

INTERGOVERNMENTAL AGREEMENT

Between

THE SALT RIVER PIMA MARICOPA INDIAN COMMUNITY

And

THE CITY OF MESA Effective


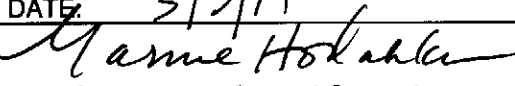
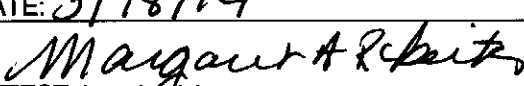
Date   /  /  

This Intergovernmental Agreement ("Agreement") is between the SALT RIVER PIMA MARICOPA INDIAN COMMUNITY, a Federally-Recognized Indian Tribe ("SRPMIC ") and the City of Mesa an Arizona municipal corporation ("MESA"). MESA is authorized to enter into this Agreement by approval of the Mesa City Council pursuant to ARS § 11-952 et seq. and SRPMIC is authorized by Article VII, Section 1 (h) of the Constitution of The Salt River Pima Maricopa Indian Community to consult, negotiate contract and conclude and perform agreements with Federal, state, local governments and Indian Tribes, as well as any person, association, partnership, corporation, government or other private entity.

The purpose of this Agreement is to fulfill the need for the establishment of modern and reliable radio communication systems for MESA and SRPMIC.

This document, including Agreement Terms, Purpose of the Agreement, and any Site-Specific Supplemental Agreements approved herewith, shall constitute the entire agreement between the parties and shall supersede any other agreement or understanding, oral or written.

IN WITNESS WHEREOF, the parties hereto agree to carry out the terms of this Agreement.

SALT RIVER PIMA MARICOPA INDIAN COMMUNITY	CITY OF MESA
	
AUTHORIZED SIGNATURE:	AUTHORIZED SIGNATURE:
TYPED NAME: Diane Enos	TYPED NAME:
TITLE: President, Salt River Pima Maricopa Indian Community	TITLE: City Manager, City of Mesa
DATE: 3/3/14	DATE: 3/18/14
	
ATTEST: Assistant General Counsel	ATTEST: Legal Advisor

The foregoing Agreement has been submitted to legal counsel for the Salt River Pima Maricopa Indian Community for review and approval. The undersigned attorney has determined that said agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona and the Constitution of The Salt River Pima Maricopa Indian Community.

Dated this 28<sup>th</sup> day of February, 2014

By Marnie Hochstetler  
Attorney for the Salt River Pima Maricopa Indian Community

The foregoing Agreement has been submitted to the City Attorney for the City of Mesa. The City Attorney has determined that said agreement is in the proper form and is within the powers and authority granted under the laws of the State of Arizona.

Dated this 18<sup>th</sup> day of March, 2014

By Margaret A Roberts  
City Attorney

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE CITY OF MESA  
AND  
THE SALT RIVER PIMA MARICOPA INDIAN  
COMMUNITY**

This Intergovernmental Agreement ("IGA" or "Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and between the City of Mesa an Arizona municipal corporation, hereinafter referred to as "MESA", and Salt River Pima Maricopa Indian Community, hereinafter referred to as "SRPMIC", together, the "Parties".

**RECITALS**

WHEREAS, COUNTY and MESA are parties to that certain Intergovernmental Agreement dated August 31, 2011 ("MESA IGA"). The purpose of the MESA IGA is to fulfill the need for the establishment of modern and reliable communication systems for MESA and COUNTY and to locate the needed communications systems on real property owned by COUNTY. The MESA IGA is hereby incorporated into this Agreement; and,

WHEREAS, AZDPS and MESA are parties to that certain Intergovernmental Agreement dated October 10, 2008 ("AZDPS/MESA IGA"). The purpose of the AZDPS/MESA IGA is to fulfill the need for the establishment of modern and reliable communication systems for AZDPS and MESA and to locate the needed communications systems. The AZDPS/MESA IGA is hereby incorporated into this Agreement; and,

