

## **INTERGOVERNMENTAL AGREEMENT**

### **BETWEEN**

### **CITY OF MARICOPA AND MARICOPA FLOOD CONTROL DISTRICT**

### **FOR SHARED SERVICES**

This Agreement ("Agreement") is entered by and between Maricopa Flood Control District ("District" or "MFCD"), a political subdivision of the State of Arizona pursuant to A.R.S. § 48-2811, and City of Maricopa ("City"), a municipality of Arizona pursuant to A.R.S. § 9-240. The entities herein may be referenced individually as "Party" or collectively as "Parties."

Whereas, MFCD and the City as public agencies are authorized to enter into intergovernmental agreements for purposes of contracting for services, jointly exercising powers common to the contracting parties, and taking joint or cooperative action pursuant to A.R.S. § 11-951 et. seq;

Whereas, MFCD is seeking assistance to perform administration and management of District responsibilities such as coordination, oversight, and execution of duties essential for achieving and maintaining the District's organizational and operational goals, the fulfillment of fiduciary obligations and supporting the effective operation and decision-making processes of the District. These responsibilities include but are not limited to planning, organizing, directing, and controlling activities and resources to ensure all actions are conducted effectively and lawfully pursuant to this Agreement; and

Whereas the City wishes to provide the administration and management of District responsibilities due to the impending retirement of the MFCD District Manager and the potential dissolution of MFCD.

Now therefore, in consideration of the mutual covenants contained herein, and of the mutual benefits to result therefrom, the Parties agree as follows:

#### **1. SCOPE OF SERVICES.**

The services provided by the City to MFCD under this Agreement shall include the following (collectively referred to as the "Shared Services"):

- Administration of MFCD bookkeeping, such as reviewing invoices and issuing warrants for the payment of approved services and obligations. The City shall not authorize or pay any invoice or expenditure in excess of \$1,500 without the prior approval of MFCD at a Public Meeting.
- The Pinal County Treasurer ("County Treasurer") is the custodian of District funds responsible for the safekeeping and disbursement of all District monies held by the County Treasurer. Each Party shall comply with all applicable statutes, County Treasurer regulations, policies, and procedures related to District financial transactions for Fiscal Year 2025-2026 and ensuing fiscal years during the term of the Agreement.

- To facilitate the City’s management of specific transactions on behalf of the District, the MFCD Board of Directors shall consider for approval a revised Combined Resolution Affecting County Treasurer Transactions for Fiscal Year 2025-2026 (“Combined Resolution”), which shall designate the Stormwater Systems Manager as the City employee authorized to represent the District in the following matters:
  - to provide warrant information including wires, voids, and/or stop payments to the County Treasurer on a daily basis as appropriate in the regular course of District business;
  - to request the County Treasurer to process wire transfers, book transfers, ACH, and/or EFT payments on behalf of the District for Fiscal Year 2025-2026.
- During the term of this Agreement, the District Board of Directors shall review and consider for approval a Combined Resolution for each ensuing fiscal year regarding the fiscal matters specified in the prior subsections.
- The City or any City employee shall not be authorized to sign warrants on behalf of the District for Fiscal Year 2025-2026 and any subsequent fiscal years. All warrants issued shall be signed by two (2) MFCD board members prior to payment and shall be processed through the County Treasurer in accordance with its applicable regulations and procedures.
- Designating a primary City point of contact to facilitate communication, coordination, and issue resolution between the Parties. The City and MFCD shall collaborate in good faith to determine the management and payment of all monthly recurring invoices such as monthly subscriptions necessary for the performance of Shared Services pursuant to this Agreement.
- Oversight of day-to-day District operations including managing workflows and documentation, maintaining accurate records to ensure compliance with public records laws and audit requirements, and responding to requests from District constituents.
- Developing contingency plans for Agreement termination and to ensure continuity of operations during leadership changes or emergencies.
- Coordinating with Parties’ legal counsel as needed for matters related to District management and operations.
- Procuring contractors as needed to perform maintenance for the flood protection channels (Santa Rosa Wash and Santa Cruz Wash) within the MFCD easements according to MFCD’s Procurement Policy as set forth in Exhibit “A”. This includes a schedule of mowing and cleaning as well as bank repairs as required. When the MFCD Procurement Policy applies, the City will serve as the District Manager for all related actions and decisions. The City shall maintain complete and accurate records of all procurement actions and shall report such activities,

decisions, and expenditures to the MFCD board in the manner and frequency prescribed by MFCD's policies or as otherwise directed.

