

# INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA AND THE CITY OF MARICOPA

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is entered into this 4<sup>th</sup> day of June, 2019, by and between the Arizona Department of Revenue, hereinafter referred to as Department, and the City of Maricopa, an Arizona municipal corporation, hereinafter referred to as City. This Agreement shall supersede and replace all previous intergovernmental agreements, including amendments thereto, entered into by the Department and City regarding the administration, collection, audit and/or licensing of transaction privilege tax, use tax, severance tax, jet fuel excise and use taxes and rental occupancy taxes imposed by the State, cities or towns.

## R E C I T A L S

WHEREAS, Title 11, Chapter 7, Article 3 (A.R.S. § 11-952) authorizes two or more public agencies to enter into intergovernmental agreements to contract for services, if authorized by their legislative or governing bodies.

WHEREAS, A.R.S. § 42-6001 et seq. was amended effective January 1, 2015 to provide that the Department shall collect and administer any transaction privilege and affiliated excise taxes imposed by any city or town in Arizona and that the Department and each city or town shall enter into an intergovernmental contract or agreement pursuant to A.R.S. § 11-952 to provide a uniform method of administration, collection, audit and licensing of transaction privilege and affiliated excise taxes imposed by the State, cities or towns.

WHEREAS, City has taken appropriate action by ordinance, resolution or otherwise, pursuant to the laws applicable to the governing body of City, to approve and authorize City to enter into this Agreement.

## A G R E E M E N T

NOW, THEREFORE, in consideration of the foregoing, the Department and City enter into this intergovernmental agreement as follows:

### 1. **Definitions**

- 1.1 **A.R.S.** means the Arizona Revised Statutes.
- 1.2 **Adoption of an Ordinance** means final approval by majority vote of the City council.
- 1.3 **Ambassador Program** means the Department’s provided structure and support of curriculum related to tax administration and compliance education.

- 1.4 Audit** means examination and verification of accounts and records to determine taxpayer compliance with title 42 of A.R.S. and the Model City Tax Code, or any other assessment issued pursuant to A.R.S. § 42-1108.
- 1.5 Closing Agreement** means an agreement to settle a tax liability pursuant to A.R.S. § 42-1113.
- 1.6 Confidential Information** means all such information as defined in A.R.S. § 42-2001.
- 1.7 Confidentiality Standards** means the standards set forth in Appendix A or such other written standards mutually agreed to by the Department and City.
- 1.8 Desk Review** means any assessment issued pursuant to A.R.S. § 42-1109(B).
- 1.9 Federal Tax Information** means federal tax return or return information the Department receives from the Internal Revenue Service including any information created by the Department derived from that information. Documents obtained from a taxpayer or State records are not considered Federal Tax Information.
- 1.10 Model City Tax Code** means the document defined in A.R.S. § 42-6051.
- 1.11 Modification** means a change to an assessment required or authorized by statute.
- 1.12 Municipal Tax(es)** means transaction privilege and affiliated excise taxes, including use tax, severance tax, jet fuel excise and use tax, and rental occupancy tax, imposed by City in accordance with the Model City Tax Code. Unless the context provides otherwise, this definition includes tax, license fees, penalties, interest and other similar charges.
- 1.13 State** means the State of Arizona.
- 1.14 State & Municipal Audit Resolution Team (“SMART”)** means an advisory group comprised of four representatives from municipal taxing jurisdictions and four representatives of the Department as set forth in Section 14 below.
- 1.15 Taxpayer Information** means information protected from disclosure pursuant to Model City Tax Code § 510.
- 1.16 Standard Audit Life Cycle Process Map:** A document containing the decisions and procedures adopted by the Department and Cities/Towns from the point of audit assignments until resolution consistent with this Agreement and the Arizona Management System principle of continuous improvement. This document will be reviewed by the Department and cities/towns as needed, not less than annually, with any changes memorialized in a revised map. In the event of unresolved disagreement regarding proposed changes, this Map will be referred to SMART for resolution.