WHEREAS, SRPMIC desires to occupy unused space provided to Mesa under the AZDPS/MESA IGA dated October 10, 2008 for the purpose of obtaining much needed radio coverage not presently available in exchange Mesa will receive upgrade to the TRWC 10 Channel Intelligent Site repeater; and,

WHEREAS, Mesa believes that the inclusion of SRPMIC will contribute to establishment of a modern reliable communications system; and

WHEREAS, this Agreement is to include all Sites where space and technical parameters allow non-interfering operation between existing services and any new services proposed by MESA or SRPMIC; and,

WHEREAS, MESA and SRPMIC shall enter into site-specific supplemental agreements ("SSSA" or "SSSAs") for the installation and maintenance of Communication Systems on the Sites. The SSSAs will be reviewed annually and updated when needed by the MESA Communications Administrator and SRPMIC's Wireless Systems Manager. The SSSAs and any amendments thereto are hereby incorporated into and made a part of this Agreement; and

WHEREAS, all radio communications system components shall be provided by the benefiting agency unless outlined in Site-Specific Supplemental Agreements ("SSSA"); and

WHEREAS, any site improvements necessary to accommodate the required radio

communications systems as outlined in this Agreement and its supplements shall be made and costs borne by the benefiting agency; and

WHEREAS, the cost of permitting, engineering and maintenance of the required radio communications systems as outlined in this Agreement and its supplements shall be borne by the benefiting agency; and

WHEREAS, SRPMIC is authorized to enter into this Agreement by approval of the Tribal Council by Article VII, Section 1 (h) of the Constitution of The Salt River Pima Maricopa Indian Community, and MESA is authorized to enter into this Agreement by approval of the Mesa City Council pursuant to ARS § 11-952 et seq.

### **TERMS OF AGREEMENT**

NOW THEREFORE, in consideration of the mutual promises and undertakings of the parties hereinafter set forth, it is hereby agreed as follows:

1. Recitals. The Recitals, by this reference, shall be incorporated herein and are made a part of this Agreement.
2. Co-Location. For the purpose of providing needed radio services, SRPMIC has need of Communications Systems located on MESA Sites and MESA has need of Communications Systems located on SRPMIC Sites. The Parties hereby agree to make the Sites available for the co-location of the radio communications equipment of the other, to the fullest extent that this is technically and legally feasible, pursuant to the terms of this Agreement.
3. Term. This Agreement shall become effective as of the date it is approved by the Salt River Pima Maricopa Indian Community and shall remain in full force and effect for a term of one (1) year and is automatically renewed for nine (9) additional one (1) year periods unless canceled by either Party upon written notice at least six (6) months prior to the expiration of this Agreement.
4. Benefiting Agency. For each Site used by the other benefiting agency, that "benefiting" agency ("Benefiting Agency") agrees to:
  - a) Use the Site solely for the public safety and welfare. This IGA does not expressly or impliedly authorize the Benefiting Agency to install additional Communication Systems on the Sites outside of any replacement/upgrade components to Communication Systems already in place on a Site pursuant to an SSSA or any amendment thereto. Should additional Communication Systems need to be added to any Site, the Parties shall enter into an SSSA or amend the SSSA that pertains to the particular Site. The use of the Sites pursuant to the terms of this IGA or any SSSA shall be solely for Communication Systems for the public safety and welfare and those uses necessary to operate the Communication Systems. The Benefiting Agency shall not use the Communication Systems or the Sites for any use not authorized herein. This IGA shall be considered automatically revoked without further action by the Host Agency, as hereafter defined, if the unauthorized use is not

corrected within thirty (30) days after written notice is received by the Benefiting Agency.