- Regulating access to the channels by reviewing requests for permits and issuing or denying when necessary.
- Providing engineering reviews and comments for construction and maintenance projects which involve District easements in order to preserve the flood protection functions of the channels. In the event the City requires additional engineering expertise related to a project, the City will provide the project involving the District to one of the District's On-Call Engineering Firms for review and comment and oversee such review process. Concurrently, the City shall inform the MFCD Board of Directors of any review and comment by the City or On-Call Engineering Firms related to any project.
- Facilitating Public Meetings for MFCD Board of Directors as set forth in Exhibit "B", per orders of the District President no less than once per quarter.
- Managing the Fiscal Year budget as adopted by the MFCD Board of Directors including management of the budget allocated for Shared Services and additional services with cost tracking and submitting the aforementioned budget to the Pinal County Board of Supervisors ("BOS") by its due date.
- Filing any and all reports, including the District's annual report by its due date, required by various agencies, such as Pinal County, U.S. Army Corps of Engineers, State of Arizona, and other entities after review and approval by the MFCD Board of Directors.
- Any additional services agreed upon in writing by both Parties subject to paragraph 3.
- Any services not set forth above shall remain the obligation of the District.

## **2. RESPONSIBILITIES OF THE PARTIES.**

MFCD and the City jointly agree to:

- Provide the necessary resources, personnel, and expertise to support the Shared Services and additional services.
- Ensure compliance with all applicable laws, regulations, and policies.
- Maintain confidentiality of sensitive data shared between the Parties subject to the public records laws of Arizona, A.R.S. § 39-121 et seq.
- No joint acquisition of property is contemplated under this Agreement. If any property is acquired pursuant to this Agreement, such property shall be returned to the purchasing Party upon termination of this Agreement.

- Each Party shall be represented by its own legal counsel for all matters arising under or relating to this Agreement, including the performance, interpretation, and enforcement of the Shared Services and additional services provided herein. Nothing in this Agreement shall be construed to create a joint attorney-client relationship, and each Party shall be solely responsible for securing and funding its own legal representation.
- The Parties agree to reasonably cooperate and, where appropriate, coordinate through their respective legal counsel on legal matters that require joint consideration, including but not limited to regulatory compliance, interagency communications, and dispute resolution.
- The City will keep the MFCD Board of Directors regularly informed regarding any and all flood protection matters within the District boundaries to allow the Directors to fulfill the requirements of their offices fully.

### **3. COST SHARING AND PAYMENT.**

- For the fulfillment of the duties and responsibilities of the City set forth herein, MFCD shall pay a monthly fee of \$8,000 beginning on the Effective Date and continuing on the 1<sup>st</sup> of each month thereafter. If the Effective Date occurs after the first day of any calendar month, the fee for that initial month shall be prorated on a per-day basis based on a thirty (30)-day month and shall be payable in the same manner as a full monthly fee.
- Before the City performs additional services beyond the Shared Services set forth herein, the City and MFCD shall mutually agree in writing on the scope, terms, and conditions, including the rate of compensation for such additional work or services. The City shall invoice the District monthly for the work or services that the City performs beyond the Shared Services set forth herein.

### **4. MANAGEMENT AND OVERSIGHT.**

- The City shall make a monthly written report to the MFCD Board of Directors of all activities and work or services performed on behalf of the District and also report the same at each Public Meeting, addressing the time from the previously held Public Meeting through the current Public Meeting date.
- The MFCD Board of Directors shall consider for approval all work or services performed by the City and all disbursements made by the City, on behalf of the District, at a District Public Meeting.
- The District shall employ its own General Counsel for legal representation pertaining to the District.
- The MFCD Board of Directors will have final say and oversight concerning the direction and management of District activities including but not limited to the Shared Services and additional services described herein according to its statutory authority and responsibility.

## **5. TERM AND TERMINATION.**

- The term of this Agreement shall commence on the date that the last Party signatory has executed this Agreement (“Effective Date”) for a period of two (2) years from the Effective Date. This Agreement shall extend automatically for a term of two (2) years on the anniversary of the Effective Date unless a Party notifies the other Party in writing of its intention not to renew one-hundred twenty (120) days before the current term expires.
- Notwithstanding the aforementioned Term, either Party may terminate this Agreement with or without cause upon one-hundred twenty (120) days’ written notice to the other Party.
- Unless otherwise agreed, once the treasury of MFCD has reached \$100,000 and the MFCD Board has considered for approval all outstanding District matters at a Public Meeting, the MFCD President will call a Public Meeting to consider for approval the submission of a petition of dissolution to the BOS. Prior to submitting said petition to the BOS, the City shall provide a timeline to the District for review which shall meet all the statutory requirements for District dissolution at least one-hundred twenty (120) days prior to a Public Meeting to consider said petition.

