

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

(C-64-22- _____ -X-00)

This Intergovernmental Agreement (**Agreement**) is between the County of Maricopa, a political subdivision of the State (**County**), and the City of Goodyear, an Arizona 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 program whereby routine or emergency highway maintenance will be implemented more efficiently (**Entente Program**). The Entente Program is designed to focus on the maintenance task needed and the availability of resources. The Entente Program is a method of providing goods and services to each Party by entering into temporary Letter(s) of Agreement (**LOA** or **LOAs**).

PURPOSE OF THE AGREEMENT

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

TERMS OF THE AGREEMENT

6. County shall:

- 6.1 Authorize the MCDOT Director, or designee, to sign LOAs created pursuant to this Agreement.
- 6.2 Select routine or emergency highway maintenance projects, such as those generally outlined in **Exhibit A**, which is attached to and incorporated into this Agreement, suitable for a LOA, and enter into LOAs with City for the exchange of goods or services for highway maintenance projects. If the value of County provided goods or services exchanged with City is less than the value of goods and services provided by City for any individual LOA, County shall remit to City the difference in value, provided that the total aggregate reimbursement to City for all LOAs entered into pursuant to this Agreement will not exceed \$250,000 per fiscal year.
- 6.3 Remit to City the balance of any sums due pursuant to paragraph 6.2 hereof within 30 days of receipt of an itemized statement from City unless otherwise provided in the LOA.
- 6.4 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 City.
- 6.5 Prior to June 30 of each year this Agreement remains valid, provide City an annual statement of services performed by County pursuant to an executed LOA created pursuant to this Agreement (**Maricopa County Statement**). The Maricopa County Statement shall include an itemization of any and all costs owed to County by City and an invoice for any outstanding balance.
- 6.6 Allow City to inspect the routine or emergency highway maintenance projects undertaken on behalf of City by County pursuant to a LOA. If such a project is not being performed by County in conformance with the LOA and/or in a good and workmanlike manner, County shall correct or re-perform it, as necessary, to the reasonable satisfaction of the City.

7. **City shall:**

- 7.1 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, suitable for an LOA, and enter into LOAs with County for the exchange of goods or services for highway maintenance projects. If the value of City provided goods or services exchanged with County is less than the value of goods and services provided by County for any individual LOA, City shall remit to County the difference in value, provided that the total aggregate reimbursement to County for all LOAs entered into pursuant to this Agreement will not exceed \$250,000 per fiscal year.
- 7.2 Remit to County the balance of any sums due pursuant to paragraph 7.1, hereof within 30 days of receipt of an itemized statement from County or as provided in the LOA.
- 7.3 Complete each routine or emergency highway maintenance project, in accordance with City'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 County.
- 7.4 Prior to June 30 of each year this Agreement remains valid, provide County an annual statement of services performed by 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 to City by County and an invoice for any outstanding balance.
- 7.5 Allow County to inspect the routine or emergency highway maintenance projects undertaken by City on behalf of County pursuant to a LOA. If such a project is not being performed by City in conformance with the LOA and/or in a good and workmanlike manner, City shall correct or re-perform it, as necessary, to the reasonable satisfaction of County.

GENERAL TERMS AND CONDITIONS

8. 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 for which the Party may be liable 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.
9. 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.
10. This Agreement may be amended only upon written Agreement by all Parties.
11. This Agreement is subject to the provisions of A.R.S. § 38-511.
12. Any breach of the warranty shall be deemed a material breach of this agreement of which breaching party may be liable for penalties including termination of the agreement.
13. 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 to cure 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.
14. All notices required under this agreement to be given in writing shall be sent to:

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

City of Goodyear
City Manager
190 N. Litchfield Road
Goodyear, Arizona 85338

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 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.

15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. 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.
21. The venue for any claim arising out of or in any way related to this Agreement shall be Maricopa County, Arizona.

22. 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:
 3/1/2022
89F8452A55B0459...
Jennifer Toth, P.E. 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:
 3/1/2022
B2E0BD10DB924D1...
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