

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF MARICOPA AND
THE MARICOPA UNIFIED SCHOOL DISTRICT No. 20
FOR SCHOOL RESOURCE OFFICERS
AND THE USE OF DISTRICT FACILITIES**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made this ____ day of _____, 2018, by and between the Maricopa Unified School District No. 20, (“District”) and The City of Maricopa, Arizona, an Arizona municipal corporation (“City”), collectively referred to as the “Parties”.

RECITALS

WHEREAS, the Parties are authorized to enter into this Agreement by A.R.S. §§ 11-951 et seq., 15-342(13), 15-363 and 15-364; and

WHEREAS, both District and City want to participate in the sharing, combining or joint usage of District facilities and/or physical resources whenever possible to benefit the community; and

WHEREAS, both District and City believe that the public would be served by allowing the City to use mutually agreed upon District facilities for City’s recreation programs and events under discretion of the District; and

WHEREAS, both District and City believe that the public would be served by allowing a City police officer(s) to serve as School Resource Officer(s) when the City’s resources allow such assignment; and

WHEREAS, this Agreement replaces any and all prior Intergovernmental Agreements between the Parties for School Resource Officers (“SRO”) and the joint use of facilities.

NOW THEREFORE, District and City agree to provide the services and facilities required according to the terms and conditions and for the consideration hereinafter set forth:

1. Facility Usage Obligations.

A. Use of Facilities:

1. “District Facilities” will include non high school playing fields, multipurpose rooms (MPR), theater/performing arts center, board room, and available classrooms, including art and music rooms at District sites as determined by District administrative staff.
2. The District shall permit the use of their facilities to the City for sporting, civic and educational events sponsored by the City at a negotiated cost for the number of hours approved based on fees listed in Appendix One (1) and in accordance with the terms

and conditions of this Agreement (“Scheduled Events”). Any such cost shall be offset by the amount of the cost for any SRO services provided by the City.

3. City shall be subject to all District policies and regulations prescribed by the Governing Board for the use of District Facilities except as amended by this Agreement.
4. The City shall not interfere with or disrupt the normal operations of the District.
5. In no event shall any District facilities be used by the City for third party fundraising activities.

B. Scheduling Events:

1. As soon as practical, Party representatives shall agree upon times, dates, and locations of all Scheduled Events based on submitted usage requests. The District representative shall respond within twenty-one (21) days of any City scheduling request. District representatives shall have final approval of times, dates and locations of all Scheduled Events.
2. From time to time, some facilities may need to be made unavailable due to the District’s need to schedule major/annual facility maintenance or for District or AIA events. The District agrees to give as much advanced warning as possible and to work with the City to relocate the event to a different facility on the same date.
3. At all times, District and City will work together to accommodate the needs of all organizations and to resolve any unexpected scheduling conflicts.

C. Facilities Maintenance.

1. District shall at all times, during the term of this Agreement, be responsible for the normal maintenance and wear and tear of District facilities.
2. City agrees to operate Scheduled Events at District facilities in a safe and secure manner, to require responsible usage of District facilities, and to maintain District facilities in proper condition during Scheduled Events. City agrees it will not be permitted to make any changes to, remove, or displace furniture or equipment without permission of the District.

D. Damage or Loss:

1. City shall be responsible for the cost of any repairs, damage, or loss resulting from their use of District facilities. Damage shall be reported to the District within ten (10) days of the event. Costs shall be established by the District and an invoice shall be submitted to City for payment.

2. If District facilities are left littered and/or unsanitary, the City will be invoiced for the cost necessary to clean the facilities.

E. Parties Staffing Responsibility:

1. Parties' staff shall meet to open the District facilities 45 minutes prior to start time and meet again at the completion of any Scheduled Event, unless otherwise requested. Parties' staff will determine and add to the Event Check Sheet the name of the responsible City representative who will stay on site for the duration of the event. The Event Check Sheet is attached hereto as Appendix Two (2). Parties' staff will review and initial an Event Check Sheet as to the condition of the District facilities, including bathrooms that will be utilized.
2. City is responsible for staffing and maintaining order at the Scheduled Event in the District facilities. Usage of the District's theater/performing arts center will require the utilization of a theater sound/lights technician.