- b) Contact the appropriate hosting agency department to coordinate installation or removal of equipment. Installation and Construction of Communication Systems on the Sites is contingent upon the Benefiting Agency obtaining all legally required permits and approvals from the appropriate jurisdiction. Approval of an SSSA or any amendment to an SSSA shall not be considered the granting of any permit or receipt of any type of approval from the Host Agency or the agency with jurisdiction. Upon completion of any installation or construction on the Sites the Benefiting Agency shall provide a copy of the as-builts to the Host Agency. Construction or installation of Communication Systems shall not cause interference with communication systems or equipment already on the Site and the Parties shall work together to ensure all Communication Systems work without interference.
- c) Provide maintenance for their Communication Systems using agency personnel, or technical personnel from an outside service provider acceptable to the hosting agency. A Benefiting Agency or Host Agency technician shall be present when work is performed by an outside service provider inside the host's building or on the host's tower.
- d) Provide current copies of FCC licenses needed to operate radio communications equipment to the host agency.
- e) Be responsible for notifying the hosting agency when entering or leaving the host agency's buildings. See ATTACHMENT 1 for contact phone numbers.
- f) Ensure the security of the Sites and will not allow unauthorized persons to have access thereto. Benefiting agency shall not allow any nonofficial use of the Sites by private or commercial organizations without the prior written consent of the host agency.
- g) Remove all trash and debris on the Sites and dispose of it in an appropriate manner. No equipment or materials shall be stored outside of any enclosure.
- h) Pay or cause to be paid taxes of whatever character which may be levied or charged upon the rights of the Benefiting Agency to use the Site and/or the Communication Systems pursuant to this IGA.
- i) Pay for any and all costs and expenses associated with the planning, construction, installation, operation and maintenance of the Communication Systems. If any improvements currently existing on the Sites need to be removed and or relocated to construct and/or install the Communication System, the removal and relocation of the improvements shall be borne solely by the Benefiting Agency.

5. Host Agency. For each Site used by the Benefiting Agency, the "host" agency ("Host Agency") agrees to provide:

- a) Access to and from the Sites for the construction, installation, operation and

maintenance of the Communication Systems.

- b) Engineering services, if requested and available, to install radio communications equipment.
- b) Building and tower space, where available, to install the Benefiting Agency's Communication Systems.
- c) Rigger services, if requested and available, to install and maintain the antennas and antenna feed-lines.
- d) Commercial AC power and standby AC power where available at cost. No markup of utility charges will occur, and the total due will be the net amount per billing period from all sites under this agreement. Other power arrangements may be agreed upon within the Site-Specific Supplemental Agreements.
- e) Contact to any users associations, and landlords (i.e., BLM, Forest Service, State Land) to obtain any necessary permission for this additional use and submit to the "benefiting" agency for reimbursement any additional costs to these entities caused by the "benefiting" agencies installation of equipment.

6. Payment of Services. Both agencies have technical staff to perform the tasks needed, however, should the Host Agency be asked to perform any tasks, the Benefiting Agency will reimburse the Host agency for all services requested at the current labor rates in effect.

- a) The Benefiting Agency shall pay the Host Agency for the cost of host-employee labor, plus all related expenses for each class of employee engaged in the necessary services. Authorized overtime shall be reimbursed at one and one-half times the hourly rates of host-employees, plus all related expenses for each class of employee engaged in the necessary services.
- b) The Benefiting Agency shall pay the Host Agency for all parts, materials, equipment or supplies purchased by the Host Agency to provide requested services. This will include actual costs incurred for the purchase of all parts or supplies, plus any shipping or handling expenses charged by the vendor. Neither agency will charge any subsequent mark-up, administrative charges, or handling charges on any parts, materials or supplies purchased to perform the above-stated services.

7. Ownership of Communication Systems. It is expressly understood and agreed that the Hosting Agency retains title to the equipment upon installation by it and may modify, replace or remove such equipment when necessary. The Parties acknowledge that all Communication Systems of the Benefiting Agency shall be deemed personal property of the Benefiting Agency.