- 1.17 Standard Authorization List Update Process Map:** A process containing the decisions and procedures adopted by the Department and cities/towns to keep an updated list of current employees and contractors who are authorized to receive confidential information consistent this Agreement and with the Arizona Management System principle of continuous improvement. This document will be reviewed by the Department and cities/towns as needed, not less than annually, with any changes memorialized in a revised map. In the event of unresolved disagreement regarding proposed changes, this Map will be referred to SMART for resolution.
- 1.18 Standard Inter-Jurisdictional Transfer Process Map:** A process containing the decisions and procedures adopted by the Department and cities/towns to transfer tax from one City/Town to another City/Town upon a City/Town's request or during the audit process consistent this Agreement and with the Arizona Management System principle of continuous improvement. This document will be reviewed by the Department and cities/towns as needed, not less than annually, with any changes memorialized in a revised map. In the event of unresolved disagreement regarding proposed changes, this Map will be referred to SMART for resolution.
- 1.19 Voluntary Disclosure Agreement:** A program that is designed for eligible taxpayers with exposure for tax liability and /or civil penalties due to a failure to report and/or pay all tax due.

## **2. Disclosure of Information by City/Town to Department**

- 2.1 Qualified Recipients of Information:** The Department shall provide a list of names and job titles of duly authorized representatives acting on behalf of the Department authorized to request and receive Taxpayer Information from Cities/Towns as defined in the Standard Authorization List Update Process Map. This information shall be sent to Cities/Towns as defined in the Standard Authorization List Update Process Map. The Cities/Towns will not disclose Taxpayer Information to a Department employee whose name is not included on this list. Cities/Towns may contact the Department with any questions related to qualified recipients by contacting the Cities Services Unit.
- 2.2 Use of Information:** Any Taxpayer Information released by City to the Department may only be used by the Department for tax administration and collection purposes, and may not be disclosed to the public in any manner that does not comply with the Model City Tax Code. All Taxpayer Information shall be stored and destroyed in accordance with the Confidentiality Standards.
- 2.3 Municipal Ordinance:**
- (a) City shall provide the Department with a copy of its Municipal Tax Code or any City ordinances imposing the taxes to be collected hereunder within ten

calendar days of a request for such information from the Department. This information shall be sent to the Cities Services Unit electronically.

- (b) City shall provide the Department with a copy of any ordinance adopted by City after execution of this Agreement that imposes or modifies the Municipal Taxes or license fees to be collected hereunder, including a new or different tax rate as defined by A.R.S. § 42-6053(E), within ten calendar days of adoption of an ordinance. This information shall be sent to the Cities Services Unit electronically. No such ordinance shall take effect on a date other than the first day of the month that is at least sixty calendar days after City provides notice to the Department unless City and the Department agree otherwise. The Department shall add the change to the official copy of the Model City Tax Code within ten business days of receipt of notice from City. The Department will notify City when the change has been made, and City is responsible for confirming the change. Pursuant to A.R.S. § 42-6053(E)(2), changes in tax rates have no effect unless reflected in the official copy of the Model City Tax Code.
- (c) Within fifteen calendar days following the adoption of an annexation ordinance, one copy of the ordinance and notification of the effective date of such ordinance shall be sent to the Department via email at [GIS@azdor.gov](mailto:GIS@azdor.gov). City shall also include with the notice a list of businesses City knows to be located in the annexed area. The Department shall not be obligated to begin collection of Municipal Tax any sooner than the first day of the month that is at least sixty calendar days after the date the Department received notice from City of the annexation.

- 2.4 Development and Impact Fees:** Upon request, City shall provide to the Department any information regarding development and impact fees to assist the Department with the auditing of taxpayers and billing and collection of taxes.
- 2.5 Prior Audits:** Upon request by the Department, City shall allow inspections and copies of any City tax audits conducted prior to January 1, 2015.
- 2.6 Other Information:** City shall provide other relevant information necessary for tax administration and collection purposes as requested by the Department.
- 2.7 Statutory Authority:** The disclosure of confidential City tax information is governed by A.R.S. § 42-2001 et seq., or Model City Tax Code Section 510 for all reporting periods prior to January 1, 2015.

### **3. Disclosure of Information by Department to City**

- 3.1 Qualified Recipients of Information:** City shall provide a list of the names and job titles of duly authorized representatives acting on behalf of City authorized to

receive Confidential Information as defined in the Standard Authorization List Update Process Map. The Department will not disclose any Confidential Information to any representative whose name is not included on this list. The Department may contact City with any questions related to authorized recipients.

**3.2 Suspension of Information:** The Department will not withhold Confidential Information from City so long as City complies with A.R.S. § 42-2001 et seq. and the Confidentiality Standards.

