

**INTERGOVERNMENTAL AGREEMENT BETWEEN MARICOPA COUNTY AND THE
CITY OF GLENDALE FOR THE EXCHANGE OF SERVICES (ENTENTE)**

(C-64-24- ____ -X-00)

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

STATUTORY AUTHORIZATION

1. The County is authorized, pursuant to Arizona Revised Statutes (**A.R.S.**) §11-251 and §§ 28-6701 *et seq.*, to layout, maintain, control and manage public roads within the County.
2. Public agencies are authorized, pursuant to A.R.S. §§11-951 *et seq.*, to enter into Intergovernmental Agreements for the provision of services or for joint or cooperative action.
3. The City is authorized, pursuant to A.R.S. § 9-240 and §§ 9-276 *et seq.*, to layout and establish, regulate and improve streets within the City, and to enter into this Agreement.

BACKGROUND

4. The Parties desire to develop and implement a cooperative highway improvement and resource exchange program whereby routine or emergency highway maintenance will be implemented more efficiently (**Entente Program**). The Entente Program is designed to focus on the availability of resources. The Entente Program is a method of providing goods and services to each Party by entering into temporary Letters of Agreement (**LOA** or **LOAs**).

PURPOSE OF THE AGREEMENT

5. The purpose of this Agreement is to establish procedures to authorize the County's Department of Transportation Director, or designee, and the City Manager, or designee, to enter into LOAs to exchange goods or services between each Party in order to perform routine or emergency highway maintenance services.

DURATION

6. This Agreement shall become effective as of the date it is approved by the governing bodies of the Parties and remains in full force and effect for five (5) years (**Term**). Any Party may terminate this agreement for any reason upon furnishing the other Party with written notice at least thirty (30) days before the effective termination date.

TERMS OF THE AGREEMENT

7. The County shall:

- 7.1 Authorize the County's Department of Transportation Director, or designee, to sign LOAs created pursuant to this Agreement.
- 7.2 Select routine or emergency highway maintenance projects, such as those generally outlined in **Exhibit A**, which is attached to this Agreement and incorporated into this Agreement by reference, suitable for an LOA, and enter into LOAs with the City for the exchange of goods or services for highway maintenance projects. If the value of the County provided goods or services exchanged with the City is less than the value of goods and services provided by City for any individual LOA, County shall remit to the City the difference in value, provided that the total aggregate reimbursement to the City for all LOAs entered into pursuant to this Agreement will not exceed \$250,000 per fiscal year.
- 7.3 Remit to the City the balance of any sums due pursuant to paragraph 6.2 hereof within 30 days of receipt of an itemized statement from the City or as provided in the LOA.
- 7.4 Complete each routine or emergency highway maintenance project, in accordance with the County's procurement code and policies and the "Uniform Standard Specifications for Public Works Construction," current edition/revisions as of the date of each LOA and the "Uniform Standard Details for Public Works Construction," current edition/revisions as of the date of each LOA which are sponsored and distributed by the Maricopa Association of Governments (MAG) and any amendments or supplements adopted by the County.
- 7.5 Prior to June 30, provide the City an annual statement of services performed by the County pursuant to an executed LOA created pursuant to this Agreement (**County Statement**). The County Statement shall include an itemization of any and all costs owed to the County by the City and an invoice for any outstanding balance.
- 7.6 Permit the City to inspect the routine or emergency highway maintenance projects undertaken by the County on behalf of the City and pursuant to an LOA. If the City reasonably believes the project is not being performed by the County in conformance with the LOA, or the City reasonably believes that that project has not been undertaken and performed in a good and workmanlike manner, the County shall correct or re-perform it, as necessary, to the reasonable satisfaction of the City.

8. The City shall:

- 8.1 Select routine or emergency highway maintenance projects, such as those generally outlined in **Exhibit A**, which is attached to this Agreement and incorporated into this Agreement by reference, suitable for an LOA, and enter into LOAs with the County for the exchange of goods or services for highway maintenance projects. If the value of the City provided goods or services exchanged with the County is less than the value of goods and services provided

by the County for any individual LOA, the City shall remit to the County the difference in value, provided that the total aggregate reimbursement to the County for all LOAs entered into pursuant to this Agreement will not exceed \$250,000 per fiscal year.

- 8.2 Remit to the County the balance of any sums due pursuant to paragraph 6.2 hereof within 30 days of receipt of an itemized statement from the County or as provided in the LOA.
- 8.3 Complete each routine or emergency highway maintenance project, in accordance with County's procurement code and policies and the "Uniform Standard Specifications for Public Works Construction," current edition/revisions as of the date of each LOA and the "Uniform Standard Details for Public Works Construction," current edition/revisions as of the date of each LOA which are sponsored and distributed by the Maricopa Association of Governments (MAG) and any amendments or supplements adopted by the County.
- 8.4 Prior to June 30, provide the County an annual statement of services performed by the City pursuant to an executed LOA created pursuant to this Agreement (**City Statement**). The City Statement shall include an itemization of any and all costs owed by the County to the City and an invoice for any outstanding balance.
- 8.5 Permit the County to inspect the routine or emergency highway maintenance projects undertaken by City on behalf of the County and pursuant to an LOA. If the County reasonably believes the project is not being performed by the City in conformance with the LOA, or the County reasonably believes that that project has not been undertaken and performed in a good and workmanlike manner, the City shall correct or re-perform it, as necessary, to the reasonable satisfaction of the County.