## **6. CONFIDENTIALITY.**

- Each Party agrees to protect any confidential or proprietary information exchanged under this Agreement and not disclose such information to third parties without prior written consent of the Party disclosing the information. Any confidential or proprietary information shall be marked as such by the disclosing Party. The Parties are subject to the Arizona public records laws, A.R.S. § 39-121 et seq. and agree to comply fully with all statutory requirements in the handling, retention, and disclosure of records related to this Agreement.
- The City shall maintain all records generated in the course of providing Shared Services and additional services to the District. The City shall cooperate with the District in responding to public records requests, including providing timely access to records in its possession that are subject to disclosure. The City shall provide the District with all records to facilitate compliance with public records requests received by either Party.
- The City shall retain records pertaining to this Agreement in accordance with records retention schedules for Title 48 Special Districts and the guidelines issued by the Arizona State Library, Archives and Public Records Division. Upon termination of this Agreement, all records shall be transferred to the District.
- The obligations under this Section shall survive the termination or expiration of this Agreement to the extent required by law.

## **7. LIABILITY, INSURANCE, AND MUTUAL INDEMNIFICATION.**

- Each Party shall be responsible for its own actions and any liabilities arising therefrom subject to Section 8 (Cybersecurity and Liability) herein.
- 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, for each occurrence, (ii) workers' compensation insurance as required by Arizona law, and (iii) Umbrella Liability Coverage in the amount of \$2,000,000 which shall supplement the limits of the underlying policies including but not limited to public liability, automobile liability, workers' compensation and employer's liability insurance.
- Both Parties hereby waive any rights of subrogation against each other for any claims covered by insurance, including but not limited to damages, losses, or injuries arising out of the performance of this Agreement. This waiver applies to both Parties' respective insurers.
- The City also shall provide and maintain in full force while this Agreement is in effect Automobile Liability insurance with a limit of not less than \$1,000,000 for each occurrence for bodily injury and property damage with respect to any of the City's owned, hired, and non-owned vehicles assigned to or used in performance of the City's work or services provided by the City to MFCD under this Agreement . This automobile liability policy shall not contain any provision which would serve to limit third party action over claims.
- The City shall provide and maintain in full force while this Agreement is in effect Employer's Liability insurance with a limit of not less than \$1,000,000 for each occurrence.
- All Insurance Policies required under this Agreement shall list the other Party as an additional insured.
- In case any work or services are subcontracted, the City shall require the subcontractor to provide and maintain in full force while this Agreement is in effect all Insurance Policies required by this Agreement to at least the same extent as provided by the City.
- To the fullest extent permitted by law, MFCD shall defend, indemnify, and hold City, its officers, employees, consultants, subconsultants, and agents harmless from any and all loss, damage, claim for damage, liability, expense, or cost, including attorneys' fees, which relate to, arise out of, or is in any way connected with the performance of work or services under this Agreement by MFCD, or any of MFCD's officers, employees, consultants, subconsultants, and agents, and from all claims by MFCD's officers, employees, consultants, subconsultants, and agents for compensation for services rendered to MFCD in the performance of this Agreement, notwithstanding that City may have benefited from their services. This indemnification provision shall apply to any and all acts or omissions, mistakes, willful misconduct, or negligent conduct, whether active or passive, on the part of MFCD or MFCD's officers, employees, consultants, subconsultants or agents in connection with the work or services.

- To the fullest extent permitted by law, City shall defend, indemnify, and hold MFCD, its officers, employees, consultants, subconsultants, and agents harmless from any and all loss, damage, claim for damage, liability, expense, or cost, including attorneys' fees, which relate to, arise out of, or is in any way connected with the performance of work or services under this Agreement by City, or any of City's officers, employees, consultants, subconsultants, and agents and from all claims by City's officers, employees, consultants, subconsultants, and agents for compensation for services rendered to City in the performance of this Agreement, notwithstanding that MFCD may have benefited from their services. This indemnification provision shall apply to any and all acts or omissions, mistakes, willful misconduct, or negligent conduct, whether active or passive, on the part of City or City's officers, employees, consultants, subconsultants or agents in connection with the work or services. Insurance provisions set forth in this Agreement are separate and independent from the indemnity provisions of these paragraphs and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions.
- The indemnity provisions of these paragraphs shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.
- The obligations under this Section shall survive the expiration or the termination of this Agreement.