8. Compliance with laws. The Parties agree to comply with all federal, state and local statutes, laws, ordinances, rules, regulations and instructions which relate to the construction, reconstruction, management, operation and maintenance of the Communication Systems. The Parties shall further comply with the following in their

performance of this Agreement:

- a) Equal Employment Opportunity. The parties agree to comply will all applicable state and federal laws.
- b) Immigration Reform and Control Act of 1986 (IRCA). The Parties understand and acknowledge the applicability of the Immigration Reform and Control Act (IRCA). The Parties agree to comply with the IRCA in performance of this IGA and, upon request, permit inspection of personnel records to verify such compliance.
- c) Employer Sanctions Law.  
The parties agree to comply will all applicable state and federal laws.

9. Entry and Inspection. The Host Agency shall have the right at all times to enter onto and inspect the Sites and the Communication Systems on the Sites. Host Agency will notify Benefiting Agency of any unsatisfactory condition relative to the construction, management, operation and maintenance of the Sites and the Communication Systems on the Sites. Benefiting Agency shall take immediate action to correct such condition(s) at Benefiting Agency's expense.

10. Environmental Compliance. If activities of the Benefiting Agency result in adverse environmental impacts on any Site, the Benefiting Agency will be fully accountable for any resulting Site assessment and cleanup cost required to restore the property. Host Agency will not seek compensation or restitution from Benefiting Agency as a "Potentially Responsible Party" for any release of a contaminant/hazardous substance on the premises prior to the effective date of this IGA.

- a) Subject to the provisions set forth herein, Host Agency agrees the Benefiting Agency may use, generate, store, and properly dispose of any hazardous material at or on the Sites as long as it is solely for the construction and/or installation, operation and maintenance of the Communication Systems.
- b) Benefiting Agency shall provide to Host Agency, in writing, a complete list identifying all hazardous material or petroleum products and approximate quantities to be brought on site and when such products will be removed.
- c) Additionally, Benefiting Agency shall prepare and implement any necessary remediation action plan in accordance with all applicable federal, state, and city statutes, laws, ordinances, rules and regulations. Benefiting Agency shall keep Material Safety Data Sheets documents on site for those materials and products.
- d) Benefiting Agency shall report to Host Agency within twenty-four (24) hours of knowledge of any event or occurrence at the Sites which may or does result in pollution or contamination adversely affecting lands, water or facilities owned or managed by the Host Agency, including the facilities which are subject of this IGA.
- e) Benefiting Agency shall protect, defend, indemnify and hold harmless Host Agency from and against all liabilities, costs, charges and expenses, including civil or criminal penalties, attorney's fees and court costs arising out of or related to an

activity involving or use of a regulated substance under any applicable federal, state, or local environmental laws, regulations, ordinances or amendments thereto because of: (a) any such substance that came to be located on any Site and/or the Communication Systems due to Benefiting Agency's use or occupancy of the Sites pursuant to the terms of this IGA, any SSSA or any amendment(s) to this IGA or any SSSA; or (b) any release, threatened release or escape of any substance in, on, under or from said Site that is caused, in whole or in part, by any conduct, action or negligence of the Benefiting Agency.

For the purposes of this IGA, the term "regulated substances" shall include substances defined as "regulated substances," "hazardous waste," "hazardous substances," "hazardous materials," "toxic substances" or "pesticides" in the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, the Comprehensive Environmental Response, Compensation and Liability Act, as amended in 1986 to include Superfund Amendments and Reauthorization Act, the Hazardous Materials Transportation Act, the Toxic Substance Control Act, the Federal Insecticide, Fungicide and Rodenticide Act, the relevant local and state environmental laws, and the regulations, rules and ordinances adopted and publications promulgated pursuant to the local, state, and federal laws. This indemnification shall include, without limitation, claims or damages arising out of any violations of applicable environmental laws, regulations, ordinances, rules or subdivisions thereof. This environmental indemnity shall survive the expiration or termination of this IGA or any amendment thereto and/or any transfer of all or any portion of the Sites and shall be governed by the laws of the State of Arizona, if applicable. Benefiting Agency accepts sole responsibility and liability for all wastes produced by its operation, activities and occupation of the premises and shall comply with all applicable laws concerning such wastes, including federal, state, and local regulatory requirements. Any such waste must be disposed of in compliance with the above.

