



Maricopa County
Public Works

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July 18, 2011

Dr. Spencer Isom
City Manager
City of El Mirage
12145 Northwest Grand Avenue
El Mirage, AZ 85335

Subject: IGA for El Mirage Road from Northern Avenue to Grand Avenue

Dear Dr. Isom:

I am pleased to enclose a signed and recorded original version of the Intergovernmental Agreement for Improvements to El Mirage Road from Northern Avenue to Grand Avenue. The agreement became effective on June 22, 2011.

Once again, we must communicate MCDOT's strong appreciation for your work on this Agreement, and the major contributions made by Lance Calvert and Robert Nilles. If you have any questions, please contact me at 602-506-8672 or at clemligocki@mail.maricopa.gov.

Sincerely,

A handwritten signature in cursive script that reads "Clem Ligocki".

Clemenc Ligocki
Intergovernmental Policy Manager

Enclosure

Copy: Lance Calvert, El Mirage
Sami Ayoub, MCDOT
Samantha Samples, MCDOT
Lynne Hilliard, MCDOT

**OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER**

HELEN PURCELL

2011-0586973 07/15/2011 11:55a

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WHEN RECORDED RETURN TO:
Maricopa County Department of Transportation
Engineering and Transportation Planning Division

**INTERGOVERNMENTAL AGREEMENT
C-91-11-226-5-00**

**Between Maricopa County and City of El Mirage
for
Improvements to El Mirage Road
from Northern Avenue to Grand Avenue**

**Approved by the Maricopa County Board of Supervisors
On the 22nd Day of June, 2011**

**DO NOT REMOVE
This is part of the official document**

MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION

INTERGOVERNMENTAL AGREEMENT
BETWEEN MARICOPA COUNTY AND THE CITY OF EL MIRAGE
FOR IMPROVEMENTS TO EL MIRAGE ROAD
FROM NORTHERN AVENUE TO GRAND AVENUE
(TT 344)
(C-91-11-226-5-00)

This Intergovernmental Agreement (**Agreement**) is between the County of Maricopa, a political subdivision of the State, acting through the Maricopa County Department of Transportation (**County**), and the City of El Mirage, a municipal corporation (**City**). The County and City are collectively referred to as the **Parties** or individually as a **Party**.

This Agreement shall become effective as of the date it is approved by the Maricopa County Board of Supervisors.

STATUTORY AUTHORIZATION

1. A.R.S. §11-251 and §§28-6701 et seq. authorize the County to lay out, maintain, control and manage public roads within the County.
2. A.R.S. §§11-951 et seq. authorize public agencies to enter into Intergovernmental Agreements for the provision of services or for joint or cooperative action.

BACKGROUND

3. El Mirage Road between Northern Avenue and Grand Avenue varies from a two-lane road to a five-lane road with a two-way center left-turn lane. The specific road lane configurations by road segment within the corridor are shown in the following table:

Road Segment	Lanes *	Road Segment	Lanes *
Northern Ave to Olive Ave	1-0-1	Cactus Rd to Thunderbird Rd	2-1-2
Olive Ave to Peoria Ave	1-0-1	Thunderbird Rd to US60/Grand	1-0-1
Peoria Ave to Cactus Rd	1-1-1		

* Numbers denote: # of northbound lanes – center turn lane (0 if none) – # of southbound lanes

4. In November 2003, the Maricopa Association of Governments (MAG) adopted a Regional Transportation Plan (RTP) which included, among other projects, several projects on El Mirage Road between Northern Avenue and Paradise Lane.
5. In Fiscal Year 2006, the County, in cooperation with the City of El Mirage and the City of Surprise, conducted a corridor improvement study for El Mirage Road between Northern Avenue and Bell Road. This study confirmed the need for roadway improvements and identified a preferred corridor alignment.
6. In December 2009, the County, in cooperation with the City of El Mirage and the City of Surprise, completed a design concept report (DCR). The DCR outlined several preferred projects within the corridor, from Northern Avenue to Bell Road, as follows:

