

After recording, return to:

City Clerk  
Flagstaff City Hall  
211 W. Aspen Avenue  
Flagstaff, AZ 86001

**INTERGOVERNMENTAL AGREEMENT**  
**for Transportation Alternatives Safe Routes to School Award**  
**by and between**  
**City of Flagstaff**  
**and**  
**Flagstaff Metropolitan Planning Organization d/b/a MetroPlan**

This Intergovernmental Agreement (hereafter "Agreement") is entered into this \_\_\_\_\_ day of September, 2024 by and between the City of Flagstaff, an Arizona municipal corporation, with offices at 211 West Aspen Street, Flagstaff, Arizona 86001 (hereafter the "City"), and Flagstaff Metropolitan Planning Organization, a metropolitan planning organization formed as an Arizona nonprofit corporation with offices at 3773 North Kaspar Drive, Flagstaff, Arizona 86004, (hereafter "MetroPlan"). City and MetroPlan may be referred to individually as a Party or collectively as the Parties in this Agreement.

**RECITALS**

WHEREAS:

- A. MetroPlan has secured Federal Highway Administration (hereafter "FHWA") Transportation Alternatives grant funding ("Grant") passed through the Arizona Department of Transportation for up to ninety-four and three tenths percent (94.3%) funding for the preliminary design of infrastructure connections near schools commonly known as Safe Routes to School Infrastructure ("Project") {see attachment A: Grant Agreement for more information};
- B. The City and MetroPlan both benefit from the use of these funds in service of the Project;
- C. City desires to coordinate with MetroPlan for the purposes of completing the Project utilizing the Transportation Alternatives funding including providing match funds;
- D. City and MetroPlan now wish to enter into this Agreement to set out the roles and responsibilities of the Parties as related to the funding, design, construction, and completion of the Project; and
- E. The Parties are authorized to enter into this Agreement by the provisions of the Amended Master IGA, and by A.R.S. § 11-952 et seq.

NOW, THEREFORE, in consideration of the mutual covenants herein and other consideration, receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**AGREEMENT**

1. **Purpose and Scope.** The Purpose of this Agreement is to set out the roles and responsibilities of the Parties as related to Transportation Alternatives ("TA") grant funds MetroPlan received

for the preliminary design of the Project. Neither Party is committed to further design nor construct the identified infrastructure improvements. Implementation of the Project and its components will result in capital assets that shall be owned and maintained by City per City’s Asset Management Plan.

2. **Funding.** The TA awarded Grant funds to be used for the preliminary design of the Project total \$471,500 (94.3% of total Project cost), and the City’s match requirement totals \$28,500 (5.7% of Total Project cost), for a total Project budget of \$500,000. The table below provides a preliminary estimate for how the funding will be spent.

Awarded Project Costs						
<b>INSTRUCTIONS:</b> List all items necessary to develop and construct your project. The applicant is responsible for verifying all costs and their						
Enter values into GREEN CELLS.			The program will automatically calculate the Totals and Federal Share at 94.3%			
ITEM DESCRIPTION	UNIT	QUAN.	UNIT PRICE	TOTAL	FEDERAL FUNDS @ 94.3%	SPONSOR MATCHING FUNDS @ 5.7%
<b>PLANNING, SCOPING, AND PROGRAMMING</b>						
<b>Non-Infrastructure Project (i.e. planning or programming project)</b>						
<a href="#">If you need assistance determining a planning project budget, please contact your ADOT Regional Planner for support.</a>						
Engineering (see breakdown below)				\$ 500,000	\$ 471,500	\$ 28,500
<i>Needs/ priorities assessment</i>		1	\$ 150,000	\$ 150,000	\$ 141,450	\$ 8,550
<i>Topo/ Survey</i>		3	\$ 12,000	\$ 36,000	\$ 33,948	\$ 2,052
<i>NEPA</i>		3	\$ 23,000	\$ 69,000	\$ 65,067	\$ 3,933
<i>30% design</i>		3	\$ 60,000	\$ 180,000	\$ 169,740	\$ 10,260
<i>Contingency</i>		1	\$ 65,000	\$ 65,000	\$ 61,295	\$ 3,705
<b>Total</b>				\$ 500,000.00	\$471,500.00	\$28,500.00

These budgeted figures are preliminary and may be subject to change. Any budget changes needed for the completion of the Project shall be agreed to by the Parties. In the event MetroPlan secures additional funding for the Project, an amendment to this Agreement documenting the additional funding and Project components shall be executed by both Parties.

