

ADOT CAR No.: IGA 19-0007371-I
AG Contract No.: P0012019001925
Project Location/Name: Citywide –
SR 347 and SR 238
Type of Work: Master Maintenance
ADOT Project No.: MAINTAGR

INTERGOVERNMENTAL AGREEMENT

Master Maintenance Agreement

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF MARICOPA

THIS AGREEMENT is entered into _____, pursuant to Arizona Revised Statutes §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State" or "ADOT") and the CITY OF MARICOPA, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and the City are collectively referred to as "Parties".

THIS AGREEMENT, relative to the roadway elements included herein, will work in concert with project specific agreements. In the event questions arise pertaining to roadway maintenance and/or specialized materials and features added at the request of the City, this Agreement will take precedence.

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned, the authority to execute this Agreement on behalf of the State.
2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.
3. It is to the mutual benefit of the State and the City to enter into an Agreement to specify each Party's respective roadway operation and maintenance responsibilities of State highway routes encompassed within the City system of streets.
4. The portions of the State Highway System within the City covered by this Agreement are as follows:
 - State Route 347
 - State Route 238

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

II. DEFINITIONS

“Blanket Permit” – means an ADOT issued encroachment permit allowing the City to perform only Routine/Minor Maintenance (defined below) and emergency maintenance work within the State's rights-of-way. No new construction or installation shall be permitted under this permit.

“Blue Stake” – means the marking of an underground utility in accordance with Arizona Revised Statute, Title 40 – Public Utilities and Carriers, Chapter 2 – Public Service Corporations Generally, Article 6.3 – Underground Facilities. A.R.S. §40-360.21 - .45

“Crossroads” - means existing or new local streets or arterials that cross the State Highway System. as shown on Exhibits A and B.

“Hazardous Material Incidents” - means the uncontrolled, un-permitted release or potential release of hazardous materials that may present an imminent and substantial danger to the public's health or welfare, or to the environment.

“Homeless Encampment” – means a transient or interim gathering or community residing out of doors on a site comprised of temporary enclosures (tents and other forms of portable shelter that are not permanently attached to the ground), which results in accumulation of trash and undesired material.

“Intersection” - means an area shared by two or more roads, whose main function is to provide for the change of route directions. In this Agreement one of the two roads is a State highway, and the other road is a local crossroad.

“Limited Rehabilitation” - refers to minor restorative and/or reconstruction activities.

“Major Rehabilitation” – means the substantial work on roadway pavement that involves milling and resurfacing of the existing asphalt pavement to address the effects of per ride rutting, cracking, and other distresses and possible replacement of major roadway features with extensive and extended lane closures.

“Master Maintenance Agreement” – means a general agreement between the City and the State's Department of Transportation (ADOT) that establishes maintenance responsibilities, including but not limited to, roadways and associated rights-of-way, signing and striping, electrical facilities, landscaping, drainage facilities, bridges, and specials features, as they relate to State Highway System found within the City's boundaries, unless covered under a separate agreement.

“Non-Standard State Items”- means any materials or equipment that are not consistent with or do not meet existing State Standards.

“Maintenance and/or Operations” – means the performance of practical work or practical application of the principles or processes used to carry out maintenance activities discussed in this Agreement and conducted by the responsible Party.

“Parties” - means the State and the City, collectively.

“Party” - means the State or the City, as the case may be.

“Preventative Maintenance” – means the planned strategy of cost effective treatments to an existing roadway system that preserves the system, delays future deterioration, and maintains or improves the functional condition of the roadway.

“Routine/Minor Maintenance” - means that work necessary to maintain feature and area responsibility, as shown in Exhibits A and B, consistent with maintenance service levels adopted by the responsible Party. The areas and features for which a Party is responsible for Routine/Minor Maintenance include: street surfaces, shoulders, curbs, sidewalks, and median dividers of Crossroads, bridges, and surface drainage features feeding into the State’s drainage system. The responsibility for the Routine/Minor Maintenance of the defined areas and structures will include Preventative Maintenance and Limited Rehabilitation activities such as sweeping, crack sealing, removal of spills and debris, graffiti removal, litter and trash removal, and weed removal within designated areas (not covered in a separate landscape maintenance Agreement) of established rights-of-way.