## **8. CYBERSECURITY AND LIABILITY.**

- The City shall implement and maintain administrative, technical, and physical safeguards that meet or exceed cybersecurity industry standards and comply with all applicable federal, state, and local laws governing data protection. These measures shall protect all data processed or stored on behalf of the District.
- In the event of a cybersecurity incident affecting data shared under this Agreement, the City shall notify the District within forty-eight (48) hours of discovery and provide a detailed report including the nature of the breach, affected data, and mitigation steps taken.
- The City shall be liable for damages resulting from its own failure to implement reasonable cybersecurity safeguards or to comply with the terms of this Agreement. Such liability may include costs related to breach notification, data recovery, regulatory fines, and third-party claims.
- The City shall maintain cybersecurity insurance coverage in an amount sufficient to cover potential liabilities arising from data breaches or cyber incidents, unless otherwise agreed in writing. The District may request evidence of such coverage.

- The City's handling of the District's data pursuant to this Agreement is subject to Section 7 (Liability, Insurance, and Mutual Indemnification).
- The obligations under this Section shall survive the termination or expiration of this Agreement.

**9. DISPUTE RESOLUTION.**

- Any disputes arising under this Agreement shall first be attempted to be resolved through good-faith negotiations.
- If resolution cannot be reached, the dispute shall be submitted to non-binding mediation or arbitration as mutually agreed by the Parties prior to the commencement of any litigation.

**10. AMENDMENTS.**

- Any amendments to this Agreement must be made in writing and signed by authorized representatives of both Parties.

**11. GOVERNING LAW AND VENUE.**

- This Agreement shall be governed by and construed in accordance with the laws 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. 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 reasonable 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.

**12. ASSIGNABILITY.**

- This Agreement is non-assignable in whole or in part by either Party without the written consent of both Parties.

**13. AUTHORITY OF SIGNATORY.**

- Each individual executing this Agreement on behalf of the City represents and warrants that they are duly authorized to execute and deliver this Agreement on behalf of the City. Each individual executing this Agreement on behalf of the District represents and warrants that they are duly authorized to execute and deliver this Agreement on behalf of the District.

**14. CANCELLATION.**



- The Agreement is subject to cancellation for conflict of interest without penalty or further obligation as provided by A.R.S. § 38-511.

**15. RELATIONSHIP OF PARTIES.**

- No relationship of partnership, joint venture, agency, master-servant, or employer-employee shall be created or exist between the City and MFCD as a result of the execution of this Agreement.

**16. NON-LIABILITY OF OFFICIALS AND EMPLOYEES.**

- No elected or appointed official, officer, employee, or agent of the City or MFCD will be personally liable to the other Party, or a successor in interest, in the event of a default or breach by either Party of its obligation under the terms of this Agreement.

**17. FURTHER ACTS.**

- In addition to the acts and deeds recited in this Agreement and contemplated to be performed, executed, and/or delivered by the Parties, MFCD and the City agree to perform, execute, and/or deliver or cause to be performed, executed, and/or delivered at such time or times as may be reasonably necessary or appropriate under this Agreement any and all further lawful acts, deeds, and assurances as are reasonably necessary or appropriate to consummate and implement the transactions and agreements reasonably contemplated hereby.

**18. CANCELLATION FOR NON-APPROPRIATION.**

- The Parties recognize that this Agreement depends upon the availability of appropriated funds and nothing in this Agreement shall bind MFCD to expenditures in excess of funds appropriated and allotted for the purposes outlined in this Agreement. If the MFCD Board of Directors fails to appropriate the necessary funds, or if the appropriation for this Agreement is reduced, either Party may reduce the scope of this Agreement if appropriate or cancel this Agreement without further duty or obligation.

**19. NON-DISCRIMINATION.**

- The Parties shall comply with all applicable state and federal statutes and regulations governing Equal Employment Opportunity, Non-Discrimination, and Immigration.