Road Segment	Preferred Project
Northern Ave to Cactus Road	Widen to 4 lanes
Thunderbird to Grand (T Connection)	Widen to 4 lanes
Thunderbird/Thompson Ranch/Grand	Realign & Widen to 4 lanes + turn lanes
Thompson Ranch Road	Pavement rehabilitation
Bell Road/El Mirage Road	Widen to 6 lanes; add turn lanes

In January 2010, the County, in cooperation with the City of El Mirage and the City of Surprise, presented and discussed value engineering recommendations which could potentially refine the DCR recommendations and provide cost savings.

7. On December 1, 2010, the Maricopa County Board of Supervisors approved an intergovernmental agreement (C91-11-094-M-00) between the County and the City of Surprise for El Mirage Road from Picerne Drive to Bell Road (including the Bell Road/El Mirage Road intersection). That road segment is advancing to design and construction.
8. The Project addressed by this Agreement is comprised of the south-to-north segment of El Mirage Road between Northern Avenue and Grand Avenue as well as Thunderbird Road from El Mirage Road on the west to Grand Avenue on the east. The specific phases of the overall Project are described as follows:
 - 8.1 Phase 1: Design of El Mirage Road from Northern Avenue (north of the limit of the Northern Parkway project, currently estimated as 500 feet north of the curb returns of the Northern Parkway frontage road) to Cactus Road, including the intersection at Cactus Road
 - 8.2 Phase 2: Design of El Mirage Road from Cactus Road (north of the intersection project) to Grand Avenue, including the design of Thunderbird Road from El Mirage Road to Grand Avenue (may be concurrent with Phase 1)
 - 8.3 Phase 3: Right-of-way acquisition and construction of El Mirage Road from Northern Avenue (starting at the north limit of the Northern Parkway project as described in paragraph 8.1 above) to 1,500 feet south of Peoria Avenue

- 8.4 Phase 4: Right-of-way acquisition and construction of Thunderbird Road from El Mirage Road to Grand Avenue, including the intersection of Thunderbird Road and El Mirage Road
- 8.5 Phase 5: Right-of-way acquisition and construction of El Mirage Road from 1,500 feet south of Peoria Avenue to Cactus Road, including the intersection at Peoria Avenue and the intersection at Cactus Road
- 8.6 Phase 6: Right-of-way acquisition and construction of El Mirage Road from Cactus Road (north of the intersection project) to Grand Avenue

9. The FY 2011 MAG RTP Arterial Life Cycle Program (ALCP) provides a budget of \$16,706,766 in Fiscal Years 2019 and 2020 for El Mirage Road from Northern Avenue to Thunderbird Road and a budget of \$19,842,652 in Fiscal Years 2011 through 2017 for El Mirage Road from Thunderbird Road to Bell Road. It is anticipated that none of the \$19,842,652 in ALCP monies programmed for El Mirage Road from Thunderbird Road to Bell Road will be applied to reimburse the cost of El Mirage Road from Picerne Drive to Bell Road. In addition, no project is currently planned for El Mirage Road from Grand Avenue to Picerne Drive. Therefore, the Parties agree that both the \$16,706,766 in ALCP programmed for Fiscal Years 2019 and 2020 for El Mirage Road from Northern Avenue to Thunderbird Road and the \$19,842,652 in ALCP programmed for Fiscal Years 2011 through 2017 for El Mirage Road from Thunderbird Road to Bell Road should be combined and reprogrammed for El Mirage Road from Northern Avenue to Grand Avenue at this time. Accordingly, the Parties agree to approach MAG at the appropriate time, to request amendments to the MAG ALCP and Transportation Improvement Program to accomplish this adjustment and apportion the available ALCP funding among the specific phases of the Project.

