

**INTERGOVERNMENTAL AGREEMENT
FOR INSTALLATION OF A TRAFFIC SIGNAL
AND MINOR ROADWAY IMPROVEMENTS**

BETWEEN
THE CITY OF GLENDALE
AND
THE CITY OF PEORIA

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is entered into this _____ day of _____, 2024 pursuant to the Arizona Revised Statutes §§ 9-240, and 9-276, and 11-952, as amended, between the CITY OF GLENDALE, acting by and through its MAYOR and CITY COUNCIL ("Glendale") and the CITY OF PEORIA, an Arizona municipal corporation, acting by and through its MAYOR and CITY COUNCIL ("Peoria"). Glendale and Peoria may individually be referred to as "Party" or "Agency", or collectively referred to as "Parties" or "Agencies".

I. STATUTORY AUTHORIZATION

1. Peoria is authorized, pursuant to A.R.S. §§ 9-240 and 9-276, and Article VIII, Section 1 of the Peoria City Charter, to lay out and establish, regulate, and improve streets within the City of Peoria.
2. Glendale is empowered by Arizona Revised Statutes §§ 9-240, and 9-276 to lay out and establish, regulate, and improve streets within the City of Glendale.
3. A.R.S. § 11-951, *et seq.*, provides that public agencies may enter into Intergovernmental Agreements for the provision of services or for joint or cooperative action and each of the Parties have authorized the undersigned to execute this Agreement on behalf of each respective Party.

II. PURPOSE

1. Glendale and Peoria are entering into this Agreement to define the funding, design, installation, construction, and perpetual maintenance responsibilities for the proposed traffic signal, signing, pavement markings, and other minor roadway improvements placed along boundary roadways between Glendale and Peoria. See Exhibit A.

III. RECITALS

1. Peoria plans to install a traffic signal and minor roadway improvements at the intersection of 111th Avenue and Northern Avenue, as depicted in Exhibit A attached hereto (the "Project"). For the purposes of this Agreement, minor roadway improvements will consist of replacing curb ramps with associated asphalt restoration, limited sidewalk modifications, and updating pavement markings consistent with the installation of the traffic signal.
2. The portion of Northern Avenue within the Peoria is a paved roadway owned and operated by Peoria, in which the jurisdictional boundary between Peoria and Glendale lies on the back/south portion of the sidewalk on the south side of Northern Avenue where Glendale maintains a ten (10) foot strip annexation boundary. See Exhibit A.

THEREFORE, in consideration of the mutual terms expressed in this Agreement, it is agreed as follows:

IV. SCOPE OF WORK

1. Responsibilities of Peoria:

- a. Act as the lead agency for all aspects of the Project, including but not limited to funding, design, environmental clearance, permit acquisition, and construction.
- b. Design and construct the Project to MAG Uniform Standard Specifications and Details for Public Works Construction as Supplemented by City of Peoria Details for Public Works Construction.
- c. Design all newly constructed sidewalks so they comply with the accessible route requirements of the Americans with Disabilities Act (ADA).
- d. Provide Glendale with copies of design plans for review and comment.
- e. Apply to Glendale for no-cost traffic control permits for any necessary Project-related work performed within the Glendale strip annexation and follow all standard Glendale permitting procedures.
- f. Apply to Glendale for no-cost traffic control permits for any operation and maintenance work that will impact the roadway and traffic within the Glendale strip annexation.
- g. Require any contractors to apply for and obtain permits for construction and traffic control from Glendale for any Project-related work that lies within Glendale jurisdiction.
- h. Notify Peoria's contractors that they shall not enter Glendale jurisdiction's strip annexation except with prior authorization.
- i. Peoria is solely responsible for all actual and incurred costs of the Project, including but not limited to design, environmental clearance, permit acquisition, construction, and strip annexation.
- j. Peoria and its contractors shall provide performance and payment bonds and insurance certificates to Glendale.
- k. Be responsible for the final inspection and acceptance of the Project. Peoria will obtain concurrence from Glendale for the portion of the Project-related work located within the Glendale strip annexation before final acceptance.
- l. Assume all responsibility for costs, operation, and maintenance responsibility and associated liability for any and all sidewalks, ramps, and traffic signals installed in the Glendale strip annexation under this Agreement.
- m. Apply to Glendale for no-cost permits and licensing for any future maintenance related to the Project performed within Glendale's jurisdiction.