- f) Benefiting Agency agrees it shall be solely responsible for and assumes all responsibility for the actions of Benefiting Agency, its agents, employees and contractors in generating, storing, releasing, placing or allowing to remain on the property any hazardous substances, hazardous wastes, or toxic substances (hereinafter collectively referred to as "Hazardous Substances"), as those terms as defined and regulated under CERCLA, 42 U.S.C. 9601 et seq., RCRA, 42 U.S.C. 6901 et seq., or TSCA, 15 U.S.C. 2601 et seq.. Benefiting Agency further agrees to comply with all environmental laws and regulations and to take such other actions as may be reasonably required to protect against environmental liabilities. Any such "hazardous substances" must be disposed of pursuant to and in compliance with all required laws and regulations concerning the use and disposal of such substances.
- g) Management and proper disposal of all hazardous material is the responsibility of Benefiting Agency. Benefiting Agency must keep appropriate and required documentation relating to the management and disposal of all hazardous material.
- h) Host Agency agrees to defend, indemnify, and hold harmless Benefiting Agency and its officials, electeds, agents and employees against all loss, liability, or



expense relating to personal, property, or economic injury arising from the presence of Hazardous Substances located on any Site (other than any such Hazardous Substances generated, stored, released, placed or allowed to remain on the Property by the Benefiting Agency, its officials, electeds, agents, employees and contractors in violation of the law).

11. Insurance. The Parties acknowledge and agree they are each self-insured.

- a) If, during the term of this IGA, any property, buildings, fixtures, equipment or improvements under control of the Benefiting Agency shall be destroyed or damaged in whole or in part by fire or any other cause, except condemnation, the Benefiting Agency shall give immediate notice to Host Agency. Benefiting Agency shall immediately secure the area to prevent injury, vandalism and further damage to person, improvements and contents thereof. Benefiting Agency shall restore the premises at least to the extent permitted by insurance proceeds. However, Benefiting Agency will remain responsible for clean-up and to restore the premises to a condition reasonable under the circumstances and acceptable to Host Agency. If the Communication Systems are capable of restoration within ninety (90) days, this IGA shall continue in full force and effect.
- b) If Benefiting Agency can demonstrate and Host Agency may corroborate, that the Communication Systems are not capable of restoration within ninety (90) days, Benefiting Agency shall have the right to terminate this IGA or install a temporary facility for such length of time as necessary to complete restoration and resume operation.
- c) Benefiting Agency shall, as soon after damage as possible, apply for all required permits of whatever nature to restore damaged improvements, and complete restorations within a date mutually agreeable to the Parties. Should such damage or destruction occur within twelve (12) months of the IGA's normal termination date, the Parties may mutually agree to the extent of the restoration, if any.

12. Default; Remedies.

- a) Mesa Default. Each of the following shall constitute a material breach of this IGA and an event of default by Mesa ("Mesa Event of Default") hereunder: Mesa's failure to observe or perform any of the material covenants, conditions or provisions of this IGA to be observed or performed by Mesa, where such failure shall continue for a period of thirty (30) days after Mesa receives written notice thereof from SRPMIC, or such additional period of time thereafter as Mesa and SRPMIC may agree in writing and may be reasonably necessary under the circumstances to cure such default, if Mesa commences to cure such default within said thirty (30) day period and thereafter diligently proceeds to cure such default.
- b) SRPMIC Remedies. In the event Mesa fails to perform any of its material obligations under this IGA and is in default pursuant to Section 12(a) of this IGA, SRPMIC may, at its option, terminate this IGA. Further, upon the occurrence of any Mesa Event of Default and at any time thereafter, SRPMIC may, but shall not be required to, exercise any remedies now or hereafter available to SRPMIC at law or in equity.