3. **Term.** This Agreement shall be in effect from the date of the last signature below to the date of completion of the Project and closure of the Project budget in the Grant.

4. **Project Roles and Responsibilities.**

4.1. MetroPlan Roles and Responsibilities

- 4.1.1. MetroPlan shall provide grant administration in accordance with the Grant Agreement.
- 4.1.2. MetroPlan shall designate a point of contact who will coordinate all aspects of the Project with a point of contact designated by City for the design and construction of the Project.
- 4.1.3. MetroPlan shall be responsible for procurements in compliance with federal requirements following a mutually agreed upon procurement plan.
- 4.1.4. MetroPlan shall contract for services including design professional (“DP”) and other third-party vendors required to complete preliminary design of the infrastructure. MetroPlan shall be responsible for procurement for the

preliminary design and coordinate with City on scoping and evaluating responses. MetroPlan shall provide contract oversight and MetroPlan will include all federal terms, requirements, and certifications in contracts in compliance with federal, state, or local requirements.

- 4.1.5. MetroPlan's point of contact shall meet monthly with City's point of contact to track progress on grant milestones and grant budget. MetroPlan shall submit monthly reports related to those topics to ADOT and meetings shall be timely to accommodate on-time reporting.
  - 4.1.6. MetroPlan shall monitor and provide oversight of preliminary requirements for the National Environmental Policy Act ("NEPA").
  - 4.1.7. MetroPlan shall be responsible for overall contract management, administration, project controls, and coordination.
  - 4.1.8. MetroPlan shall provide monthly expense reports to City to communicate expenditures and balance details pertaining to the Grant funds.
  - 4.1.9. MetroPlan is responsible for payment of all invoices received within thirty (30) days of receipt and MetroPlan will pay 100% of invoice totals.
  - 4.1.10. MetroPlan is responsible for submitting reimbursement request to ADOT for ninety-four and three tenths percent (94.3%) of total Project cost no later than thirty (30) days after receipt of all invoices for the billing period.
  - 4.1.11. MetroPlan will bill City for City's match (5.7% up to \$28,500) as required for the total Project as reported to ADOT no later than thirty (30) days after receipt of all invoices for the billing period.
- 4.2. City Roles and Responsibilities
- 4.2.1. City shall designate a Project Manager responsible for coordinating and providing direction on behalf of City.
  - 4.2.2. City will assist MetroPlan with the procurement process by developing the Project scope, assisting with scoring criteria, and contributing scoring committee information to MetroPlan and shall recommend procurements to conduct.
  - 4.2.3. City shall review and recommend approval of all change orders per the process detailed in the City's Procurement Code Manual.
  - 4.2.4. City will review invoices from the Design Professional and recommend to MetroPlan approval or denial of payment.
  - 4.2.5. City shall be responsible for day-to-day project management of preliminary design.
  - 4.2.6. City is responsible for paying invoices submitted by MetroPlan pursuant to section 4.1.11 within thirty (30) days of receipt of invoice.
  - 4.2.7. City shall develop and provide oversight of the Project budget and provide recommendations to the MetroPlan point of contact.

- 4.2.8. In the event the Project exceeds federal budget, City shall be responsible to cover 100% of the overruns and change orders.
- 4.2.9. The City will direct the work of the Design Professional per relevant City standards and guidelines and has final authority to review and accept preliminary designs from the Design Professional.
- 4.3. Shared Roles and Responsibilities
- 4.3.1. Each Party shall have a representative to be the main point of contact and shall be responsible for coordinating all Project specific information with their individual teams.
- 4.3.2. City and MetroPlan, along with DP, construction firm, and other vendors as applicable, shall comply with NEPA regulations in accordance with the Grant requirements for the Project. Partners shall mutually agree upon projects to ensure compliance with NEPA.
- 4.3.3. Both Parties shall be responsible for tracking Project budget to ensure Project does not exceed federal funding.
5. **Indemnification.** To the extent permitted by Arizona law, each Party (as "Indemnitor") agrees to defend, indemnify, 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 which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.
6. **ADA.** Each Party shall comply with applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 United States Code. 12101-12213) and all applicable federal regulations under the Act, including 28 Code of Federal Regulation Parts 35 and 36.
7. **Non-Discrimination.** The Parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration (Executive Order 13465 – Employment Eligibility Verification, E-Verify; 73 FR 67704), nondiscrimination (Executive Order 11246), and affirmative action. The Parties shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.
8. **Compliance with Laws.** Each Party shall comply with all federal and state laws, rules, regulations, standards and Executive Orders, as applicable, without limitation to those designated within this Agreement. Any changes in the governing laws, rules and regulations during the terms of this Compact shall apply but do not require an amendment.

