

INTERGOVERNMENTAL AGREEMENT
between
THE CITY OF BISBEE
and
SOUTHEASTERN ARIZONA GOVERNMENTS ORGANIZATION
for
PAVING SERVICES

THIS INTERGOVERNMENTAL AGREEMENT (the "AGREEMENT"), is made and entered into this 18th day of April, 2023, by and between the City of Bisbee, an Arizona municipal corporation, hereinafter referred to as the "CITY" and the SouthEastern Arizona Governments Organization, the regional Council of Governments for Cochise, Graham, Greenlee and Santa Cruz Counties, hereinafter referred to as "SEAGO." CITY and SEAGO may hereinafter be referred to individually as a "Party" or collectively as the "Parties."

SECTION 1: RECITALS

WHEREAS, the Parties are authorized and empowered to enter into this AGREEMENT pursuant to Arizona Revised Statutes ("A.R.S.") §§ 11-951 and 11-952 and their respective city charters, codes or such other governing authority.

WHEREAS, the CITY public works department possesses the necessary equipment and employs trained personnel to perform grading and paving for the CITY's capital improvement projects and infrastructure development needs; and

WHEREAS, the CITY public works department has adequate capacity to meet or exceed the anticipated and budgeted demand for capital improvement and infrastructure development projects within the CITY in the immediate future; and

WHEREAS, SEAGO is in need of paving services to meet the CITY's parking requirements at its property at 1403 Highway 92, in Bisbee, Arizona (the "Property"); and

WHEREAS, it is in the best interest of the taxpayers to minimize costs and maximize efficiencies in procurement, contracting, and delivery of paving services to meet the CITY's parking requirements at the Property; and

WHEREAS, SEAGO wishes to contract with the CITY for said paving services and the CITY is willing to consider providing said paving services to SEAGO upon approval of this AGREEMENT by the Mayor and Council.

NOW, THEREFORE, pursuant to A.R.S. § 11-952, authorizing contracts and agreements between public agencies or public procurement units for cooperative actions, and in consideration of the mutual promises contained in this AGREEMENT, and of the mutual benefits to result therefrom, the Parties agree as follows:

SECTION 2: TERM

The term of this AGREEMENT shall be from May 1, 2023 to June 30, 2023, unless terminated in accordance with SECTION 5 of this AGREEMENT.

SECTION 3: PURPOSE

The purpose of this AGREEMENT is to provide paving services to enable SEAGO to meet the CITY's parking requirements as described in SECTION 1 of this AGREEMENT.

SECTION 4: FINANCING

SEAGO shall compensate the CITY for the services provided under this AGREEMENT at a rate equal to the current hourly rate plus any Employee Related Expenses (EREs) of any CITY employees performing said services, plus overhead costs (i.e. administrative costs) that may be in effect at the time the services are rendered, plus the costs of mobilization, materials, fuel, equipment use and other costs that may be related to meeting the CITY's parking requirements. SEAGO understands and agrees that the hourly rates, EREs and overhead costs (if any) are subject to change at any time upon written notice to SEAGO from the CITY. Changes to these rates shall be considered administrative in nature and shall be processed in accordance with SECTION 14 of this AGREEMENT.

SECTION 5: TERMINATION

Either Party may terminate this AGREEMENT without cause upon providing fifteen (15) days' written notice to the other Party. In the event either Party is in breach of this AGREEMENT, this AGREEMENT may be terminated after providing written notice with five (5) days to correct or remedy the breach. If said breach is not remedied, this AGREEMENT shall terminate at the expiration of the five (5) day period. The CITY will not be responsible to provide services after the date of termination. SEAGO will not be responsible for any payments after the date of termination unless attributable to services provided prior to the date of termination. This AGREEMENT may also be cancelled pursuant to the provisions of A.R.S. § 38-511.

SECTION 6: RESPONSIBILITY

Each Party agrees to assume responsibility for the conduct of its employees, officials, and agents and for all claims, demands, suits, damages, and loss which result from the negligence or intentional torts of such Party or its agents, officials, and employees in the performance of this AGREEMENT. The extent of the foregoing liabilities shall be limited to, and determined by, the respective fault of the Parties in comparison with others, including, but not limited to the other Party who may have contributed to, or in part caused any such claim to arise.

SECTION 7: 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.

SECTION 8: DISPUTE RESOLUTION

Any disputes arising under this AGREEMENT shall be referred to the City Manager and SEAGO Executive Director for joint resolution. Disputes that cannot be resolved at this level shall result in written notice of termination pursuant to SECTION 5 of this AGREEMENT.

SECTION 9: SEAGO RESPONSIBILITIES

SEAGO shall work with its member entities to develop a scope of work for the services to be provided under this AGREEMENT. SEAGO shall provide the scope of work and any other project-related data to the CITY and request a cost estimate for the services. Upon acceptance, SEAGO shall issue a Notice to Proceed to the CITY. SEAGO shall be responsible to pay all costs attributable to any services rendered by the CITY under this AGREEMENT, and shall pay any such invoices within thirty (30) days of receipt of an invoice from the CITY.