**20. COMPLIANCE WITH IMMIGRATION LAWS.**

- The Parties hereby warrant that they will at all times during the term of this Agreement comply

with all federal immigration laws applicable to the Parties' employment of its employees, and with the requirements of A.R.S. § 23-214(A) (together the "State and Federal Immigration Laws"). The Parties shall further ensure that each consultant who performs any work for the Party under this Agreement likewise complies with the State and Federal Immigration Laws.

**21. INSPECTION AND AUDIT.**

- The Parties agree to keep all books, accounts, reports, files, and other records relating to this Agreement for five (5) years after completion of this Agreement for review and audit.

**22. NOTICES.**

- Any notice or demand under this Agreement from either Party to the other shall be in writing and shall be deemed to have been given when the notice is delivered personally or deposited in a U.S. mailbox, in a stamped envelope addressed to the other Party's address provided herein or e-mailed. Either Party may at any time change such address by delivering, mailing, or e-mailing, as aforesaid, to the other party a notice stating the change.

**District**

MFCD President  
Maricopa Flood Control District  
P.O. Box 609  
Maricopa, AZ 85139

**City**

City Manager  
39700 W. Civic Center  
Maricopa, AZ 85138

With a copy to:

Karen E. Nally, District General Counsel  
Law Office of Karen E. Nally, PLLC  
3240 E. Union Hills Dr., Suite 121  
Phoenix, AZ 85050

Tina L. Vannucci, Attorney  
Fitzgibbons Law  
1115 E. Cottonwood Ln., Suite 150  
Casa Grande, AZ 85122

**23. SEVERABILITY.**

- 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 any other provision.

**24. 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.

**25. COUNTERPARTS.**

- This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all counterparts shall be deemed to constitute one and the same instrument.

**26. WAIVER.**

- The failure of City or District to insist on any one or more instances of performance of any of the terms or conditions of this Agreement or to exercise any right or 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.

**27. ENTIRE AGREEMENT.**

- This Agreement constitutes the entire agreement between the Parties and supersedes all prior understandings, whether written or oral.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the Effective Date set forth below, which shall be the date of execution by the final signatory.

**MARICOPA FLOOD CONTROL DISTRICT**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its President  
Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its \_\_\_\_\_  
Date: \_\_\_\_\_

I have reviewed the above referenced Intergovernmental Agreement between the Maricopa Flood Control District and the City of Maricopa, an agreement between public agencies, which has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954, declare this Agreement to be in proper form and within the powers and authority granted to the Maricopa Flood Control District under the laws of the State of Arizona. No opinion is expressed as to the authority of the remaining Parties, other than the Maricopa Flood Control District, to enter into said Agreement.

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

**CITY OF MARICOPA**

By: \_\_\_\_\_

Name: Nancy Smith

Its Mayor

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_

Vanessa Bueras, MMC

City Clerk

I have reviewed the above referenced Intergovernmental Agreement between the City of Maricopa and the Maricopa Flood Control District, an agreement between public agencies, which has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954, declare this Agreement to be in proper form and within the powers and authority granted to the City of Maricopa under the laws of the State of Arizona. No

opinion is expressed as to the authority of the remaining Parties, other than the City of Maricopa, to enter into said Agreement.

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

**EXHIBIT A**  
**MARICOPA FLOOD CONTROL DISTRICT**  
**PURCHASING REQUIREMENTS**

The Maricopa Flood Control District ("MFCD" or "District") board of directors shall authorize the district manager to make purchases and facilitate contracts as needed for the fulfillment of the District's mission, per the following:

**Purchasing Policy Definitions**

1. Lowest responsive bid or offer shall mean the bid or offer that adheres to the established needs of the district at the lowest net cost to the district according to the district's solicitation.
2. Most advantageous bid or offer shall mean the submitted proposal, offer, or bid that conforms most favorably in terms of the requirements for price, delivery, quality, or other evaluation criteria as set forth by the district in its solicitation.