10. Current cost estimates for each phase of the Project addressed by this agreement, along with estimated allocations of MAG ALCP reimbursement funding among the phases, are outlined below:

Phase	Segment/Description	Cost Estimate	Estimated ALCP Reimbursement *
1	Northern to Cactus Design	\$1,619,000	\$1,133,301
2	Cactus to Grand Design	\$2,539,267	\$1,777,487
3	Northern to Peoria ROW/CN	\$13,997,290	\$9,798,103
4	Thunderbird Rd ROW/CN	\$4,000,000	\$2,800,000
5	Peoria to Cactus ROW/CN	\$10,810,564	\$7,567,395
6	Cactus to Grand ROW/CN	\$21,786,599	\$13,250,619
	TOTALS	\$54,752,720	\$36,549,418

* Reimbursements will be available as programmed in the MAG ALCP and TIP. Local agencies will be required to "cash flow" the project/phase costs "up front" and await ALCP reimbursement in the MAG budgeted year. The ALCP amounts may be adjusted by MAG for inflation in accordance with MAG policies and procedures, and local shares may be adjusted as project phases develop.

11. The Parties may approach MAG at an appropriate time to request amendments to the MAG ALCP to adjust the project and/or official project phases or make other adjustments as necessary and appropriate, in accordance with MAG policies and procedures.
12. The Parties may approach MAG at an appropriate time to apply for early ALCP reimbursement (before the MAG budgeted years), if available, or to request changes to reimbursement years in accordance with MAG policies and procedures.
13. Except as provided in paragraph 15 of this Agreement, the County shall contribute \$6,000,000 toward the costs of the overall Project, not including staff time devoted to the Project. This shall be apportioned among any or all of the six phases of the Project, as the County determines is feasible and as the Parties mutually determine is most prudent to complete the Project. County financial participation shall be limited to aspects of the Project that are essential for the establishment of a safe roadway consistent with the County's cost participation policy. The County will not financially participate in Project enhancements such as landscaping, irrigation, street lighting, visual mitigation, decorative pavers, street furniture or any other items inconsistent with the County's cost participation policy unless there is a benefit to the County that can be demonstrated by a benefit/cost analysis.
14. Except as provided in paragraph 15 of this agreement, or unless the City determines it is in the best interests of the City to contribute more than \$6,000,000 to the Project, the City shall contribute \$6,000,000 toward the cost of the Project, not including staff time devoted to the Project. Except as otherwise specifically stated in this Agreement, this shall be apportioned among any or all of the six phases of the Project, as the City determines is feasible and as the Parties mutually determine is most prudent to complete the Project.
15. In recognition that each Party intends to limit its financial contribution for the Project to \$6,000,000, and recognizing that the current cost estimate for this Project (as shown in paragraph 10 of this Agreement) might eventually require a combined local cost share in excess of \$12,000,000 to meet the minimum 30% local share required by MAG policies and procedures, the Parties agree to employ appropriate strategies to limit the Parties' costs and ensure the project is feasible. These strategies may include value engineering, seeking right-of-way dedications, seeking developer contributions, making adjustments to project scope or other appropriate strategies. If less than a \$12,000,000 total, combined local share is needed for the Project, the amount of savings under the \$12,000,000 amount shall be shared so that the estimated \$6,000,000 shares provided by each Party are reduced equally between the parties to produce a 50/50 share of the total combined local share.
16. The County shall take the available MAG ALCP reimbursements for Project phases 1 and 3 because this will help to cash flow the Project. The City shall cash flow Project phase 2 and shall take MAG ALCP reimbursements for phase 2 when available, but not sooner than completion of phases 1 and 3, unless the Parties agree to an alternative arrangement. Beginning with phase 4 of the Project and continuing through phase 6, the City shall take all available MAG ALCP reimbursements, provided that the maximum \$6,000,000 County contribution toward the Project is maintained. If both Parties agree,

a Party may choose to reallocate all or a portion of its reimbursement to a different phase of the Project rather than receive reimbursement in the current phase, except as otherwise provided in this Agreement.