“Screen/Sound Walls” - means walls used to mitigate noise and visual impacts to a local neighborhood generated by the traffic.

“Specialized Materials/Features” – means decorative materials, special construction materials, or one-of-a-kind features ***specifically requested by the*** City, which are not required by ADOT specifications. Examples of such features include, but are not limited to: unique icons/patterns, decorative wrought iron fencing, sculptured metal signing, specialized lighting facilities, non-standard paint colors and specialized art features.

“State Standards” - means Arizona Department of Transportation (ADOT) guidelines, specifications, policies, rules and regulations as of the date of this Agreement for the construction and maintenance of ramps, highways, landscaping, fencing and enclosure structures, drainage and flow structures and other related highway features. These standards will be used unless otherwise agreed to by the Parties to this Agreement.

III. SCOPE OF WORK

1. The State will:
 - a. Be responsible for facilities within the State’s right-of-way limits, including the construction, reconstruction, Major Rehabilitation of the roadways, curbs, gutters, medians, channelization, drainage facilities (except where responsibility is defined by separate Agreement), guardrails, barriers, crash attenuation devices, walls, chain-link fencing, bridge structures (not including future pedestrian bridges requested by the City), drainage, future tunnels, and other roadway-related facilities (excluding special traffic signals, wrought iron fencing, certain drainage facilities and Specialized Materials/Features installed by or on behalf of the City).
 - b. Be responsible for major resurfacing, rehabilitation, and roadway reconstruction treatments including the construction and replacement of all asphalt concrete roadway surfaces requiring such activities found within the City areas of responsibility located within State rights-of-way, in excess of **100** square feet in size for paving.

- c. Be responsible for major resurfacing, rehabilitation, and roadway reconstruction treatments within the City areas of responsibility located within State rights-of-way, and in excess of **50** linear feet in length per repair for curb and gutter.
- d. Be responsible for the Blue Stake requirements and marking of underground utilities within the State's access control limits only.
- e. Be responsible for the installation of all initial signing. Maintain all future overhead sign structures and large ground-mount guide signs (16 square feet or larger) both in and out of State right-of-way.
- f. Be responsible for the installation of all initial pavement markings (such as lane lines, edge lines, etc.) Maintain all transverse markings (such as crosswalks and stop bars) at intersections and access approaches.
- g. Be responsible for maintaining the structural integrity of existing and future Screen/Sound Walls constructed within the State's rights-of-way.
- h. Provide structural maintenance to the sub-structure and the superstructure of the bridge(s), to maintain structural integrity, of future specialized structures, such as pedestrian facilities, overpasses, and underpasses constructed over/under mainline roadways of the State, excluding facilities requested by the City.
- i. Provide response and clean-up of all Hazardous Material Incidents within State's rights-of-way.
- j. Confirm per established procedures of the State's Central District Permit Office, that the City has a valid annual Citywide Blanket Permit on file for only Routine/Minor maintenance and emergency maintenance work provided by the City within the State's rights-of-way. On an annual basis, review and accept the City's submittal for renewal, including insurance coverage, 30 days prior to the end of the term. Agree that any new construction or installation shall require a separate permit through the State's Central District Permits Office.
- k. Review any City requests for ADOT encroachment permits not covered by a Blanket Permit and provide a response either approving or denying the request.
- l. Provide the City with a copy of the Arizona Administrative Code, "The Arizona Outdoor Advertising Control Regulations" (Rule No. R17-3-701), incorporated herein by reference, to be adhered to by the City except that, the City may implement more restrictive regulations if authorized by law.
- m. Comply with the latest edition Manual on Uniform Traffic Control Devices (MUTCD) published by the Federal Highway Administration (FHWA) and adopted by ADOT, as per Arizona Revised Statutes § 28-641, when performing any work under this agreement. Traffic Control plans will be reviewed and/or approved by and through the State's Central District Permits Office.