c) SRPMIC Default. Each of the following shall constitute a material breach of this IGA and an event of default by SRPMIC ("SRPMIC Event of Default") hereunder: SRPMIC's failure to observe or perform any of the material covenants, conditions or provisions of this IGA to be observed or performed by SRPMIC, where such failure shall continue for a period of thirty (30) days after SRPMIC receives written notice thereof from Mesa, or such additional period of time thereafter as SRPMIC and Mesa may agree in writing and may be reasonably necessary under the circumstances to cure such default, if SRPMIC commences to cure such default within said thirty (30) day period and thereafter diligently proceeds to cure such default.

d) Mesa Remedies. In the event SRPMIC fails to perform any of its material obligations under this IGA and is in default pursuant to Section 12(c) of this IGA, Mesa may, at its option, terminate this IGA. Further, upon the occurrence of any SRPMIC Event of Default and at any time thereafter, Mesa may, but shall not be required to, exercise any remedies now or hereafter available to Mesa at law or in equity.

13. MESA and SRPMIC will compute a bill or voucher on a monthly basis for all services referenced in Paragraph Four (4) of this Agreement. The final total will be the net amount due after all site-specific costs are computed and submitted to the agency that has a balance due. The billing will be for a period of service for which it is submitted (e.g., "previous month") and will include a description of the locations where services were performed. All bills or vouchers submitted pursuant to this Agreement shall be dated and reflect the Agreement number. All final bills or vouchers will be submitted to the agency that has a balance due. All records regarding a bill or voucher, including employee time sheets and accounting logs must be retained in compliance with Arizona State Law Records Retention Schedule. That agency with the balance will prepare the necessary forms to forward payment.

14. Notice Addresses. All notices herein required to be given to SRPMIC in writing and all payments herein required shall be sent to:

SRPMIC  
Jo Ann Byrd, Director  
Information Technology Department  
Salt River Pima-Maricopa Indian Community  
10,005 E. Osborn Road  
Scottsdale, AZ 85256

MESA  
Communications Administrator  
City of Mesa  
P.O. Box 1466  
Mesa, Arizona 85211-1466  
ATTN: Communications Department

- a) Notice Requirements. All notices required or permitted by this IGA or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, and shall be deemed sufficiently given if served in a manner specified in this Section. The addresses specified in Section 14 shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice.
- b) Date of Notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier.

15. Indemnification. To the extent permitted by law, each Party, as indemnitor, agrees to indemnify, defend, and hold harmless the other Party, as indemnitee, from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of 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 Party and its officers, officials, agents, employees, or volunteers.

16. Conflicts. This Agreement shall be subject to the provisions of A.R.S. § 38-511.

Return of Premises. At the termination or expiration of this IGA, Benefiting Agency shall return the Sites to Host Agency in good condition within sixty (60) days. Benefiting Agency may abandon the improvements made thereon or remove said improvements and restore the Sites to their original condition if so directed by Host Agency.

Agreement as License. The Parties intend and mutually agree that this Agreement shall be construed as a mere license by Host Agency to Benefiting Agency to operate within the Sites. This Agreement shall not be construed as a lease, sublease, rental agreement or easement. It is understood and mutually agreed that Benefiting Agency has no interest whatsoever in the Sites.

17. No Assignment. Neither party to this Agreement shall assign any of the rights received pursuant to the terms of this IGA without the prior written consent of the other Party.

18. Time is of the Essence. Time is of the essence of this IGA. If the date for performance of any obligation hereunder or the last day of any time period provided herein shall fall on a Saturday, Sunday or legal holiday of the State of Arizona, then said date for performance or time period shall expire on the first day thereafter which is not a Saturday, Sunday or a legal holiday. Unless otherwise specifically indicated to the contrary, the word "days" as used in this IGA shall mean and refer to calendar days and not business days.