**Purchases in General**

- (a) Purchases under \$500. The district manager is authorized to purchase goods or contract for services when the full cost is under this amount, without formal approval by the board. These items are considered normal transactions for the ongoing operation of the District.
- (b) Purchases over \$500 but less than \$5,000. The district manager shall obtain at least one written quote. After review, the district manager is authorized to decide whether to award the purchase or contract to the most advantageous bidder without formal approval by the board.
- (c) Purchases over \$5,000 but less than \$15,000. The district manager shall prepare a scope of work and instructions and shall obtain at least three quotes. After review, when time sensitive, the district manager is authorized to decide whether to award the purchase or contract to the most advantageous bidder without formal approval by the board.
- (d) Purchases over \$15,000. The district manager shall advertise the solicitation and shall follow the bidding procedure identified below. The district manager shall present the bids obtained to the board and shall report to them on the need for the goods and service and the advantages and disadvantages of the contract and bid proposals.
- (e) Cumulative Annual Purchases in excess of \$15,000. No purchase or contract, in any amount, shall be awarded to any provider who, as a result of said award, shall have exceeded \$15,000 in fiscal-year contracts to the District without prior board approval.

The district manager shall report to the board on the need for the goods or services, the advantages and disadvantages of obtaining the goods or services from the vendor or contractor in question and the anticipated annual expenditures with said vendor or contractor. Unless the goods or services are to be obtained through a board approved contract, the district manager may request the board approve an extension of expenditure authority if the project is still within the unexpired term, in an amount not to exceed twenty five percent (25%) of the anticipated expenditures with said vendor or contractor.

## **BIDDING PROCEDURE**

Except for Cooperative, - Professional and Technical Services Purchasing, Sole Source and Emergency Procurement, the district manager shall follow the procedure set forth as follows for all purchases and contracts subject to the bidding process:

A notice or solicitation for bids shall state the date, time and place of opening, and the place and time period within which bids shall be submitted. The notice shall state with particularity the goods or services required and shall state the place where specifications may be examined. Bids shall state the time and place of pre-bid meetings, when those are advantageous to a successful outcome. Bids shall be submitted in a sealed envelope clearly identified as a bid and including the project control number on the front of the envelope. Any bid not received within the time period allowed shall be rejected. All bids shall be opened in public at the time and place specified, and a tabulation of all bids received shall be available upon request after the board has made a decision concerning the proposals. The district manager or the board maintains the right to reject any and all bids and parts of bids and to re-advertise or re-solicit for bids.

## **AWARD OF BID**

Unless the board or district manager rejects the bid(s) all goods and services in an amount in excess of \$15,000 shall be awarded to the lowest responsive bidder or most advantageous offeror. In determining the lowest responsive bidder or most advantageous offeror, the board or the district manager may consider: the ability, capacity and skill of the bidder to fulfill the contract or provide the service required in a timely manner as specified in the scope of services; the quality of performance in previous contracts with the district; the financial resources and ability of the bidder and/or the quality, availability and adaptability of the goods or services.

## **PROFESSIONAL AND TECHNICAL SERVICES**

Unless required by law or contract, acquisition of professional and technical services shall be exempt from the requirements set forth above. The district manager shall determine the scope of the services required and may, as an option, require the submission of proposals prior to engaging such services. For the purposes of this policy, "professional or technical services" means those services requiring specialized knowledge, education, skill or expertise and where the qualifications of the person(s) rendering the services are of primary importance. Professional and technical services shall include, but

not be limited to, services provided by architects, attorneys, accountants, construction and project managers, design professionals, engineers, geologists or any other professions and services defined as professional services by state law. The District shall not knowingly engage a person or firm practicing in a professional or technical field for which a license is required by state law unless that person possesses a current license in good standing.

Upon engagement the District shall enter into a written agreement or memorandum of understanding for the performance of the services to be engaged, setting forth the scope of services and the unit or total price therefore. Professional and technical services shall be procured in accordance with federal or state law whenever applicable.

### **COOPERATIVE PURCHASING**

This policy shall not apply to purchases made by, through or with agencies of the United States government, the State of Arizona or its political subdivisions. The District may make purchases or award contracts for services without a formal bidding process whenever other governmental units have completed a formal bidding process compliant with state and federal laws, or updated the underlying contract, for the same item or service within eighteen months of the proposed award date and if, in the opinion of the district manager, a separate bidding process is not likely to result in a lower price for such items or services.

### **SOLE SOURCE PROCUREMENT**

The district manager may make the determination that the sole source procedure set forth herein shall be used if a purchase or service is available from only one vendor or contractor, and the purchase is estimated to cost not more than \$500. The written documentation of the basis for the sole source procurement shall be included in the procurement file for the vendor or contractor.