2. The City will:

- a. Be responsible for Routine/Minor Maintenance and the Limited Rehabilitation of all improvements installed or constructed by the City or on behalf of the City, including but not limited to signs, monuments, landscaping, landscaping components, or other similar improvements, located in shoulders, median-dividers, etc.
- b. Perform Routine/Minor Maintenance of features and surfaces within the defined areas as shown in Exhibits A and B. Maintenance of the defined areas include Preventative, Routine/Minor Maintenance and Limited Rehabilitation activities, including but not limited to such activities as: sweeping, removal of non-hazardous spills, graffiti removal, litter and trash removal, and weed control in non-landscaped areas (where not defined by separate Agreement).
- c. Notify the State's Traffic Operations Center of any Hazardous Material Incidents occurring within the areas of State-owned rights-of-way, designated as City responsibility.
- d. Respond to incidents and perform incident command duties on SR 238 and SR 347 within the City limits and notify ADOT of incident response.
- e. Keep detailed maintenance records, which will be made available to the State upon request.
- f. Provide the State with the cost of replacement or conversion of all Specialized Material/Features and/or equipment to meet State standards, if the City no longer wishes to maintain the Specialized Materials/Features.
- g. Maintain, at no cost per established procedures of the State's Central District Permit Office, a valid annual citywide Blanket Permit for the Routine/Minor Maintenance, emergency maintenance work, and/or emergency response provided by the City within the State's rights-of-way. Request renewal of the annual Blanket Permit 30 days prior to the end of the term and provide insurance coverage documentation. Any new construction or installation shall require a separate permit as per the State's Central District's established procedures, which may be obtained through the State's Central District Permit Office referenced herein.
- h. Comply with the latest edition Manual on Uniform Traffic Control Devices (MUTCD) published by the Federal Highway Administration (FHWA) and adopted by ADOT, as per Arizona Revised Statutes § 28-641, when performing any work under this Agreement. Traffic Control plans will be reviewed and/or approved by and through the State's Central District Permits Office.

3. The Parties agree:

- a. Any operation and maintenance changes or additions that occur will be by amendment to this Agreement.

- b. Routine/Minor Maintenance responsibilities at several Crossroads and/or Intersections may require Homeless Encampment cleanup. As part of the Routine/Minor Maintenance responsibilities at these locations, the City will be responsible for cleanup of any material that will generally fit into four 50-gallon bags. The State will be responsible for any material at these locations that are deemed to be Hazardous Materials or oversized materials that would not fit into 50-gallon bags.
- c. The responsibility for traffic signal and electrical facilities will be as provided by a separate maintenance agreement. Once an un-signalized, Crossroad interchange requires signalization, the Party responsible for maintaining the traffic signal shall also be responsible for the signs and the pavement markings on the approaches, with the exception of overhead signs and large ground mounted signs, 16 square feet or larger, with such signs remaining the responsibility of the State.
- d. The maintenance of street lighting and streetlight energy costs on State Highway System Crossroads and/or intersections along SR 347 and SR 238 will be as provided by a separate maintenance agreement.
- e. Where the Sound/Screen Walls delineate the areas between the areas of jurisdictional responsibilities, both Parties will maintain the surface of the wall facing each Party's jurisdiction. The City's maintenance will include graffiti removal, painting and minor surface repair and is delineated between the areas of jurisdictional responsibility. For graffiti removal the City's responsibility will be limited to only the walls facing the City's street.
- f. After construction of a new State highway within the City, the new portion of highway shall be incorporated by amendment to this Agreement, prior to completion of any new construction.
- g. To set aside sufficient funds to accomplish the maintenance as set forth in this Agreement. If either Party's funding for maintenance is significantly decreased, the Parties will work together to achieve a level of maintenance for the safety and benefit of the traveling public.
- h. Upon annexation by the City of any area that is traversed by a State highway, the length of such highway which is within the annexation boundaries shall become subject to the terms of this Agreement, indicating the portion or portions of the State highway affected.