F. Facility Usage Compensation:

1. Facility usage cost will be based on usage fees schedule in Appendix One (1). Any such cost shall be offset by the amount of the salary and benefit costs for any SRO services provided by the City.
2. Unless otherwise specifically provided in this Agreement, maintenance expenses, taxes and any and all other financial obligations with regard to District facilities shall be the sole responsibility of the District.
3. Parties will include a cost estimate as part of the initial reservation permit and will record actual hours used by the City on the Event Check Sheet at end of a Scheduled Event.
4. City will have thirty (30) days from the final day of any Scheduled Event to make payment to District.
5. Notwithstanding anything to the contrary set forth herein, future fees incurred by the City pursuant to this Agreement for basketball, volleyball, and summer classroom programs, at traditional facility usage levels, will be waived by the District until June 30, 2018.

3. School Resource Officer.

- A. In consideration for the use of the District facilities and the District's waiver of fees as provided in Section 2(F)(5) above, the City will continue to provide School Resource Officer ("SRO") services to the District to the extent that it is able to respective of economic and staffing concerns. The City, at its sole discretion, has the authority to reduce or eliminate SRO services at any time. In the event that the City eliminates SRO

services to the District, the District may charge City for the use of its facilities in accordance with the fee schedule attached as Appendix One. In such an event, the City shall retain a credit with the District for future facilities fees in amount equal the actual cost of the salary and benefits costs SRO program expended by the City from the date of this Agreement until the date that services are eliminated.

- B. The City shall have sole authority for (a) the selection of the SRO(s) to be assigned to the District; (b) the training of the SRO; (c) oversight of the SRO; and (d) the implementation of policies and procedures in handling of law enforcement matters.
- C. The District shall not interfere with the duties of the SRO as a sworn law enforcement officer.
- D. The District shall provide office space, with all necessary equipment, that provides privacy for the SRO to conduct his or her responsibilities under this Agreement in a confidential environment.

Common Terms and Agreements

- 4. **Term.** The term of this Agreement shall be for one (1) year beginning on July 1, 2018, and ending June 30, 2019, unless terminated earlier as provided herein. This Agreement will be automatically renewed annually unless terminated by either Party as set forth herein.
- 5. **Termination.** This Agreement may be terminated by either party upon sixty (60) days written notice. In the event this Agreement is terminated by either Party, the City shall be entitled to continue to use the District facilities up to the amount of any remaining credit.
- 6. **Insurance.**
 - a. Each Party shall provide and maintain in full force while this agreement is in effect (i) Public Liability and property damage insurance from a reliable insurance company authorized to transact business in Arizona in an amount of not less than \$2,000,000 for bodily injury or death or property damage, one occurrence, and (ii) workers' compensation insurance as required by Arizona law. Public liability and property damage insurance shall list the other Party as an additional insured.
 - b. Each Party shall provide proof of such insurance on an annual basis, and within thirty (30) days after each Party renews its insurance coverage.
 - c. Either Party that obtains knowledge of any injury, loss, damage or claim arising out of the use of the facilities which may subject the other Party to any liability shall immediately give written notice of such possible claim to the other Party.
 - d. In the event that a claim is made against either or both Parties to this Agreement and

both Parties have obtained insurance coverage from an insurance company, the primary insurance shall be that of the Party who was assigned the use of the facilities at the time of the event giving rise to such claim, absent a showing that the damage to property or injury to or death of person(s) arose out of the sole act, omission or negligence of the other Party or its departments, officers, employees and/or agents.

7. Worker's Compensation. An employee of either party shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement solely for purposes of A.R.S. §23-1022 and the Arizona Worker's Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each party shall post the requisite notice pursuant to the provisions of A.R.S. §23-1022.

8. Independent Status. Except as provided in paragraph 7 above, both Parties will be acting in their individual governmental capacities and not as agents, employees, partners, joint ventures or associates of each other. The employees, agents or contractors of one party shall not be deemed or construed to be the employees or agents of the other party.

9. Indemnification. To the extent permitted by law, each party hereby agrees to indemnify and hold the other party harmless from and against any and all liability, loss, damage or expense arising out of this Agreement, including, without limitation, court costs and reasonable attorney's fees imposed upon the indemnified party by a person or entity, but only to the extent that such claims are caused by the act, omission, negligence, misconduct or other fault of the indemnifying party, its officers, officials, agents, employees or volunteers.

10. Default, Breach, Remedies and Termination. This Agreement may be terminated by either party by providing written notice to the other party ninety (90) days prior to the effective date of termination.

11. Disposition of Property. Upon termination of this Agreement for any reason, District shall retain all property to which it holds title, including improvements, and City shall retain all property to which it holds title, including improvements.

