

**LOANED EMPLOYEE
INTERGOVERNMENTAL AGREEMENT
BETWEEN
COCHISE COUNTY
AND
THE SOUTHEASTERN ARIZONA COMMUNICATIONS CENTER (SEACOM)**

THIS AGREEMENT made and entered into this 19th day of December 2023, by and between the Southeastern Arizona Communications Center (SEACOM) Board, acting by and through the City of Sierra Vista, State of Arizona, as fiscal agent for SEACOM, (hereinafter “SEACOM”) and COCHISE COUNTY, an Arizona Political Subdivision, acting by and through its duly authorized officers, (hereinafter “COUNTY”), each as (“party”) and collectively as (“Parties”).

RECITALS

WHEREAS, SEACOM needs an interim Executive Director with the requisite emergency management education, background, skills, and experience to manage and oversee its emergency 911 communications center; and

WHEREAS, the COUNTY has a vested interest in the success and ongoing operations of SEACOM; and

WHEREAS, Tammi-Jo Wilkins is a COUNTY employee, currently in the Emergency Management Department, with the requisite education, background, skills, and experience to manage SEACOM and step into the role of interim Executive Director; and **WHEREAS**, Tammi-Jo Wilkins is willing to manage SEACOM and step into the role of interim Executive Director, and

WHEREAS, SEACOM requires the services of Tammi-Jo Wilkins to effectively run its operations and desires her services as its interim Executive Director, **effective December 19, 2023**; and

WHEREAS, the COUNTY is willing to loan Tammi-Jo Wilkins to SEACOM for a limited period; and

WHEREAS, under this Agreement the County remains the general employer and SEACOM is the special employer of Tammi-Jo Wilkins; and

WHEREAS, the COUNTY determines that this loaned employee agreement providing for Tammi-Jo Wilkins special employment with SEACOM is in the best interest of the COUNTY.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and obligations set forth herein, SEACOM and the COUNTY agrees as follows:

AGREEMENT

- 1. Term:** The term of this agreement shall be effective from December 19, 2023 through December 19, 2025. This Agreement shall automatically terminate at the end of the Term, unless earlier terminated by either Party pursuant to the terms of this Agreement.
- 2. Salary:** COUNTY shall continue to pay Tammi-Jo Wilkins' ("Loaned Employee") salary, health and retirement benefits, and any other compensation or benefits to which Loaned Employee is entitled to as an employee of the COUNTY. COUNTY shall pay all necessary employment taxes, as required by law, report income to appropriate tax authorities, and withhold all taxes from Loaned Employee's income, as required by law.
- 3. Benefits:** LOANED EMPLOYEE shall retain COUNTY health benefits, including medical, dental, and vision insurance, and such other benefits, as are provided to other employees of the COUNTY.
- 4. Reimbursement by SEACOM to COUNTY of Loaned Employee Costs:** In consideration for COUNTY making LOANED EMPLOYEE available to provide specialized expertise and services to SEACOM as the interim Executive Director, SEACOM shall pay and reimburse the County 100% of all LOANED EMPLOYEE costs to the COUNTY of LOANED EMPLOYEE'S employment, including, without limitation salary, health and retirement benefits, any benefits claims paid by the COUNTY with respect to LOANED EMPLOYEE'S employment taxes, and other expenses. SEACOM'S cost reimbursement shall be paid to the COUNTY on a monthly basis, by the 25th day of the following month when incurred.
- 5. Termination:** This Agreement may be terminated at any time by either Party upon 30 days advance notice to the other party. In the event of such termination, County shall be compensated for all work performed by the loaned employee.

6. Employment Status and Supervision of LOANED EMPLOYEE: No other provision in this Agreement either expressed or implied shall be construed in opposition to the LOANED EMPLOYEE'S "at-will" status. SEACOM shall maintain oversight and supervision of the LOANED EMPLOYEE while performing the role, duties, and responsibilities of the interim Executive Director. However, the LOANED EMPLOYEE remains a COUNTY employee, and shall accrue paid time off at the same rate as other County employees as defined by County policy and practice and in all other respects the LOANED EMPLOYEE'S leave shall be governed by Cochise County policy and practice. The LOANED EMPLOYEE shall be granted sick leave each year as defined by Cochise County policy and practice in the manner provided for all other County employees.