IV. MISCELLANEOUS PROVISIONS

1. This Agreement shall become effective upon the signing and dating of the Determination Letter by the State's Attorney General.
2. This Agreement shall remain in full force and effect for successive periods of five (5) years from the effective date and may be amended upon mutual written consent of both Parties provided however, that this Agreement may be cancelled at any time by either Party, with

90 day written notice. This Agreement shall be reviewed and all reviews shall be completed within 60 days prior to the end of the 5th year anniversary date.

3. In the event that this Agreement is terminated, any new construction or improvements installed by the City or on behalf of the City, including but not limited to signs, monuments, landscaping, landscaping improvements, or other similar improvements shall remain in place and maintained by the City unless otherwise agreed to by both Parties.
4. Contractor and subcontractors shall procure and maintain insurance until all of their obligations have been discharged, including any warranty periods under their Contract with the City, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors. The amounts and types of insurance required are those required by the *ADOT Permits Insurance Matrix*.
5. The City acknowledges and will comply with Title VI of the Civil Rights Act Of 1964.
6. This Agreement shall be governed by and construed in accordance with Arizona laws.
7. This Agreement may be cancelled by the State in accordance with Arizona Revised Statutes § 38-511.
8. To the extent applicable under law, the provisions set forth in Arizona Revised Statutes §§ 35-214 and 35-215 shall apply to this Agreement.
9. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The Parties to this Agreement shall comply with Executive Order Number 2009-09 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".
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 neither Party shall be obligated or liable for any future payments as a result of termination under this paragraph.
11. In the event of any controversy, which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts if required by Arizona Revised Statutes § 12- 1518.
12. The Parties shall comply with the applicable requirements of Arizona Revised Statutes § 41-4401.

- 13. The Parties shall ensure that all contractors comply with the applicable requirements of Arizona Revised Statutes §35-393.01¹.
- 14. The Parties hereto shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.
- 15. 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:

For Agreement and Amendments:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 637E
Phoenix, Arizona 85007
602.712.7124
JPABranch@azdot.gov

City of Maricopa
Attn: Joshua Plumb, City Engineer
39700 West Civic Center Plaza
Maricopa, Arizona 85138
520.316.6937
Josh.Plumb@maricopa-az.gov

For Maintenance Related Issues:

Arizona Department of Transportation
Central Maintenance District
Maintenance Engineer
2140 W. Hilton, MD E700
Phoenix, Arizona 85009
602.712.6664

City of Maricopa
Attn: Wesley Carnahan
39700 West Civic Center Plaza
Maricopa, Arizona 85138
520.316.6946
Wesley.Carnahan@maricopa-az.gov

For Notification of all Blanket and Non-Blanket Permits:

Central Maintenance District Permits Office
206 S. 17th Ave, MD004R
Phoenix, Arizona 85007
602.712.7386

City of Maricopa
Attn: Wesley Carnahan
39700 West Civic Center Plaza
Maricopa, Arizona 85138
520.316.6946
Wesley.Carnahan@maricopa-az.gov

For Notification of Hazardous Materials:

State's Traffic Operations Center
Pho2140 W. Hilton, MD E700
Phoenix, Arizona 85009
602.712.6664

City of Maricopa
Attn: Wesley Carnahan
39700 West Civic Center Plaza
Maricopa, Arizona 85138
520.316.6946
Wesley.Carnahan@maricopa-az.gov

¹ In *Jordahl v. Brnovich et al.*, Case No. 3:17-cv-08263 (D. Ariz.), the U.S. District Court entered a preliminary injunction that enjoins the State from enforcing A.R.S. § 35-393.01(A) (the "Anti-Israel Boycott Provision"). That statute states that: "[a] public entity may not enter into a contract with a company to acquire or dispose of services, supplies, information technology or construction unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of Israel." Unless and until the District Court's injunction in *Jordahl* is stayed or lifted, the Anti-Israel Boycott Provision (A.R.S. § 35-393.01(A)) is unenforceable and the State will take no action to enforce it.

16. In accordance with Arizona Revised Statutes § 11-952(D), attached hereto and made a part hereof, 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.