For procurement in excess of \$500 but less than \$15,000, the district manager may prepare a scope of work and instructions and may award a contract for a purchase or service that is available from more than one vendor or contractor without competition based on written documentation submitted by the district manager that while the good or service is available from other sources, competition is impractical, unnecessary, or contrary to the public interest because of standardization, warranty, or other factors as approved by the board. The written documentation supporting the sole source procurement shall be included in the procurement file for the vendor or contractor.

The provisions of this Policy apply to all sole source procurement unless emergency conditions exist as defined in this Policy.

### **EMERGENCY PROCUREMENT**

Notwithstanding any other provisions of this Policy, upon declaration of an emergency or other approval as required under this Policy, the board may make or authorize the district manager to make emergency procurements as set forth in the emergency procurement procedure below if there exists a



threat to public health, welfare, property or safety or if a situation exists which makes compliance with non-emergency purchasing impracticable, unnecessary or contrary to the public interest. Such emergency procurements shall be made with such competition that is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular vendor or contractor shall be included in the procurement file.

Emergency conditions may arise from, but are not limited to, floods, epidemics, riots or equipment failures. An emergency condition creates an immediate and serious need for goods or services that cannot be met through non-emergency procurement methods and that seriously threatens the functioning of the District, the preservation of property or the public health or safety. An emergency procurement shall be limited in time and quantity to those good or services necessary to satisfy the emergency need.

### **EMERGENCY PROCUREMENT PROCEDURE**

The district manager in seeking an emergency procurement shall prepare a written proposal documenting the existence of an emergency condition, how it arose and explaining the extent of the procurement needed.

All emergency procurements in excess of \$5,000 must be approved by the board. Those emergency procurements not exceeding \$5,000 may be approved by the district manager. A copy of each written proposal processed under this procedure shall be kept on file in the District's records including the board's reasoning in the determination. If the nature of the emergency does not permit submission of a timely written proposal, the district manager may make an oral request to the board president who may make an oral determination and delegation. The written proposal required under this section shall be subsequently submitted to the board for formal approval.

The written proposal required in the emergency procurement procedure shall be submitted to the board for formal approval. The board may approve a written request after the procurement if the emergency necessitated immediate response and it was impracticable for the board to convene for the emergency procurement, the procurement was made with as much competition as was practicable under the circumstances, and the price paid was reasonable under the emergency circumstances.

Sole Source and Emergency Procurement added to Policy Requirements per MFCD Board at 3.14.18 board meeting by KN

Updated Procurement Policy approved by MFCD Board at 09.09.25 Special Public Meeting (KN)

## **EXHIBIT B**

### **FACILITATING BOARD PUBLIC MEETING FOR MFCD**

1. Draft proposed agenda and send to president/District General Counsel at least three (3) days prior to the scheduled Public Meeting.
2. When approved, agenda must be posted at Maricopa Post Office and Headquarters Restaurant at least 24 hours prior to the meeting. (Weekends and holidays do not count in the 24-hour period.)
3. Post agenda at maricopafcd.com under the MEETING NOTICES tab.
4. Write newsletter, which is a summary of the major Public Meeting topics and schedule for delivery to the database 12 to 24 hours prior to the Public Meeting time. (This is not required per the open meeting law.)
5. If pertinent, balance the financials from the Pinal County Treasurer and Wells-Fargo for inclusion in the Directors Meeting folder.
6. Write District Manager report, which describes updates/progress concerning ongoing issues that may or may not need discussion.
7. Develop Directors Meeting folder, to include:
  - a. Final agenda
  - b. Minutes needing approval
  - c. District Manager report
  - d. Updated budget spreadsheet (ledger, actual y-t-d, Wells Fargo)
  - e. PC Treasurer statement
  - f. Wells-Fargo statement
  - g. Contracts and/or proposals for review
  - h. Other documents for directors' review prior to the meeting,
8. Set up Dropbox for Meeting folder documents and populate. Send link to board members and District General Counsel. This should be at least 48 hours prior to Public Meeting time.
9. Set up Public Meeting time using Zoom. Send link to Public Meeting to directors/District General Counsel.
10. Discuss any issues pertaining to the Public Meeting with District General Counsel, if necessary.
11. Start Public Meeting at five (5) minutes before scheduled time.
12. President will conduct the Public Meeting agenda items. Offer context, background etc. as required. Answer questions from board members. Good knowledge of each item is necessary.
13. Take notes in order to write minutes. Note which board member proposed each motion and second, and the third board member's vote, and record.
14. Draft minutes within two (2) business days of meeting, if possible and send to District General Counsel for review.