GENERAL TERMS AND CONDITIONS

9. To the extent permitted by law, each Party will indemnify, defend and save the other Party harmless, including any of the Party's departments, agencies, officers, employees, elected officials or agents, from and against all liability, 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 and any LOA entered into pursuant to this Agreement, 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.
10. This Agreement shall become effective as of the date it is executed by all the governing bodies of the Parties and shall remain in full force and effect until all performance has been completed.
11. This Agreement may be amended only upon written Agreement by all Parties.
12. This Agreement is subject to the provisions of A.R.S. § 38-511.

13. The Parties warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge that:
 - 13.1 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 (3) years, whichever is longer.
 - 13.2 Any breach of the warranty shall be deemed a material breach of this agreement of which the breaching party may be liable for penalties including termination of the agreement.
 - 13.3 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.
 - 13.4 Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties to this Agreement.
14. Any contractor or subcontractor who engages in for-profit activity and has 10 or more employees, if the value of the contract is a minimum of \$1,000,000, certify it is not currently engaged in, and agrees for the duration of this Agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.
15. Each Party to 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 is suspended or debarred by any federal agency which has provided funding that will be used in the Project described in this Agreement.
16. Each Party warrants and certifies that for the duration of the contract that it will not, use any contractors, subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If a Party becomes aware during the term of the Agreement that any contractors, subcontractors, or suppliers are not in compliance with this paragraph, the Party shall notify the other Party within five business days after becoming aware of the noncompliance. Failure of the Party to provide a written certification that the Party has remedied the noncompliance within one hundred eighty (180) days after notifying the other Party of its noncompliance, this Agreement shall terminate unless the Term of this Agreement shall end prior to said one hundred eighty (180) day period.

17. It shall be a material breach of this Agreement for a Party to fail to observe or perform any of the material covenants, conditions, or provisions of this Agreement, where such failure shall continue for a period of thirty (30) days after the non-defaulting Party provides the defaulting Party with written notice of such failure; provided, however, that such failure shall not be a Default if the defaulting Party has commenced curing the Default within such thirty (30) day period and thereafter is diligently pursuing such cure to completion. The total aggregate cure period shall not exceed ninety (90) days unless the Parties otherwise agree in writing. In the event of Default, the non-defaulting Party, at its option, may terminate this Agreement without waiving any available remedies at law or in equity.

18. All notices required under this agreement to be given in writing shall be sent to:

County:

Maricopa County Department of Transportation
Attn: Intergovernmental Relations Branch
2901 W. Durango Street
Phoenix, Arizona 85009

City of Glendale
Attn: City Manager
5850 West Glendale Avenue
Glendale, Arizona 85301

Either Party may by written notice to the other specify a different address for notice. All notices required or permitted by this Agreement or applicable law shall be in writing and may be delivered in person (by hand or courier) or may be sent by regular or certified mail or U.S. Postal Service Express Mail, with postage prepaid, or by commercial delivery service performed with receipt. Any notice sent by 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 notice is addressed as required in this paragraph and mailed with postage prepaid. Notices delivered by the United States Express Mail or overnight delivery service that guarantees next-day delivery shall be deemed given 24 hours after delivery of the notice to the Postal Service or courier for delivery.

19. Any funding provided for in this Agreement, other than in the current fiscal year, is contingent upon being budgeted and appropriated by the governing bodies of the Parties in such fiscal year.

20. This Agreement 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 Agreement.

21. The waiver by any Party of any right granted to it under this Agreement is not a waiver of any other right granted under this Agreement, nor may any waiver be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived.


22. Except as otherwise provided in this Agreement, all covenants, agreements, representations, and warranties set forth in this Agreement or in any certificate or instrument executed or delivered pursuant to this Agreement shall survive the expiration or earlier termination of this Agreement for a period of one (1) year.
23. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument. Electronic signatures are acceptable as original signatures.
24. The Parties will 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 such Party pursuant to this Agreement.
25. The venue for any claim arising out of or in any way related to this Agreement shall be Maricopa County, Arizona.
26. This Agreement shall be governed by the laws of the State of Arizona.

End of Agreement - Signature Page Follows

IN WITNESS WHEREOF, the Parties have executed this Agreement.

MARICOPA COUNTY

Recommended by:

DocuSigned by:
 7/13/2023

 Jesse Gutierrez Date
 Transportation Director

Approved and Accepted by:


 Chairman Date
 Board of Supervisors

Attest by:

 Clerk of the Board Date

APPROVAL OF DEPUTY COUNTY ATTORNEY

The foregoing Agreement has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Deputy County Attorney, who has determined that it is in proper form and within the powers and authority granted to the Board of Supervisors under the laws of the State of Arizona.

DocuSigned by:
 7/13/2023

 Deputy County Attorney Date

EXHIBIT A

Road-related Tasks:

- a. Grading
- b. Sweeping
- c. Surface Treatment/Seal Coats
- d. Signage
- e. Striping
- f. Debris Removal
- g. Material Hauling
- h. Fence Repair
- i. Storm Drain/Culvert Repair
- j. Barricading
- k. Pothole Repair
- l. Signal Maintenance
- m. Equipment Exchange
- n. Concrete Repair
- o. Bridge Repairs
- p. Storm Repairs
- q. Guardrail Repairs