19. No Partnership or Joint Venture. Nothing contained in this IGA shall create any partnership, joint venture or other arrangement between SRPMIC and Mesa. Except and expressly provided herein, no term or provision of this IGA is intended or shall be for the benefit of any person or entity not a party hereto, and no such other person or entity shall have any right or cause of action hereunder.
20. Venue; Governing Law.

**ARBITRATION:** Any dispute or claim arising from, or relating to this Agreement, or breach thereof that cannot be resolved promptly by the parties shall be resolved by binding arbitration in accordance with the rules, then obtaining, of the American Arbitration Association. It is understood that neither this Agreement nor the Rules of the American Arbitration Association shall confer jurisdiction on any courts of the State of Arizona or of the United States. It is further understood that arbitration as set forth in this paragraph is the exclusive remedy for any dispute, or claim related to this Agreement.

The Community expressly waives its immunity from suit only as to binding arbitration proceedings as described herein, and to actions to enforce such arbitration decisions brought in a court of appropriate jurisdiction. This waiver is specifically limited to the following actions and judicial remedies:

**Damages:** The enforcement of an award of monetary damages by arbitration; provided the arbitrator(s) and/or court shall have no authority or jurisdiction to order execution against any assets or revenues of the Community except the proceeds of applicable insurance policies. In no instance shall any enforcement of any kind whatsoever be allowed against any assets of the Salt River Pima-Maricopa Indian Community other than the limited assets of the Community specified in this Section.

21. Limited Waiver of Community's Immunity. Notwithstanding any other provision of this Agreement to the contrary and subject to the limitations set forth in this Section, the Community expressly waives its immunity from suit for the purpose of (1) authorizing an arbitration proceeding for any complaint, dispute or controversy arising out of this Agreement, as described in Section 12 of this Agreement and to bring a judicial action in the United States District Court in Phoenix, or, if the United States District Court lacks jurisdiction, in the Superior Court of Maricopa County, Arizona, for the enforcement of an arbitration decision (or failure to submit to arbitration, if applicable) authorized under and related to this Agreement or (2) authorizing an action for injunctive relief in the United States District Court in Phoenix, or, if the United States District Court lacks jurisdiction, in the Superior Court of Maricopa County, Arizona arising out of the rights and obligations of this Agreement. This limited waiver of sovereign immunity does not consent to or authorize a judicial action for damages against the Community other than enforcement of an arbitration decision (or failure to submit to arbitration, if applicable) awarding damages, including specific performance of an arbitration decision. Notwithstanding anything to the contrary in this Agreement, the exclusive jurisdiction and venue for enforcing any award to the prevailing Party in any arbitration proceeding (or failure to submit to arbitration, if applicable) arising out of this Agreement or to obtain injunctive relief for the rights and obligations under this Agreement shall be the United States District Court in Phoenix, or, if the United States District Court lacks jurisdiction,

the Superior Court of Maricopa County, Arizona. The Community's governing tribal council and/or board must adopt and execute a resolution (the "Resolution") waiving its sovereign immunity as provided by this Section 21 of this Agreement. This Agreement shall not be Effective and enforceable until the Community has provided Mesa with an executed certified copy of the Resolution. The prior submission of an executed certified copy of the Resolution to Mesa is a pre-condition to Mesa executing this Agreement.