17. Upon completion of each phase of the Project, but not less than annually, the Parties shall discuss the lessons learned in the phases completed to date, the most current Project cost estimates and revenue projections, the budgetary conditions of each Party, the cash flow strategy and cash flow responsibilities of each Party, the maximum contributions of each Party under this Agreement, and strategies needed to ensure the future phases of the Project can be completed to the benefit of the Parties and their residents, and shall determine if any amendments to this Agreement should be recommended.
18. The Parties agree that:
 - 18.1 For phase 1 of the Project, the County shall serve as the lead agency and shall coordinate with the City to ensure phase 1 and 2 designs are compatible. With respect to MAG ALCP responsibilities, the County shall bear the designation of lead agency for the Project segment between Northern Avenue and Peoria Avenue (not including the intersection), and the City shall bear the designation of lead agency for the segment between Peoria Avenue (including the intersection) and Cactus Road, with the County providing management and technical assistance for the design work.
 - 18.2 For phase 2 of the Project, the City shall serve as the lead agency and shall coordinate with the County to ensure phase 1 and 2 designs are compatible.
 - 18.3 For phase 3 of the Project, the County shall serve as the lead agency for right-of-way acquisition, utility coordination, utility permits and inspections, and construction.
 - 18.4 For phases 4, 5 and 6 of the Project, the City shall serve as lead agency for right-of-way acquisition, utility coordination, utility permits and inspections, and construction.
 - 18.5 For all phases of the Project, the lead agency, as identified in this Agreement, shall be considered the official lead agency for purposes of administering the MAG ALCP policies and procedures, except as provided in paragraph 18.1. If requested by the City, the County shall provide reasonable assistance to the City for ALCP tasks in cases where the City is the official lead agency.
 - 18.6 For all phases of the Project, the Parties shall cooperatively develop a public involvement and government relations plan, to include the roles and responsibilities of each Party. This plan, and future project development, will be built upon the public involvement program established during the design concept report. The City will be a recognizable "face" or authority for the Project at public meetings, open houses and similar events, and the City will handle responses to calls and other inquiries from El Mirage residents covering aspects of the Project activity and its impacts. Through the public involvement

and government relations plan, the Parties will clarify the nature and extent of these City roles in consideration of limited available resources.

- 18.7 The City and the County may deem it prudent to change these roles, by mutual written intergovernmental agreement, in the future.
19. The Parties shall design and construct all phases of the Project to City standards, and the City shall annex all portions of the Project not already within the City, including the road and all areas within the full right-of-way limits of the Project, no later than upon completion of construction, phase by phase.
20. The Parties agree that all costs associated with required intersection improvements to the state highway known as Grand Avenue (US 60) at Thunderbird Road and Thompson Ranch Road are the responsibility of the Arizona Department of Transportation (ADOT), and both parties will work to secure ADOT funding for this intersection improvement critical to the El Mirage Road corridor.

PURPOSE OF THE AGREEMENT

21. The purpose of this Agreement is to identify and define the responsibilities of the County and the City for the cost sharing, design, right-of-way acquisition, utility relocation (considered a part of construction), construction, construction management, and public information and public involvement for the Project.

TERMS OF THE AGREEMENT – PHASE 1 OF THE PROJECT: NORTHERN AVENUE TO CACTUS ROAD, DESIGN

22. Responsibilities of the County:

- 22.1 The County shall serve as the lead agency for design and shall coordinate with the City to ensure phase 1 and 2 designs are compatible.
- 22.2 The County shall design the Project to City standards.
- 22.3 The County shall contribute up to a maximum of \$6,000,000 as its cost share for this phase of the Project. The specific amount of County contribution for this phase will equal the total cost for the phase minus the MAG ALCP reimbursement (currently estimated as \$1,133,301) taken by the County. Any excess funding will be retained for the Project and reinvested in the Project, provided that the maximum \$6,000,000 County contribution toward the Project is maintained.
- 22.4 The County shall provide copies of all design plans to the City for review and comment at the 40%, 70% and 90% design levels.