2. Responsibilities of Glendale:

- a. Assign a representative to review and provide comments to Peoria within ten (10) working days of receipt of the design plans and waive any associated plan review fees.
- b. Presuming Glendale consents, provide a letter to Peoria concurring with the proposed design prior to the commencement of the Project.
- c. Issue no-cost permits to Peoria and its contractors for any necessary Project-related work performed within the Glendale strip annexation.
- d. Issue no-cost traffic control permits to Peoria and its contractors for any traffic control required as part of regular maintenance and operations activities that will impact roadway and traffic.
- e. Allow Peoria access for the operation and maintenance of the sidewalks, ramps, and traffic control system and equipment.

V. MISCELLANEOUS PROVISIONS

1. This Agreement shall become effective upon approval of the Glendale City and Peoria City Councils.
2. The terms, conditions, and provisions of this Agreement shall commence on the date it has been fully executed by both Parties and shall remain in full force and effect until cancelled by either Party after thirty (30) days' written notice.
3. By entering into this Agreement, the Parties agree that 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 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. By entering into this Agreement, each Party indemnifies the other against all liability (including, but not limited to, vicarious liability), losses and damages of any nature for or on account of any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance or nonperformance of this Agreement, except such injury or damage as shall have been occasioned by the gross negligence of that other Party. The damages which are the subject of this indemnity shall include but not be limited to the damages incurred by any Party, its departments, agencies, officers, employees, elected officials or agents. 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. Each Party shall provide the other a current certificate of insurance, or proof of self-insurance (if applicable) to keep on file.
4. This Agreement shall be governed by and construed in accordance with Arizona laws.
5. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.
6. The Parties warrant that they are in compliance with A.R.S. Section 41-4401 and further acknowledge that:
 - a. 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. Section 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.
 - b. Any breach of the warranty shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the Agreement.
 - c. 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.

- d. Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties to this Agreement.
7. 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.
8. Each of the following shall constitute a material breach of this Agreement and an event of default ("Default") hereunder: A Party's failure to observe or perform any of the material covenants, conditions or provisions of this Agreement to be observed or performed by that Party ("Defaulting Party"), where such failure shall continue for a period of thirty (30) days after the Defaulting Party receives written notice of such failure from the non-defaulting Party 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, but the total aggregate cure period shall not exceed ninety (90) days unless the Parties agree in writing that additional time is reasonably necessary under such circumstances to cure such default. In the event a Defaulting Party fails to perform any of its material obligations under this Agreement and is in Default pursuant to this Section, the non-defaulting Party, at its option, may terminate this Agreement. Further, upon the occurrence of any Default and at any time thereafter, the non-defaulting Party may, but shall not be required to, exercise any remedies now or hereafter available to it at law or in equity.
9. All documents referred to in this Agreement are hereby incorporated by reference into the Agreement.
10. Non-Availability of Funds: Every obligation of the Parties under this Agreement is conditioned upon the availability of funds appropriated or allocated for the fulfillment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by either Party at the end of the period for which the funds are available. No liability shall accrue to either Party in the event this provision is exercised, and either Party shall not be obligated or liable for any future payments as a result of termination under this paragraph. If terminated pursuant to this Section, the Parties will be responsible for maintaining the portion of Peoria Avenue within each Party's annexed area.
11. In the event of any controversy, which may arise out of this Agreement, the Parties agree that any judicial action brought to enforce the terms or conditions of this Agreement shall be brought in a court of competent jurisdiction in Maricopa County, Arizona.
12. The Parties shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.
13. This Agreement does not create a duty or responsibility unless the intention to do so is clearly and unambiguously stated in this Agreement.
14. This Agreement does not grant authority to control another Party's roadway, except to the extent necessary to perform the tasks expressly undertaken pursuant to this Agreement.
15. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assignees. Neither Party shall assign its interest in this Agreement without the prior written consent of the other Party.
16. Except as otherwise provided herein, this Agreement may be amended or cancelled, in whole or in

part, only with the mutual written consent of the Parties hereto.