12. Assignment and Delegation Prohibited. Neither Party may assign any of its rights nor delegate any of its duties under this Agreement without the prior written consent of the other Party which may be withheld for any reason or for no reason.

13. No Third-Party Beneficiaries. Only the Parties may enforce this Agreement. The Parties do not intend through this Agreement to confer enforceable rights on any non-Party and do not intend to create any third-party beneficiaries to this Agreement.

14. Notices. All notices to the other party required under this Agreement shall be in writing and sent by first class certified mail, postage prepaid, return receipt requested, addressed to the following personnel:

If to City: City of Maricopa
Attn: City Manager
39700 Civic Center Plaza
Maricopa, AZ 85138

If to District: Maricopa Unified School District No. 20
Attn: Director of Business Services
44150 West Maricopa/Casa Grande Highway
Maricopa, AZ 85138

15. Waiver of Terms and Conditions. The failure of City or District to insist in any one or more instances on performance of any of the terms or conditions of this Agreement or to exercise any right of privilege contained herein shall not be considered as thereafter waiving such terms, conditions, rights or privileges, and they shall remain in full force and effect.

16. Section Headings. Captions and section headings used herein are for convenience only, are not a part of this Agreement, shall not be deemed to limit or alter any provisions hereof, and shall not be deemed relevant in construing this Agreement.

17. Governing Law and Venue. The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either Party for the purpose of enforcing a right or rights provided for in this Agreement shall be tried in a court of competent jurisdiction in Pinal County, State of Arizona. The Parties hereby waive all provisions of law providing for a change of venue in such proceeding to any other county. If there is a dispute that is subject to the mandatory provisions of ARS 12-133, the parties shall submit the matter to non-binding arbitration. In the event either party shall bring suit to enforce any term or condition in this Agreement, it is mutually agreed that the prevailing Party in such action shall recover all costs including: all litigation and appeal expenses, collection expenses, reasonable attorneys' fees, necessary witness fees and court costs to be determined by the court in such action.

18. Entire Agreement. This Agreement and any attachments represents the entire Agreement between City and District and supersedes all prior negotiations, representations or agreements, either express or implied, written or oral. It is mutually understood and agreed that no alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Parties hereto. Written and signed amendments shall automatically become part of the Agreement, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

19. Non-Discrimination. Both parties shall comply with all applicable State and Federal employment laws, rules, and regulations including the Americans with Disabilities Act and Executive Order 2009-09, which requires that all persons shall have equal access to employment opportunities regardless of race, color, religion, sex, age, national origin or political affiliation.

20. Severability. If any part, term or provision of this Agreement shall be held illegal, unenforceable or in conflict with any law, the validity of the remaining portions and provisions hereof shall not be affected.

21. Conflicts of Interest. The provisions of A.R.S. §38-511 relating to cancellation of contracts due to conflicts of interest shall apply to this contract.

22. Compliance with State and Federal Employment Requirements. By entering into this Agreement, each party warrants compliance with A.R.S. § 41-4401, A.R.S § 23-214(A), the Federal Immigration and Nationality Act (FINA), and all other Federal immigration laws and regulations. Either party may request verification of compliance from any contractor or subcontractor performing work under this contract. Each party reserves the right to confirm compliance. Should either party suspect or find that the other party or any of its subcontractors are not in compliance, that party may pursue any and all remedies allowed by law, including, but not limited to suspension of work, termination of the contract for default, and suspension and/or debarment of the contractor. All costs necessary for compliance are the responsibility of each party.

23. Israel. By entering into this Agreement, each party certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a boycott of Israel, as the term is defined in A.R.S. §35-393.

24. Review by Legal Counsel. Pursuant to A.R.S. § 11-952(D), an attorney for each party must review this Agreement and determine that it is within the statutory powers and authority granted to the party.

25. Retention of Records. The Parties shall retain, and shall retain all records recording performance of this Agreement for a period of five (5) years after completion of the Agreement and to make such documents open to inspection and audit at reasonable times.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized representatives as of the day and year first above written.

MARICOPA UNIFIED SCHOOL
DISTRICT No. 20

CITY OF MARICOPA

By_____

By_____

Board President

Mayor

ATTEST:

ATTEST:

Superintendent

City Clerk

INTERGOVERNMENTAL AGREEMENT DETERMINATION

The attached Agreement, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned attorneys each of whom has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the above-identified parties.

APPROVED:

Attorney
For the Maricopa Unified School District No. 20

APPROVED:

Denis M. Fitzgibbons, City Attorney