7. Other Non-County Benefits Provided by SEACOM:

- a. SEACOM, through the City of Sierra Vista, shall provide a cellular phone and service, a laptop for the LOANED EMPLOYEE'S business use, and access to a motor pool automobile for conducting SEACOM business and attending related functions. Should it be necessary for the LOANED EMPLOYEE to use a personal vehicle for travel performed, as part of SEACOM business because a motor pool automobile is not available, SEACOM will reimburse LOANED EMPLOYEE, fifty-six cents (\$.56) per mile. Should LOANED EMPLOYEE request and receive approval to use her own personal vehicle for travel performed as part of SEACOM business, SEACOM will reimburse Employee twenty- eight cents (\$.28) per mile. This amount is subject to change annually in accordance with the IRS Standard Mileage Rate.
- b. SEACOM shall be responsible for providing LOANED EMPLOYEE with office space, support services, materials, supplies, and any other tools required to perform the duties and responsibilities of the interim Executive Director.
- c. SEACOM shall reimburse LOANED EMPLOYEE for all reasonable expenses and expenditures made or directly incurred in connection with the interim Executive Director employment, provided that such expenses and reimbursements shall always be subject to Arizona law and the rules and regulations established by Cochise County.
- d. SEACOM agrees to pay for the registration and reasonable and customary travel expenses for the LOANED EMPLOYEE travel and attendance at any approved meetings and conferences. Conferences planned for the SEACOM

interim Executive Director will be budgeted and approved by the SEACOM Board during the budget process.

- e. In addition to the benefits set out in this Section, SEACOM may provide additional benefits to the LOANED EMPLOYEE, if such benefits are deemed appropriate because of its annual evaluation and review of the LOANED EMPLOYEE'S performance.
- 8. Hours of Work:** The SEACOM interim Executive Director position is a Fair Labor Standards Act (FLSA) exempt position, and as such, is not eligible for overtime compensation; however, the SEACOM interim Executive Director is expected to engage in those hours of work that are necessary to fulfill the obligations of the position. It is recognized that the SEACOM interim Executive Director may devote time outside the normal office hours to effectively execute the duties and tasks required of the position. The SEACOM interim Executive Director shall attend all regular and special meetings of SEACOM unless excused by the Chairman of SEACOM.
- 9. Outside Activities:** The employment provided for by this Agreement shall be the SEACOM interim Executive Director's sole employment. Recognizing that certain outside teaching or consulting opportunities may provide indirect benefits to SEACOM and the community, the SEACOM interim Executive Director may accept such opportunities upon approval by SEACOM, provided that such arrangements shall not constitute interference with nor a conflict of interest with the interim Executive Director's responsibilities under this agreement.
- 10. Performance Evaluation:**
- a. SEACOM shall review and evaluate the performance of the LOANED EMPLOYEE at least once annually, during the term of this Agreement. Based on the review of the LOANED EMPLOYEE'S performance during the year preceding the review, the Board will provide an evaluation. Further the Board shall provide the LOANED EMPLOYEE with a summary written statement of its findings and provide an adequate opportunity for the LOANED EMPLOYEE to discuss the evaluation with them.
 - b. Annually, SEACOM and the LOANED EMPLOYEE shall define goals and performance objectives which they determine necessary for the proper operation of SEACOM and for the attainment of the SEACOM's objectives.

Further, together they shall establish a relative priority among those various goals and objectives, all of which shall be reduced to writing and provided to the LOANED EMPLOYEE, the COUNTY, and SEACOM. The goals and objectives shall generally be attainable within the time limitations agreed to by the LOANED EMPLOYEE and SEACOM, and within the annual operating budgets, funding and appropriations provided.

11. Indemnification of LOANED EMPLOYEE: SEACOM shall defend, save harmless, and indemnify LOANED EMPLOYEE against any tort, professional liability claims or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of LOANED EMPLOYEE'S duties and responsibilities as SEACOM interim Executive Director.

