

**INTERGOVERNMENTAL GRANT-IN-AID AGREEMENT
BETWEEN
THE TOHONO O’ODHAM NATION
AND
CITY OF PEORIA**

THIS INTERGOVERNMENTAL GRANT-IN-AID AGREEMENT (“Agreement”) is between the Tohono O’odham Nation, a federally recognized Indian tribe (the “Nation”), and the City of Peoria, a political subdivision of the State of Arizona (“City”). The Nation and the City are each individually referred to as a “Party” and are collectively referred to as the “Parties.”

RECITALS

The Nation desires to convey to City a portion of its annual 12% local revenue-sharing contribution (“Contribution”) to be used by City and non-City recipients for services that benefit the general public.

The Constitution of the Tohono O’odham Nation, Article VI, Section 1(f) provides that the Tohono O’odham Legislative Council is authorized to negotiate and conclude agreements on behalf of the Nation with Federal, State, and local governments.

The Constitution of the Tohono O’odham Nation Article VII, Section 2(f) provides that the Chairman of the Nation is the official representative of the Nation; and as such, upon passage of a Resolution by the Legislative Council approving of any agreement with Federal, State, and local governments, the Chairman is authorized to sign such agreements on behalf of the Nation.

Under A.R.S. § 5-601.02(H)(4), City may receive monies from the Nation for services identified by the Nation that benefit the general public, including public safety, mitigation of gaming impacts, and promotion of commerce and economic development.

City is authorized by A.R.S. § 11-951 through § 11-954 to enter into agreements for joint or cooperative actions with public agencies.

Now, therefore, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

AGREEMENT

- 1. Purpose.** The purpose of this Agreement is to set forth the rights and responsibilities of the Parties with respect to the payment and distribution of the Contribution, as hereinafter defined.
- 2. Contribution.** On execution of this Agreement, the Nation will issue payment to the City in the amount described in Schedule A (the “Contribution”) for the purpose(s) detailed in

Schedule A. City will distribute funds directly to the City recipients listed in Schedule A (“City Recipients”).

3. **Disbursing Contribution and Recordkeeping.** City is responsible for disbursing the Contribution consistent with this Agreement. Within a reasonable time following receipt of the Contribution from the Nation, City shall distribute the Contribution per City policies and procedures governing the disbursement of these funds. City shall keep and maintain records relating to the disbursements and this Agreement.

4. **Term and Termination.**

- a. **Effective Date.** This Agreement shall become effective when all Parties have signed. The date this Agreement is signed by the last Party, as indicated by the date associated with the Party’s signature, shall be deemed the Effective Date.
- b. **Term.** This Agreement shall commence upon the Effective Date and will continue for twelve (12) months unless terminated earlier (“End Date”). The Nation, in its discretion, may approve in writing any request by the City for a no-cost extension, including amending the End Date and adjusting any affected reporting requirements.
- c. **Termination by Nation.** The Nation may terminate this Agreement with or without cause at any time by providing City fifteen (15) days advance notice in writing. If the Nation terminates this Agreement after City receives the Contribution but before City disbursed the Contribution in accord with Section 2, the Nation shall include in the notice of termination specific instructions regarding disposition of the Contribution.
- d. **Termination by City.** All parties acknowledge that this Agreement may be subject to cancellation by City per A.R.S. § 38-511.

5. **Money Unclaimed.** If City fails to accept the Contribution on or before January 31, 2022, this Agreement will be deemed to have been terminated by City and the Nation will award the Agreement Contribution to another local government entity.

6. **Monitoring, Review, and Audit.** The Nation may monitor and review the City Recipients’ use of their portions of the Contribution as well as the City Recipients’ performance of the projects funded thereunder, and their compliance with this Agreement, which may include onsite visits to assess the City Recipients’ governance, management and operations, to discuss the City Recipients’ programming and finances, and review relevant financial and other records and materials related to the City Recipients’ use of their portion of the Contribution. In addition, the Nation may conduct audits, including onsite audits, at any time during the term of this Agreement, and within three years after the Contribution has been fully spent by the City Recipients. Any onsite visit or audit shall be conducted at the Nation’s expense, following prior written notice, during normal business hours, and no more than once during any twelve (12) month period.