22. Entire Agreement. This IGA, together with any exhibits attached hereto and any agreements executed contemporaneously herewith, constitutes the entire agreement between the Parties and sets forth all of the covenants, promises, agreements, conditions and understandings between SRPMIC and Mesa, and there are no covenants promises, agreements, conditions or understandings, either oral or written, between SRPMIC and Mesa other than as set forth herein. This IGA shall be construed as a whole and in accordance with its fair meaning and without regard to any presumption or other rule requiring construction against the party drafting this IGA. This IGA cannot be modified or changed except by a written instrument executed by SRPMIC and Mesa. SRPMIC and Mesa have reviewed this IGA and have had the opportunity to have it reviewed by legal counsel. This Agreement does not imply authority to perform any tasks, or accept any responsibility, not expressly stated in this Agreement. This Agreement does not create a duty or responsibility unless the intention to do so is clearly and unambiguously stated in this Agreement.
23. Waiver. Waiver by either Party of any breach of any term, conditions or covenant herein contained shall not be deemed to be a waiver of any other term, condition or covenant herein, or of a subsequent breach of any term, covenant or condition herein. Either Party's consent to, or approval of, any subsequent or similar act shall not be deemed to render unnecessary the obtaining of either Party's consent to, or approval of, any subsequent or similar act by the other, to be construed as the basis of an estoppel to enforce the provision or provisions of this IGA requiring such consent.
24. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be valid under applicable law, but if any provision shall be invalid or prohibited thereunder, such provision shall be ineffective to the extent of such prohibition or invalidation but shall not invalidate the remainder of such provision or the remaining provisions of this Agreement.
25. Authority to Execute. Any individual executing this IGA on behalf of or as representative for a governmental entity, corporation or other person, firm, partnership or entity represents and warrants that he/she is duly authorized to execute and deliver this IGA on behalf of said governmental entity, corporation, person, firm, partnership or other entity, that all approvals have been obtained and that this IGA is binding on said entity in accordance with its terms.
26. Headings. Sections and other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Lease.
27. Cooperation. SRPMIC and Mesa agree to execute and/or deliver to each other such other instruments and documents as may be reasonably necessary to fulfill the covenants and obligations to be performed by SRPMIC and/or Mesa pursuant to this IGA.

IN WITNESS WHEREOF, the parties hereto agree to carry out the terms of this Agreement and have executed this Agreement the day and year first written above.

**Salt River Pima Maricopa Indian Community,      CITY OF MESA, an Arizona corporation**  
**a Federally-Recognized Indian Tribe**

By: *Diane Enos*      By: \_\_\_\_\_

Diane Enos

Christopher J. Brady

Title: President

Its: City Manager

Attest:

Attest:

*Erin Harmin*      \_\_\_\_\_

Council Secretary, (Title)

Date

Dee Ann Mickelsen, City Clerk

Date

I hereby state that I have reviewed the proposed Intergovernmental Agreement, between the Salt River Pima Maricopa Indian Community and the City of Mesa, pursuant to A.R.S. § 11-952, and declare the Agreement to be in proper form and within the powers and authority granted to the City of Mesa under the laws of the State of Arizona.

*Margaret A. Robertson*      *3/18/14*

Margaret A. Robertson

Date

Assistant City Attorney

I hereby state that I have reviewed the proposed Intergovernmental Agreement, between the Salt River Pima Maricopa Indian Community and the City of Mesa, pursuant to A.R.S. § 11-952, and declare the Agreement to be in proper form and within the powers and authority granted to the Salt River Pima Maricopa Indian Community by Article VII, Section 1 (h) of the Constitution of SRPMIC.

By: *Marnie Hodahkwen*      *2/28/14*

Marnie Hodahkwen

Date

Attorney

ATTACHMENT "1"

**MESA contact information:**

Telephone Number

MESA Communications Department (6:00A – 4:30P M-Th) (480)644-3166

PD Dispatch Supervisor (7:00A – 3:30P M-F) (480)644-2293

ITD Help Desk (After work hours) (480)644-2363

Wireless Communications Administrator (6:00A – 4:30P M-Th) (480)644-3828

**SALT RIVER PIMA MARICOPA INDIAN  
COMMUNITY contact information:**

**IT Director – (480) 362-7507**

**PD Dispatch Manager – (480) 362-7970**

**Public Safety Communications Analyst –  
(480) 577-4980**

**IT Help Desk (After Hours) – 480-362-7562**