23. Responsibilities of the City:

- 23.1 Upon receipt of the design plans, the City shall provide comments to the County within 15 working days.
- 23.2 The City shall waive all permit fees required to design the portion of the Project that resides within the City's jurisdictional boundaries.

**TERMS OF THE AGREEMENT – PHASE 2 OF THE PROJECT:
CACTUS ROAD TO GRAND AVENUE, DESIGN**

24. Responsibilities of the County:

- 24.1 Upon receipt of the design plans, the County shall provide comments to the City within 15 working days.
- 24.2 The County shall waive all permit fees required to design any portion of the Project that resides within the County's jurisdictional boundaries.

25. Responsibilities of the City:

- 25.1 The City shall serve as the lead agency for design and shall coordinate with the County to ensure phase 1 and 2 designs are compatible.
- 25.2 The City shall serve as the lead agency for public information and public involvement.
- 25.3 The City shall design the project to City standards.
- 25.4 The City shall provide copies of all design plans to the County for review and comment at the 40%, 70% and 90% design levels.

**TERMS OF THE AGREEMENT – PHASE 3 OF THE PROJECT:
NORTHERN AVENUE TO PEORIA ROAD,
RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION**

26. Responsibilities of the County:

- 26.1 The County shall serve as the lead agency for right-of-way acquisition, utility coordination, utility permits, utility inspections, construction and construction management.
- 26.2 The County shall construct the Project to City standards.
- 26.3 If the County does not apply its full maximum contribution of \$6,000,000 to pay for Phase 1 of the Project, the County shall apply all or a portion of the balance of its contribution to pay for costs of Phase 3 of the Project, as the County

determines is feasible and as the Parties mutually determine is most prudent to accomplish the Project.

- 26.4 The County shall take the available MAG ALCP reimbursements for Project phase 3.
- 26.5 If, after providing the cash flow for phases 1 and 3 of the Project and after taking the available MAG ALCP reimbursements for phases 1 and 3, the maximum \$6,000,000 County contribution toward the Project is exceeded, the County shall, upon completion of phase 3, invoice the City for any amount in excess of the County's maximum \$6,000,000 contribution toward the overall Project.

27. Responsibilities of the City:

- 27.1 The City shall authorize the County to purchase and, if necessary, to condemn required properties within the corporate limits of the City for the purpose of this Project.
- 27.2 The City shall remit payment within 30 days of receipt of an invoice from the County.
- 27.3 The City shall waive all permit fees required to acquire right-of-way, perform utility-related services and construct the portion of the Project that resides within the City's jurisdictional boundaries.
- 27.4 The City shall annex all portions of the Project phase not already within the City, including the road and all areas within the full right-of-way limits of the Project phase, no later than upon completion of construction.
- 27.5 The City shall assume all liability and maintenance, repair and operational responsibilities for the Project and all associated features until annexation is complete.
- 27.6 The City shall receive credit in accordance with MAG policies and procedures for all Project right-of-way donated or dedicated to the City.

**TERMS OF THE AGREEMENT – PHASE 4 OF THE PROJECT:
THUNDERBIRD ROAD, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION**

28. Responsibilities of the County:

- 28.1 If the County does not apply its full maximum contribution of \$6,000,000 to pay for phase 1 and phase 3 of the Project, the County shall apply all or a portion of the balance of its contribution to pay for costs of phase 4 of the Project, as the County determines is feasible and as the Parties mutually determine is most prudent to accomplish the Project.

- 28.2 The County shall remit payment within 30 days of receipt of an invoice from the City.
- 28.3 The County shall waive all permit fees required to acquire right-of-way, perform utility-related services and construct the portion of the Project that resides within the County's jurisdictional boundaries.