12. Indemnification of Parties:

- a. County shall indemnify, defend, protect and hold harmless SEACOM, and its officers, employees, volunteers and agents, from and against any and all liability, losses, claims, damages, expenses, demands and costs (including, but not limited to, attorney, expert witness and consultant fees, and litigation costs) of every nature arising out of a breach of the County's obligations under this Agreement, except where caused by the sole negligence or willful misconduct of SEACOM or as otherwise provided or limited by law.
- b. SEACOM shall indemnify, defend, protect and hold harmless the COUNTY, and its officers, employees, volunteers and agents, from and against any and all liability, losses, claims, damages, expenses, demands and costs (including, but not limited to, attorney, expert witness and consultant fees, and litigation costs) of every nature arising out of (i) a breach of SEACOM'S obligations under this Agreement or (ii) an act of omission of the Loaned Employee under this Agreement, except (i) where caused by the sole negligence or willful misconduct of the COUNTY, or (ii) as otherwise provided or limited by law.

13. Notices: Notices pursuant to this Agreement shall be in writing, transmitted by personal service or by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

1. SEACOM: SEACOM Board Chairman

1011 N. Coronado Drive Sierra Vista, AZ 85635

2. COCHISE COUNTY:

Cochise County Board of Supervisors Chairman

1415 Melody Lane, Building G, Bisbee, AZ 85603

Alternatively, notices required pursuant to this agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

14. General Provisions:

- a. **Entire Agreement:** This Agreement constitutes the sole, final, and entire agreement of the Parties concerned the Loaned Employee. This Agreement may be amended only by a subsequent written Agreement approved and executed by both Parties.
- b. **No Relationship:** Nothing in this Agreement shall constitute or be deemed or construed to create a partnership, joint venture, or similar relationship between the Parties. Neither party shall be deemed to be the agent of the other Party by virtue of this Agreement, it being understood that the County and SEACOM are independent parties contracting for services. Neither party has, and neither party shall, hold itself out as having any authority to enter into any agreement or create any obligations or liability on behalf of the other party.
- c. **No Assignment:** This Agreement is a personal services contract and neither this Agreement nor LOANED EMPLOYEE'S obligations under this Agreement are assignable.
- d. **Severability:** If any provision, or any portion thereof, contained in this Agreement is deemed unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.
- e. **No Waiver of Rights:** Any waiver at any time by either party of its rights as to a breach or default of this Agreement shall not be deemed to be a waiver

as to any other breach or default. No payment by SEACOM to the COUNTY shall be considered or construed to be a waiver of any breach or default.

- f. **No Third-Party Beneficiaries:** This Agreement shall not be construed to create any third-party beneficiaries. This Agreement is for the sole benefit of the Parties and no other person shall be entitled to rely upon or receive any benefit from this Agreement or any of its terms.
- g. **Conflict of Interest:** This Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511 regarding Conflict of Interest.
- h. **Non-Discrimination:** Neither party shall unlawfully discriminate against any employee, applicant, patient, or student based on race, color, creed, sex (including sexual preference/identity), religion, marital status, disability, veteran status, age, or national origin.
- i. **Public Records Laws:** Notwithstanding any provision in the Agreement to the contrary, disclosure of any documents or records are subject to Arizona public records law, A.R.S. § 39-121 et. seq.
- j. **Jurisdiction and Governing Law:** This Agreement shall be deemed to have been made in Cochise County, Arizona, and shall be governed by and construed under the laws of the State of Arizona. Jurisdiction shall be in Arizona courts with venue in Cochise County, Arizona.

PASSED AND ADOPTED by the Board of Supervisors of Cochise County, Arizona, this ____ day of _____, 2023.

APPROVED BY:

APPROVED BY:

COUNTY

SEACOM

Peggy Judd, Chair
Cochise County Board of Supervisors

Sheriff Mark Dannels, Chair
SEACOM JPA Board

Pursuant to A.R.S. § 11-952, this AGREEMENT has been reviewed by legal counsel for each party to determine it is in proper form and is within the power and authority granted under the laws of the State of Arizona to the respective client agency,

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Christine J. Roberts
Chief Civil Deputy County Attorney

Nathan Williams
SEACOM Attorney