief Civil Deputy County Attorney

By: Nathan Williams  
Nathan Williams  
City Attorney