9. **Modification.** This Agreement may be modified or amended only by written agreement signed by or for both Parties, and any such modification or amendment shall become effective on the date so specified.
10. **Agents, Employees, And Contractors.** Agents, employees and contractors hired by a Party to provide services under this Agreement shall be and remain the agents, employees, and contractors of the hiring Party solely, and shall not be considered agents, employees, or contractors of the other Party.
11. **Workers' Compensation.** Each Party herein shall comply with the provisions of A.R.S §23-1022(E) by posting the public notice required., Each Party shall maintain Workers' Compensation insurance coverage on all of its own employees providing services pursuant to this Agreement.
12. **Insurance.** Each Party shall bear the risk of its own actions, as it does with all its operations, and shall determine for itself an appropriate level of insurance coverage and maintain such coverage. Nothing in this Agreement shall be construed as a waiver of any limitation on liability that may apply to a Party.
13. **Non-appropriation.** Every payment obligation of the Parties under this Agreement is conditioned upon the availability of funds appropriated and allocated for the payment of such obligation. If funds are not appropriated, allocated and available or if the appropriation is changed by the legislature resulting in funds no longer being available for the continuance of this Agreement, this Agreement may be terminated by the Parties at the end of the period for which funds are available. No liability shall accrue to the Parties in the event this provision is exercised, and the Parties shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
14. **No Third-Party Beneficiaries.** Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or affect the legal liability of any Party to the Agreement by imposing any standard of care different from the standard of care imposed by law.
15. **Severability.** In the event that a court of competent jurisdiction shall hold any part or provision of this Agreement void or of no effect, the remaining provisions of this Agreement shall remain in full force and effect.
16. **Jurisdiction.** Nothing in this Agreement shall be construed as otherwise limiting or extending the legal Jurisdiction of any Party. Nothing in this Agreement is intended to confer any rights or remedies to any person or entity that is not a Party.
17. **Conflict of Interest.** The requirements of A.R.S. §38-511 apply to this Agreement. The Parties may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of a Party is, at any time while this Agreement or any extension is in effect, an employee, agent or consultant of a Party with respect to the subject matter of this Agreement.

18. **Dispute Resolution.** The Parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. §12-1518 except as may be required by other applicable statutes.
19. **Construction.** This Agreement shall be construed and in accordance with its fair meaning and shall not be construed for or against either Party.
20. **Headings.** The headings used in this Agreement are for convenience only and are not intended to alter or affect the meaning of any provision of this Agreement.
21. **Entire Agreement.** This document constitutes the entire Agreement between the Parties pertaining to the subject matter hereof. This Agreement shall not be modified, amended, altered or extended except through a written amendment signed by the Parties.

***SIGNATURE PAGE FOLLOWS***

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date herein before indicated.

**City of Flagstaff**

**Flagstaff Metropolitan Planning Organization  
d/b/a MetroPlan**

\_\_\_\_\_  
Becky Daggett

\_\_\_\_\_  
Name: \_\_\_\_\_

Mayor

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

Dated: \_\_\_\_\_

**REPRESENTING CITY OF FLAGSTAFF:**

The undersigned counsel for the City of Flagstaff has reviewed the Agreement and determined that the Agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.

Signature: \_\_\_\_\_

Name: Sterling Solomon

Title: City Attorney

Date: \_\_\_\_\_

**REPRESENTING MetroPlan**

The undersigned counsel for MetroPlan has reviewed the Agreement and determined that the Agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.

Signature: \_\_\_\_\_

Name: Mangum Wall Stoops & Warden, PLLC

Title: General Counsel

Date: \_\_\_\_\_