SEAGO shall assume responsibility for any other areas agreed upon by the Parties and specified by written amendment to this AGREEMENT.

SECTION 10: CITY RESPONSIBILITIES

The CITY shall maintain the staff and equipment sufficient to meet or exceed the performance of the services under this AGREEMENT. The CITY shall devote the same level of care and professional standards to SEAGO's project and services that it devotes to its own projects and services.

The CITY shall provide monthly invoices to SEAGO for the actual costs of providing the services under this AGREEMENT, along with any documentation supporting the costs invoiced.

SECTION 11: 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 of Bisbee
76 Erie Street
Bisbee, AZ 85603
ATTN: City Manager

SouthEastern Arizona Governments Organization
1403 West Highway 92
Bisbee, AZ 85603
ATTN: Executive Director

SECTION 12: 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.

SECTION 13: APPROVAL BY PARTIES

Before this AGREEMENT shall become effective and binding upon the Parties, the appropriate governing authorities of each Party must approve it. In the event that such appropriate authority fails or refuses to approve this AGREEMENT, it shall be null and void with no effect whatsoever.

SECTION 14: REVISIONS

Procedural and administrative changes to this AGREEMENT may be made upon mutual written agreement of the City Manager and SEAGO Executive Director.

SECTION 15: CONDUCT OF OPERATIONS

The CITY and SEAGO agree to be responsible for the conduct of its operations and performance of contract obligations and the actions of its own personnel while performing services under this AGREEMENT, and each Party shall be solely responsible for supervision, daily direction, control of payment of salary (including withholding for payment of taxes and social security), workers' compensation and disability benefits. In addition, both Parties agree to maintain adequate professional and general liability insurance coverage at all times while this AGREEMENT is in effect.

SECTION 16: INDEMNIFICATION

To the fullest extent permitted by law, each Party to this AGREEMENT agrees (as indemnitor) to indemnify, defend and hold harmless the other Party (as indemnitee) from and against any and all claims, losses, liability, costs or expenses (including reasonable attorneys' fees) arising out bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious or derivative liability to the indemnitee, are caused by the act, omission or negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.

SECTION 17: 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 75-5 which mandated all persons, regardless of race, religion, handicap, color, age, sex, political affiliation or national origin shall have equal access to employment opportunities. The 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.

SECTION 18: MANDATORY PROVISIONS

All provisions required by law to be incorporated into this AGREEMENT shall be a part of this AGREEMENT as if fully written out herein.

SECTION 19: 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.

SECTION 20: 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.

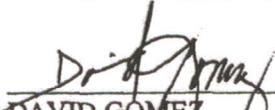
SECTION 21: GOVERNING LAW

This AGREEMENT shall be construed under the laws of the State of Arizona and shall incorporate by reference all laws governing intergovernmental agreements and mandatory contract provisions of state agencies required by statute or executive order. All statutes and regulations referenced in this AGREEMENT are incorporated herein as if fully stated in their entirety in the AGREEMENT. Each Party agrees to comply with and be responsible for the provisions, the statutes, and the regulations set out in this AGREEMENT.

[Signatures on following pages.]

IN WITNESS WHEREOF, two (2) 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 date and year first above written.

Approved by the SouthEastern Arizona Governments Organization Executive Board at its meeting on the 19th day of May 2023.

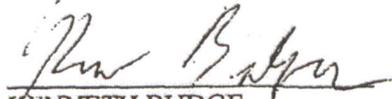


DAVID GOMEZ
Chair, Executive Board

May 19, 2023

Date

Approved by the City of Bisbee City Council at its meeting on the 18th day of April 2023.

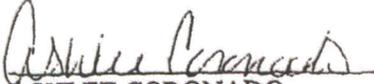


KENNETH BUDGE
Mayor

4/19/23

Date

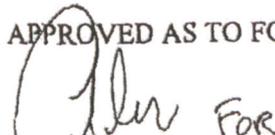
ATTEST:



ASHLEE CORONADO
City Clerk

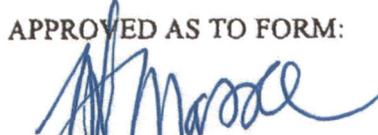
Pursuant to A.R.S. § 11-952(D), this AGREEMENT has been reviewed by legal counsel for each Party to determine it is in proper form and is within the power and authority granted under the laws of the State of Arizona to the respective client agency.

APPROVED AS TO FORM:



JOSEPH ESTES
City Attorney, City of Bisbee

APPROVED AS TO FORM:



ELIZABETH RUETER
Legal Counsel for SEAGO

MICHAEL MASSEE