29. Responsibilities of the City:

- 29.1 The City shall serve as the lead agency for right-of-way acquisition, utility coordination, utility permits, utility inspections, construction and construction management.
- 29.2 The City shall construct the Project to City standards.
- 29.3 The City shall contribute all costs associated with phase 4 of the Project, unless the County decides to apply all or a portion of the balance of its maximum \$6,000,000 contribution to pay for costs of phase 4 of the Project as provided in this Agreement. If the County decides to apply funding to phase 4, then the City shall invoice the County for the appropriate amount, up to balance of the maximum County contribution of \$6,000,000, upon completion of construction of phase 4.
- 29.4 The City shall take the available MAG ALCP reimbursements for Project phase 4.
- 29.5 The City shall annex all portions of the Project phase not already within the City, including the road and all areas within the full right-of-way limits of the Project phase, no later than upon completion of construction.
- 29.6 The City shall assume all liability and maintenance, repair and operational responsibilities for the Project and all associated features until annexation is complete.

**TERMS OF THE AGREEMENT – PHASE 5 OF THE PROJECT:
PEORIA AVENUE TO CACTUS ROAD,
RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION**

30. Responsibilities of the County:

- 30.1 If the County does not apply its full maximum contribution of \$6,000,000 to pay for phases 1, 3 and 4 of the Project, the County shall apply all or a portion of the balance of its contribution to pay for costs of phase 5 of the Project, as the County determines is feasible and as the Parties mutually determine is most prudent to accomplish the Project.
- 30.2 The County shall remit payment within 30 days of receipt of an invoice from the City.

- 30.3 The County shall waive all permit fees required to acquire right-of-way, perform utility-related services and construct the portion of the Project that resides within the County's jurisdictional boundaries.

31. Responsibilities of the City:

- 31.1 The City shall serve as the lead agency for right-of-way acquisition, utility coordination, utility permits, utility inspections, construction and construction management.
- 31.2 The City shall construct the Project to City standards.
- 31.3 The City shall contribute all costs associated with phase 5 of the Project, unless the County decides to apply all or a portion of the balance of its maximum \$6,000,000 contribution to pay for costs of phase 5 of the Project as provided in this Agreement. If the County decides to apply funding to phase 5, then the City shall invoice the County for the appropriate amount, up to balance of the maximum County contribution of \$6,000,000, upon completion of construction of phase 5.
- 31.4 The City shall take the available MAG ALCP reimbursements for Project phase 5.
- 31.5 The City shall annex all portions of the Project phase not already within the City, including the road and all areas within the full right-of-way limits of the Project phase, no later than upon completion of construction.
- 31.6 The City shall assume all liability and maintenance, repair and operational responsibilities for the Project and all associated features until annexation is complete.

**TERMS OF THE AGREEMENT – PHASE 6 OF THE PROJECT:
CACTUS ROAD TO GRAND AVENUE,
RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION**

32. Responsibilities of the County:

- 32.1 If the County does not apply its full maximum contribution of \$6,000,000 to pay for phases 1, 3, 4 and 5 of the Project, the County shall apply the remaining balance of its contribution to pay for costs of phase 6 of the Project, as the County determines is feasible and as the Parties mutually determine is most prudent to accomplish the Project.
- 32.2 The County shall remit payment within 30 days of receipt of an invoice from the City.
- 32.3 The County shall waive all permit fees required to acquire right-of-way, perform

utility-related services and construct the portion of the Project that resides within the County's jurisdictional boundaries.