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

CITY OF MARICOPA

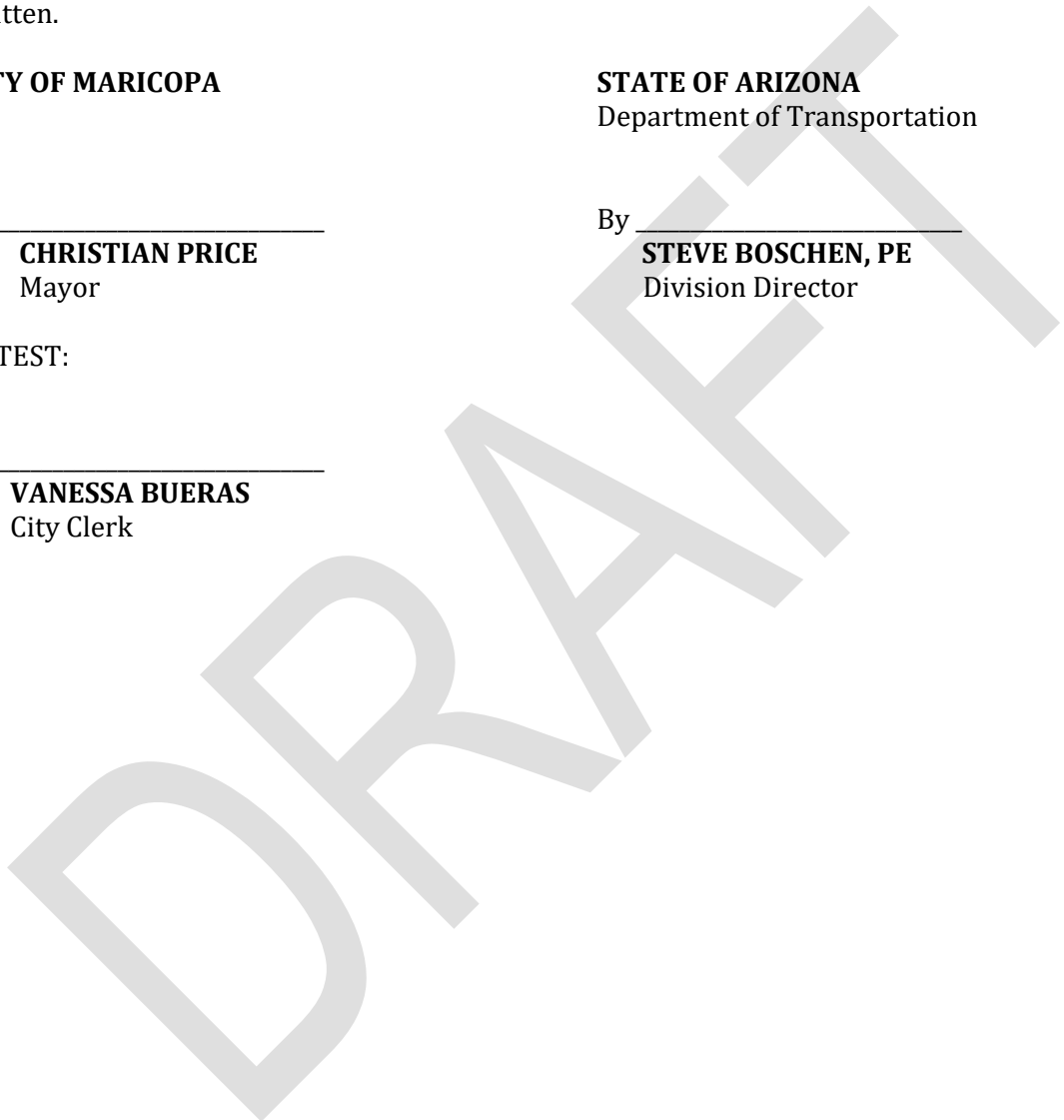
STATE OF ARIZONA
Department of Transportation

By _____
CHRISTIAN PRICE
Mayor

By _____
STEVE BOSCHEN, PE
Division Director

ATTEST:

By _____
VANESSA BUERAS
City Clerk



ATTORNEY APPROVAL FORM FOR THE CITY OF MARICOPA

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF MARICOPA, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 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 State to enter into this Agreement.

City Attorney

Date