

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE CITY OF MARICOPA AND THE  
MARICOPA UNIFIED SCHOOL DISTRICT  
FOR SHARED PARKING**

**THIS INTERGOVERNMENTAL AGREEMENT** (“Agreement”) is made this 14 day of ~~September~~ 2022, by and between the City of Maricopa, an Arizona municipal corporation (“City”), and the Maricopa Unified School District #20 (“District”), collectively referred to herein as “Parties”.

**RECITALS**

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

**WHEREAS**, the District is the owner of the real property legally described or depicted on Exhibit “A” attached hereto, commonly known as the MUSD District Office (the “District Property”); and

**WHEREAS**, the City is the owner of the real property legally described or depicted on Exhibit “B” attached hereto, commonly known as Heritage Park (the “City Property”); and

**WHEREAS**, City desires access to the District Property for the purpose of constructing an access road from Plainview Street to the District Property, providing parking for employees, guests and visitors to the City Property, and adding landscape areas and sidewalks in the current District Property retention areas; and

**WHEREAS**, District desires to grant perpetual access on, over, upon and across portions of the District Property for purposes of constructing an access road, vehicular and pedestrian ingress and egress to and from the City Property, non-exclusive parking rights, construction and maintenance of landscaping and sidewalks and for all other uses contemplated by this Agreement; and

**WHEREAS**, the Parties agree that this access will be as defined by the designated areas of the District Property as depicted on Exhibit “C” attached hereto (“Access Area”).

**AGREEMENT**

**NOW, THEREFORE**, the Parties, pursuant to the above and in consideration of the matters and things hereinafter set forth, do mutually agree as follows:

**I. Access Area**

The District, in consideration of the terms, covenants and conditions contained in this Agreement to be observed and performed, hereby grants and conveys perpetual, non-exclusive, access for the purposes of constructing an access road, vehicular and pedestrian ingress and egress to and from the City Property, non-exclusive parking rights, construction and maintenance of

landscaping and sidewalks and for all other uses contemplated by this Agreement in the Access Area.

## **II. Restrictions on Use of Access Area**

The Parties rights shall be strictly confined to those set forth above in Section I. Without limiting the foregoing restriction, City shall have no authority to do and shall not do or permit or attempt any of the following in the Access Area: (i) undertake any major repairs or replacements, except that the City may install landscaping and sidewalks in the current retention areas, adjust parking stalls as necessary to include ADA and sidewalk access to the City Property and construct an access road in accordance with current City standards as more specifically depicted in Exhibit "D" attached hereto (ii) haul away any personalty or fixtures except for that which is plainly valueless rubbish, (iii) remove any structure, soil, rock, minerals or commodities therefrom, or permit any waste whatsoever, (iv) store or use any hazardous materials (as defined below) thereon, and/or (v) alter, construct or place any buildings or structures, including fences and walls, or other improvements, except that the City may install landscaping and sidewalks in the current retention areas, adjust parking stalls as necessary to include ADA and sidewalk access to the City Property and construct an access road in accordance with current City standards as more specifically depicted in Exhibit "D" attached hereto.

City hereby covenants as follows:

- A. City will at all times during the term of this Agreement and in connection with its access to and use of the Access Area as provided herein, observe and perform all laws, ordinances, rules and regulations made by any governmental authority for the time being applicable to said use and/or applicable to the Access Area.
- B. City will not commit or suffer any act or neglect whereby the Access Area shall at any time during the term of this Agreement become subject to any attachment, judgment, lien, charge or encumbrance whatsoever, including mechanics' and materialmen's liens, and will indemnify, defend, save and hold the District and the Access Areas harmless from and against all loss, cost and expense with respect thereto.

The Agreement and the use of the Access Area is not exclusive and does not grant exclusive access or possession to the Access Area. The City and anyone acting for, on behalf of or through the Parties shall at all times have access to its property for any purpose not inconsistent with this Agreement, provided, however, that unless a Party is in breach hereof, the other Party shall not interfere with the rights hereunder. District hereby acknowledges and agrees that third parties may use the Access Area for temporary parking and pedestrian ingress and egress including, but limited to, for use of Heritage Park or special events in the area.

City shall not use, generate, manufacture, treat, handle, refine, produce, process, store, discharge, release, dispose of or allow to exist on, under or about the Access Area any flammable explosives, radioactive materials, asbestos, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, including without limitation any substances defined

as, or included in, the definition of "hazardous substances", "hazardous wastes", "hazardous materials", or "toxic substances" under any federal, state or local laws, ordinances or regulations, now or hereafter in effect, relating to environmental conditions, industrial hygiene or hazardous materials, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., the Clean Air Act, 42 U.S.C. Section 7401, et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601 through 2629, the Safe Drinking Water Act, 42 U.S.C. Sections 300f through 300j, and any similar state and local laws and ordinances and the regulations now or hereafter adopted and published and/or promulgated pursuant thereto (collectively "hazardous materials").

### **III. Termination**

This Agreement may be terminated by the City or the District upon ninety (90) days written notice.

### **IV. Maintenance**

City, at its sole cost and expense, shall install and maintain all of the improvements, as allowed pursuant to Section I above, it determines necessary in the Access Area.

### **V. 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 \$1,000,000 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 Access Area 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 using the Access Area 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.

### **VI. Indemnification**

To the extent permitted by law, the City agrees to indemnify, save and hold harmless the District from any loss, claims or damages that may arise during, or be caused in any way by, the City's use of the Access Area. To the extent permitted by law, the District agrees to indemnify, save and hold harmless the city from any loss, claims or damages that may arise during, or be caused in any way by, the District's use of the Access Area.

## **VII. Miscellaneous Provisions**

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

**b. 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.

**c. 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.

**d. 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  
                          Attn: Superintendent  
                          45012 West Honeycutt Avenue  
                          Maricopa, AZ 85139

**e. 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.

**f. 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.

**g. 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.

**h. 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 regarding the Access Area. 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.

**i. 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.

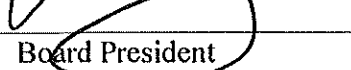
**j. Severability.** If any part, term or provision of this Agreement shall be held illegal, unenforceable or in conflict with any law, the validity of the remaining portions and provisions hereof shall not be affected.

**k. 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.

*[Signatures Included on Next Page]*

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 #20

By \_\_\_\_\_  
Board President

ATTEST:

  
Superintendent

APPROVED:

  
Roger C. Decker  
Udall Shumway, PLC  
For the Maricopa School District

CITY OF MARICOPA

By \_\_\_\_\_  
Nancy Smith, Mayor

ATTEST:

\_\_\_\_\_  
Vannessa Bueras, MMC  
City Clerk

APPROVED:

\_\_\_\_\_  
Denis M. Fitzgibbons,  
City Attorney

**EXHIBIT A**  
**District Property**

**EXHIBIT B**  
**City Property**



**EXHIBIT C**  
**Access Area**

## **EXHIBIT D**

### **Access Road Details**