17. This Agreement sets forth all of the covenants, promises, agreements, conditions and understandings between the Parties to this Agreement, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between the Parties other than as set forth in this Agreement, and those agreements which are executed contemporaneously with this Agreement. 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. Each Party has reviewed this Agreement and has had the opportunity to have it reviewed by legal counsel.
18. The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof.
19. 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.
20. 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.
21. Nothing contained in this Agreement shall create any partnership, joint venture, or other agreement between the Parties hereto. Except as expressly provided in this Agreement, no term or provision of this Agreement is intended or shall be for the benefit of any person or entity not a party to this Agreement, and no such other person or entity shall have any right or cause of action under this Agreement.
22. Time is of the essence concerning this Agreement. Unless otherwise specified in this Agreement, the term "day" as used in this Agreement means calendar day. If the date for performance of any obligation under this Agreement or the last day of any time period provided in this Agreement falls on a Friday, Saturday, Sunday or legal holiday, then the date for performance or time period shall expire at the close of business on the first day thereafter which is not a Friday, Saturday, Sunday or legal holiday.
23. Sections and other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
24. Force Majeure. Except for the duty to pay earned wages/contracted prices for goods or services actually provided, neither Party shall be liable in any manner for any delay or failure that lasts longer than thirty (30) days to perform its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond such Party's reasonable control, including, without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; acts of terrorism; sabotage; strikes; pandemics; epidemics; viral or communicable disease outbreaks; quarantines; riots; power failures; computer failure and any such circumstances beyond a Party's reasonable control as may cause interruption, loss or malfunction of utility, transportation, computer (hardware or software), or telephone communication service; accidents; labor disputes; acts of civil or military authority; governmental emergency action; changes to applicable laws and regulations; or inability to obtain labor, material, equipment or transportation. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other Party of the nature and extent of any such Force Majeure condition; and, if practicable, (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement.
25. All notices or demands upon any Party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

City of Glendale:

City of Glendale
c/o Shahid Abbas
Director of Transportation
6210 West Myrtle Avenue, Suite 112
Glendale, Arizona 85301

With required copy to:

City Manager	City Attorney
City of Glendale	City of Glendale
5850 West Glendale Avenue	5850 West Glendale Avenue
Glendale, Arizona 85301	Glendale, Arizona 85301

City of Peoria:

City of Peoria
Director of Development and Engineering
Development and Engineering Services Director
9875 N. 85th Avenue
Peoria, Arizona 85345

With required copy to:

City Manager	City Attorney
City of Peoria	City of Peoria
8401 W. Monroe Street	8401 W. Monroe Street
Peoria, Arizona 85345	Peoria, Arizona 85345

- 26. In accordance with Arizona Revised Statutes § 11-952 (D) attached and incorporated in this Agreement is the written determination of each Party's legal counsel that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.
- 27. 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.
- 28. 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.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

CITY OF GLENDALE

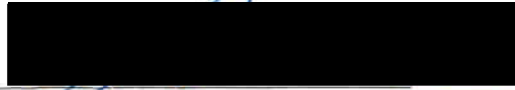
CITY OF PEORIA

By 
KEVIN R. PHELPS
City Manager

By _____
HENRY DARWIN
City Manager

ATTEST:

By



Julie Bower
City Clerk

ATTEST:

By

Agnes Goodwine
City Clerk

ATTORNEY APPROVAL FORM FOR THE CITY OF GLENDALE

I have reviewed the above referenced Intergovernmental Agreement between the CITY OF PEORIA, and the CITY OF GLENDALE, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 9-240, and 9-276, and 11-952 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 State to enter into this Agreement.

DATED this 25th day of June, 2024.



Michael D. Bailey City Attorney

ATTORNEY APPROVAL FORM FOR THE CITY OF PEORIA

I have reviewed the above referenced Intergovernmental Agreement between the CITY OF GLENDALE, and the CITY OF PEORIA, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 9-240, and 9-276, and 11-952 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 State to enter into this Agreement.

DATED this _____ day of _____, 2024.

Emily Jurmu, City Attorney

EXHIBIT A
Project

