



**ELECTRICAL DISTRICT NO. 3 OF PINAL COUNTY
ENGINEERING & OPERATIONS DEPARTMENT**

CUSTOMER SERVICE OFFICE
19756 John Wayne Parkway, Suite 101
Maricopa, AZ 85139

DISTRICT MAILING ADDRESS
41630 W. Louis Johnson Drive
Maricopa, AZ 85138-5402

Main: (520) 424-9021
Fax: (520) 494-7053
www.ed3online.org

SUPPLEMENTAL AGREEMENT

BETWEEN ELECTRICAL DISTRICT NO. 3 AND CITY OF MARICOPA

This Agreement is entered into this _____ day of _____, _____, between the CITY OF MARICOPA, a municipal corporation of the State of Arizona ("MARICOPA"), and ELECTRICAL DISTRICT NO. 3 OF PINAL COUNTY, ARIZONA, an electrical district and a political subdivision of the State of Arizona ("ED3"). Each of the Participants (as defined above) may sometimes be individually referred to herein as a "Party" and collectively as the "Parties".

RECITALS

- A. MARICOPA is a municipal corporation vested with the power to regulate the use of streets and Rights-of-Way ("ROWS") within MARICOPA limits.
- B. ED3, pursuant to ARS § 48-1749, from time to time installs, repairs, replaces overhead electrical poles and lines, street lights and underground electrical facilities within MARICOPA'S ROWs.
- C. MARICOPA recognizes that the utility service provided by ED3 is a benefit to the community, and that ED3 is the only electrical provider for MARICOPA.
- D. Previously the Parties entered into an Intergovernmental Agreement (IGA) dated the 21 day of February, 2012, and this agreement is meant to supplement the IGA and not replace it.
- E. MARICOPA is authorized to enter into the Agreement pursuant to ARS § 11-952 and ED3 is authorized to enter into this Agreement pursuant to ARS § 11-952, 48-1747 and 48-1749.

NOW THEREFORE, in consideration of the mutual covenants, benefits, and premises here stated, the Parties hereto agree as follows:

1. SCOPE OF WORK

- 1.1 ED3 will maintain an all-weather access road from the Anderson Substation site to Hartman Road. All-weather access road shall be a minimum of 20 feet clear width with six (6) inches of 95% compact AB or milling asphalt, and will not include curb, gutter and sidewalk improvements.
- 1.2 ED3 agrees to fund half road improvements north of ED3 owned APN 502-03-015J (approximately 300 feet) at the time MARICOPA proceeds with widening of Bowlin Road. Half road improvements shall include, half the raised median, two through lanes, curb, gutter, sidewalk, lighting and landscaping, per the City's current standard for the Minor Arterial ("Exhibit A"). The total cost of the half road improvements shall be agreed upon by the Parties.

2. **TERM**

The term of this supplemental agreement shall terminate after funding has been delivered for the initial Bowlin Road widening.

2.1 **MISCELLANEOUS PROVISIONS.**

2.2 This Supplement Agreement is subject to the cancellations provisions of ARS § 38-511.

2.3 Whenever approvals are required, they shall not be unreasonably withheld. Should any dispute arising between the Parties concerning the terms or conditions of this Supplemental Agreement or the implementation or interpretation of this Supplemental Agreement remain unresolved for a period of one (1) month, such dispute shall be forwarded to the Managers, who shall meet within fifteen (15) days (or such shorter or longer time as agreed upon between the Managers) to discuss and attempt to reach a resolution of the dispute. Any resolution mutually agreed upon by the Managers shall be binding upon the Parties. If the respective Managers cannot resolve the dispute within thirty (30) days of its submission to them (or within such longer time as shall be mutually agreed upon by the Managers), the Parties may pursue any remedies available to them at law, in equity, or under this Supplemental Agreement to resolve the dispute.

2.4 All notices or demands upon any Party to the Agreement shall be in writing and shall be delivered in person, by facsimile, or sent by First Class Certified Mail, postage prepaid, return receipt requested, addressed as follows:

CITY OF MARICOPA

39700 W Civic Center Plaza
Maricopa, AZ 85138
Office: (520) 568-9098
Fax: (520) 568-9120

ELECTRICAL DISTRICT NO. 3 OF PINAL COUNTY

41630 W. Louis Johnson Drive
Maricopa, AZ 85138-5402
Office: (520) 424-9311
Fax: (520) 423-4949

2.5 This Supplemental Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns.

2.6 By executing this Supplemental Agreement, each Party represents and covenants that this Supplemental Agreement, its execution and fulfillment of its terms, conditions, responsibilities and obligations have been duly authorized by the respective governing bodies of each Party.

2.7 The failure of any Party to insist in any one (1) or more instances on performance of any of the terms or conditions of this Supplemental 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.

2.8 The terms and conditions of this Supplemental 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 Supplemental 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.

- 2.9 In the event either Party shall bring suit to enforce any term of this Supplemental Agreement or to recover any damages for and on account of the breach of any term or condition in this Supplemental 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.
- 2.10 No Party to this Supplemental Agreement shall assign its interest in the Supplemental Agreement, either in whole or in part without the prior written consent of the other Parties.
- 2.11 If any part, term or provision of this Supplemental 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.
- 2.12 The Parties do not intend to create rights in or to grant remedies to any third Party as a beneficiary of this Supplemental Agreement or of any duty, covenant, obligation, or undertaking established hereunder.
- 2.13 No provision of this Supplemental Agreement shall be construed so as to subject the District to regulation or review in any form by any governmental entity or agency that does not presently exercise competent jurisdiction over the District.
- 2.14 The undersigned representative(s) of each Party certifies that he or she is fully authorized by the Party whom he or she represents to execute this Supplemental Agreement and to legally bind the Party to it. Each Party represents that it has full legal authority to enter into this Supplemental Agreement.
- 2.15 This Supplemental Agreement may be executed in multiple counterparts and when a counterpart has been executed by the Parties, such counterparts, taken together, shall constitute a single agreement.

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

ELECTRICAL DISTRICT NO. 3 OF PINAL COUNTY

By: _____

Title: William H. Stacy
CEO/General Manager

Date: _____

[illegible]

On this _____ day of _____, 2018, _____,

_____ of ELECTRICAL DISTRICT NO. 3 personally appeared before me and, being duly authorized, did execute the foregoing document.

Notary Public

My Commission Expires:

CITY OF MARICOPA

By: _____

Title: _____

Date: _____

[illegible]

On this _____ day of _____, 2018, _____,

_____ of CITY OF MARICOPA personally appeared before me and, being duly authorized, did execute the foregoing document.

Notary Public

My Commission Expires:

ATTORNEY DETERMINATION

The foregoing Supplemental Agreement between Electrical District No. 3 and the City of Maricopa, Arizona has been reviewed pursuant to A.R.S. § 11-952 by the undersigned who have determined that it is in proper form and within the powers and authority granted under the laws of the State of Arizona to the Parties to the Agreement.

DATED this _____ day of _____, 2018.

District Attorney

City Attorney