7. **Dispute Resolution.** The Parties mutually agree that any disputes arising pursuant to this Agreement shall be resolved through informal dispute resolution. For all disputes arising under this Agreement the Nation and City shall first attempt to negotiate a resolution. All

disputes that cannot be resolved through informal dispute resolution shall be resolved in the Courts of the Nation, subject to the laws of the Nation.

8. **Reports:** If applicable, City will submit a final report to the Nation within 30 days of the End Date of this Agreement explaining how and when the funds provided under this Agreement to the City Recipients were used. This report may be in the form of an affidavit signed by an officer of City and may be accompanied by supporting documentation. The report must address: (i) changes in the scope of the project or purchase funded under this Agreement, (ii) the total expenses under the project or purchase funded by the Agreement, (iii) a brief description of who has benefited from this Agreement, and (iv) City's next steps with regard to the project or purchase made under this Agreement. City is not required to provide reports about the Non- City Recipients.
9. **Notices.** Any notice, consent or other communication required or permitted under this Agreement shall be in writing and shall be deemed received at the time it is personally delivered, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or if mailed, three (3) days after the notice is deposited in the United States mail addressed as follows:

If to the Nation:

Ned Norris, Chairman
Tohono O'odham Nation
P.O. Box 837
Sells, Arizona 85634
Phone: (520) 383-2028
Fax: (520) 383-3379

and

Executive Counsel
Tohono O'odham Nation
P.O. Box 837
Sells, Arizona 85634
Phone: (520) 383-2028
Fax: 520-383-3379

If to the City:

Gary Bernard, Fire Chief
City of Peoria
8401 W. Monroe St.
Peoria, AZ 85345
Phone: 623-773-7279

Email: gary.bernard@peoriaaz.gov

Copy to:

City of Peoria City Attorney's Office
Attn: City Attorney
8401W. Monroe St.
Peoria, AZ 85345
Phone: 623-773-7300
Email: city.attorney@peoriaaz.gov

Any time period stated in a notice shall be computed from the time the notice is deemed received. Either Party may change its mailing address or the person to receive notice by notifying the other Party as provided in this paragraph.

- 10. Entire Agreement, and Amendments.** This Agreement constitutes the entire understanding and agreement of the Parties. This Agreement integrates all of the terms and conditions mentioned herein or incident hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof.
- 11. Relationship.** The relationship of the Parties to this Agreement is determined solely by the provisions of this Agreement. The Parties do not intend to create any agency, partnership, joint venture, trust, fiduciary or other relationship which would impose liability upon one Party for the act or failure to act of the other Party.
- 12. No Waiver.** Except as otherwise expressly provided in this Agreement, any failure or delay by any Party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, or deprive any such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.
- 13. Severability.** If any provision of this Agreement shall be found invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.
- 14. Counterparts and Electronic Signatures.** This Agreement is executed in duplicate originals. Except as may be prohibited by applicable law or regulation, this Agreement and any amendment may be signed in counterparts, by facsimile, PDF, or other electronic means, each of which will be deemed an original and all of which when taken together will constitute one agreement. Facsimile and electronic signatures will be binding for all purposes.
- 15. Sovereign Immunity.** Nothing in this Agreement shall be deemed a waiver of either Party's sovereign immunity in any forum or jurisdiction.

This Agreement is signed on behalf of the parties:

TOHONO O'ODHAM NATION

Ned Norris, Chairman

Date

CITY OF PEORIA

Gary Bernard, Fire Chief

Date

ATTEST:

Clerk of the Board

Date

ATTEST:

Lori Dyckman, City Clerk

Date

I have reviewed the above referenced Intergovernmental Agreement between Tohono O'odham Nation, a federally recognized Indian tribe, and the City of Peoria, a political subdivision of the State of Arizona, an agreement among public agencies which, has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the Nation to enter into this Agreement.

Approved as to Form:

By _____ Date _____
Emily Jurmu, Acting City Attorney

Schedule A

Program	Project	Contribution
1. Peoria Fire-Medical Department	Portable Fire-Training Trailer	\$110,830.00
	Total	\$110,830.00