33. Responsibilities of the City:

- 33.1 The City shall serve as the lead agency for right-of-way acquisition, utility coordination, utility permits, utility inspections, construction and construction management.
- 33.2 The City shall construct the Project to City standards.
- 33.3 The City shall contribute all costs associated with phase 6 of the Project, unless the County decides to apply the balance of its maximum \$6,000,000 contribution to pay for costs of phase 6 of the Project as provided in this Agreement. If the County decides to apply funding to phase 6, then the City shall invoice the County for the appropriate amount, up to the balance of the maximum County contribution of \$6,000,000, upon completion of construction of phase 6.
- 33.4 The City shall take the available MAG ALCP reimbursements for Project phase 6.
- 33.5 The City shall annex all portions of the Project phase not already within the City, including the road and all areas within the full right-of-way limits of the Project phase, no later than upon completion of construction.
- 33.6 The City shall assume all liability and maintenance, repair and operational responsibilities for the Project and all associated features until annexation is complete.

GENERAL TERMS AND CONDITIONS

- 34. By entering into this Agreement, the Parties agree that to the extent permitted by law, each Party will indemnify and save the other Parties harmless, including any of the Parties' departments, agencies, officers, employees, elected officials or agents, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance or nonperformance by the indemnifying Party of any of the provisions of this Agreement. By entering into this Agreement, each Party indemnifies the other against all liability, losses and damages of any nature for or on account of any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance or nonperformance of this Agreement, except such injury or damage as shall have been occasioned by the negligence of that other Party. The damages which are the subject of this indemnity shall include but not be limited to the damages incurred by any Party, its departments, agencies, officers, employees, elected officials or agents. In the event of an action, the damages which are the subject of this indemnity shall include costs, expenses of litigation and reasonable attorney's fees.
- 35. This Agreement shall become effective as of the date it is approved by the Maricopa

County Board of Supervisors and may be recorded with the Maricopa County Recorder, and remain in full force and effect until all stipulations previously indicated have been satisfied except that it may be amended upon written Agreement by all Parties. Any Party may terminate this Agreement upon furnishing the other Parties with a written notice at least thirty (30) days prior to the effective termination date.

36. This Agreement shall be subject to the provisions of A.R.S. §38-511.
37. The Parties warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge that:
 - 37.1 Any contractor or subcontractor who is contracted by a Party to perform work on the Project shall warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A), and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer;
 - 37.2 That any breach of the warranty, shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract;
 - 37.3 The Parties retain the legal right to inspect the papers of any contractor or subcontractor employee who works on the Project to ensure that the contractor or subcontractor is complying with the warranty above and that the contractor agrees to make all papers and employment records of said employee available during normal working hours in order to facilitate such an inspection;
 - 37.4 Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties to this Agreement.
38. The Parties warrant that they do not have scrutinized business operations in Sudan or Iran, as prohibited by A.R.S. sections 35-391.06 and 35-393.06, and further acknowledge that any contractor or subcontractor who is contracted by a party to perform work on the Project shall warrant that they do not have scrutinized business operations in Sudan or Iran.
39. Each Party in this Agreement warrants that neither it nor any contractor or vendor under contract with the Party to provide goods or services toward the accomplishment of the objectives of this Agreement are suspended or debarred by any federal agency which has provided funding that will be used in the Project described in this Agreement.
40. This Agreement does not imply authority to perform any tasks, or accept any responsibility, not expressly stated in this Agreement.
41. This Agreement does not create a duty or responsibility unless the intention to do so is clearly and unambiguously stated in this Agreement.
42. This Agreement shall not be modified or extended except by written instrument adopted under the requirements for adopting a new agreement.

43. This Agreement does not grant authority to control the subject roadway, except to the extent necessary to perform the tasks expressly undertaken pursuant to this Agreement.
44. Any funding provided for in this Agreement, other than in the current fiscal year, is contingent upon being budgeted and appropriated by the Maricopa County Board of Supervisors and the El Mirage City Council in such fiscal year.
45. This Agreement has been arrived at by negotiation and shall not be construed against any Party or against the Party who prepared the last draft.
46. Unless otherwise lawfully terminated by the Parties, this Agreement shall expire upon the completion and acceptance of the Project and the fulfillment of all terms of the Agreement.

End of Agreement - Signature Page Follows

