

**INTERGOVERNMENTAL AGREEMENT BETWEEN MARICOPA COUNTY  
AND THE CITY OF PEORIA FOR IMPROVEMENTS TO  
99<sup>th</sup> AVENUE FROM DELLA CIRCLE TO THE NORTH  
APPROXIMATELY 664 FEET SOUTH OF SOL MOBILE HOME PARK**

**(C-64-24-\_\_\_\_-X-00)**

This Intergovernmental Agreement (**Agreement**) is between the County of Maricopa, a political subdivision of the State of Arizona (**County**), and the City of Peoria, an Arizona municipal corporation (**City**). The County and Peoria 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 lay out, maintain, control, and manage public roads within the County.
2. The City is authorized, pursuant to A.R.S. §§ 9-240, 9-276 *et. seq.* 11-952, and Article VIII, Section 1 of the Peoria City Charter, to lay out and establish, regulate, and improve streets within the City and to enter into this Agreement.
3. 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.

4.

**BACKGROUND**

5. 99<sup>th</sup> Avenue is a paved roadway owned and maintained by the County. The current roadway has a raised median and two travel lanes in each direction.
6. The City has requested to construct sidewalks within the County right-of-way along the east side of 99th Avenue from Della Circle to the north approximately 664 feet south of Sol Mobile Home Park, as depicted in Exhibit A (**Project**).
7. The County does not require sidewalks in rural areas and is not responsible for sidewalk operation or maintenance. The County will not financially participate in the Project.

**PURPOSE OF THE AGREEMENT**

8. This Agreement aims to identify and define the responsibilities of the County and City for the Project, including but not limited to cost sharing, design, permitting, environmental clearance, utility relocation, construction and construction management, and operation and maintenance of the sidewalks.

## TERMS OF THE AGREEMENT

### 9. Responsibilities of the County:

- 9.1 Review and provide comments to the City within ten (10) working days of receipt of the design plans.
- 9.2 Issue no-cost permits to the City for any necessary Project-related work performed within County right-of-way.
- 9.3 Issue no-cost traffic control permits to the City for any traffic control required as part of regular maintenance and operations activities that will impact roadway and traffic.
- 9.4 Allow the City access for the operation and maintenance of the sidewalks.

### 10. Responsibilities of the City:

- 10.1 Act as the lead agency for all aspects of the Project, including but not limited to design, environmental clearance, permit acquisition, and construction.
- 10.2 Design and construct the Project to MAG Uniform Standard Specifications and Details for Public Works Construction as Supplemented by MCDOT. All newly constructed sidewalks shall comply with the accessible route requirements of the Americans with Disabilities Act (ADA).
- 10.3 Provide the County with copies of design plans for review and comment.
- 10.4 Apply to the County for no-cost permits for any necessary Project-related work performed within County right-of-way and follow all normal County permitting procedures.
- 10.5 Apply to the County for no-cost traffic control permits for any operation and maintenance work that will impact the roadway and traffic within the County right-of-way.
- 10.6 Be solely responsible for all actual and incurred costs of the Project, including but not limited to design, environmental clearance, permit acquisition, and construction.
- 10.7 Provide performance and payment bonds and insurance certificates to the County.
- 10.8 Assume all operation and maintenance responsibility and associated liability for any and all sidewalks installed in the County right-of-way under this Agreement.
- 10.9 Apply to the County for no-cost permits for any future maintenance related to the Project performed within the County's jurisdiction.

## GENERAL TERMS AND CONDITIONS

11. 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. 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.
12. 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 the earlier of either, the fulfillment of all responsibilities of the Parties, or five (5) years.
13. This Agreement may be amended only upon written Agreement by all Parties.
14. This Agreement is subject to A.R.S. § 38-511 provisions.
15. The Parties:
  - 15.1 Shall comply with A.R.S. Sections 41-4401 and 23-214, subsection A.

Each party to this Agreement retains the legal right to inspect the records of the other party's and any contractors' or subcontractors' employees performing work under this Agreement to verify compliance with A.R.S. Sections 41-4401 and 23-214, subsection A.

Failure by either party to this Agreement to comply with A.R.S. Sections 41-4401 and 23-214, subsection A shall be deemed a breach of this Agreement and is subject to penalties up to and including termination of the Agreement.
  - 15.2 Shall require that any contractor selected for the Project:
    - i. Warrant compliance with all federal immigration laws and regulations that relate to its employees and their compliance with A.R.S. section 23-214(A);
    - ii. Agrees that a breach of the warranty shall be deemed a Material Breach of this Agreement which entitles the other party to obtain appropriate relief including termination of this Agreement;
    - iii. Consent to inspection of all papers of the contractor or subcontractor employee(s) who work(s) on the Project to ensure that the contractor or subcontractor is complying with the warranty.
    - iv. Who engages in for-profit activity and has 10 or more employees, 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.

15.3 Shall not currently, and for the duration of the contract will not, use:

- i. The forced labor of ethnic Uyghurs in the People's Republic of China.
- ii. Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China
- iii. 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.
- iv. If the City becomes aware during the term of the Agreement that any Contractor is not in compliance with this paragraph, the City shall notify the County within five (5) business days after becoming aware of the noncompliance. Failure of the City to provide a written certification that the appropriate contractor has remedied the noncompliance within one hundred eighty (180) days after notifying the public entity of its noncompliance, this Agreement shall terminate unless the Term of this Agreement shall end prior to said one hundred eighty (180) day period.

15.4 Shall ensure 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 that has provided funding that will be used in the Project described in this Agreement.

16. If a Party fails to observe or perform any of the material covenants, conditions, or provisions of this Agreement ("Material Breach"), where such Material Breach shall continue for a period of thirty (30) days after the non-breaching Party provides the breaching Party with written notice of Material Breach, such breach shall be a Default of this Agreement; provided however, that such Material Breach shall not constitute a Default if the breaching Party has commenced curing the Material Breach within such thirty (30) day period and thereafter diligently pursues such cure to completion (Cure Period). The total aggregate Cure Period shall terminate ninety (90) days from the date written notice was sent and the Material Breach will then become a Default unless the Parties otherwise agree in writing. In the event a Material Breach becomes a Default, the non-defaulting Party, at its option, may terminate this Agreement without waiving any available remedies at law or in equity.

17. 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 W. Durango Street  
Phoenix, Arizona 85009

City of Peoria  
City Manager's Office  
8401 W. Monroe Street  
Peoria, Arizona 85345

City of Peoria  
City Attorney's Office  
8401 W. Monroe Street  
Peoria, Arizona 85345

Either Party may specify a different address for notice by written notice to the other. 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.

18. 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.
19. 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.
20. 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.
21. 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.
22. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all constitute the same instrument. Electric signatures are acceptable as original signatures.
23. 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.
24. Maricopa County, Arizona, shall be the venue for any claim arising out of or in any way related to this Agreement.
25. The laws of the State of Arizona shall govern this Agreement.

***End of Agreement - Signature Pages Follow***

**IN WITNESS WHEREOF**, the Parties have executed this Agreement.

**MARICOPA COUNTY**

***Recommended by:***

Jesse Gutierrez  
Transportation Director

Date

***Approved and Accepted by:***

\_\_\_\_\_  
Chairman Board of Supervisors Date

\_\_\_\_\_  
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.

9/6/2023

Deputy County Attorney

Date