- (a) If the Department has information to suggest City or any of its duly authorized representatives violated A.R.S. § 42-2001 et seq. or the Confidentiality Standards (Appendix A), the Department will send written notice to City detailing the alleged breach as understood by the Department and requesting a response to the allegation within twenty calendar days of the date of the letter.
- (b) The Department will review the written response from City and consider the information contained therein and all relevant circumstances surrounding the alleged violation before making a written determination as to whether a suspension of information is warranted and the length of the suspension.
- (c) If City is dissatisfied with the Department's determination, it may within ten calendar days, submit a written request to SMART requesting the group review the determination pursuant to Section 14.
- (d) If the Department has information to suggest City violated the Confidentiality Standards, the Department may inspect City's records, facilities, and equipment to confirm whether there has been a violation upon notification to City.

**3.3 Information to be Provided:** Within the restrictions outlined in this Section, the Department shall provide all of the information detailed in Appendix B, which may be modified by the mutual agreement of the parties. The Department shall not provide Federal Tax Information to City. In addition to the information detailed in Appendix B, City may obtain upon request:

- (a) Inspections and/or copies of Department tax audits, including all information related to all cities and towns included in the tax audit; and
- (b) Other relevant information necessary for tax administration and collection purposes, including all information necessary to verify City received all revenues collected by the Department on behalf of City.

**3.4 Storage and Destruction of Confidential Information:** All Confidential Information provided by the Department to City shall be stored, protected, and destroyed in accordance with the Confidentiality Standards.

**3.5 Statutory Authority:** The Department may disclose Confidential Information to City pursuant to A.R.S. § 42-2003(G) if the information relates to a taxpayer who is or may be taxable by a county, city or town. Any Confidential Information released to City:

- (a) May only be used for internal tax administration purposes as defined in A.R.S. § 42-2001(4); and
- (b) May not be disclosed to the public in any manner that does not comply with the Confidentiality Standards.

A.R.S. § 42-2003(G) provides that any release of Confidential Information that violates the Confidentiality Standards will result in the immediate suspension of any rights of City to receive taxpayer information pursuant to Section 3.2 of this agreement. Under no circumstances shall the suspension of any right to receive taxpayer information adversely impact the delivery or transfer of any City revenues in any manner.

**3.6 Specificity of Data:** Pursuant to A.R.S. § 42-6001, the Department and City agree that the data fields identified in Appendix B and the JT-1, TPT-2 and TPT-EZ forms provided in Appendix C meet the specificity requirements of City. The forms provided in Appendix C may be revised and replaced as needed by mutual agreement of the Department and City based on approval by SMART.

#### **4. Audit**

The Department shall administer the audit functions with City in accordance with the Standard Audit Life Cycle Process Map and with the following provisions.

**4.1 Training:** All auditors and supervisors shall be trained in accordance with the policies of the Department. Auditors who have not completed the training may only work in connection with a trained auditor and cannot be the only auditor assigned to the audit. The Department shall:

- (a) Provide semi-annual audit training in accordance with A.R.S. § 42-6002(C) and be responsible for the costs of the training, limited to the site and training materials;
- (b) Notify City of any training sessions at least thirty calendar days before the date of the training session;
- (c) Permit City auditors and supervisors to attend any scheduled training as space permits at any designated training location; and

- (d) Provide additional training, as needed, to inform auditors and supervisors regarding changes in State law, the Model City Tax Code, Audit Procedures or Department policy.

**4.2 Conflict of Interest:** An auditor or supervisor trained and authorized to conduct an audit may not conduct any of the following prohibited acts:

- (a) Represent a taxpayer in any tax matter against the Department or City while employed or in an independent contractor relationship with the Department or City.
- (b) Attempt to use his/her official position to secure any valuable thing or valuable benefit for himself/herself or his/her family members.
- (c) Represent a taxpayer before the Department or City concerning any matter in which he/she personally participated for a period of one year after he/she ends employment or the independent contractor relationship with the Department or City.
- (d) Use information he/she acquires in the course of the official duties as an auditor or supervisor in a manner inconsistent with his/her official duties without prior written approval from the Department.
- (e) For a period of one year after he/she ends employment or an independent contractor relationship with the Department or City, work in the same firm as a person who represents a taxpayer against the Department or City unless the firm institutes formal barriers to prevent any sharing of information between the trained auditor or supervisor and the remainder of the firm.

The Department may revoke an individual's authority to audit and prohibit the use of any auditor or supervisor who violates this provision.

**4.3 Audits and Refunds:**

- (a) City may request the Department conduct an audit or review of any taxpayer engaged in business in City, including a taxpayer whose business activity is subject to tax by the City but is not subject to tax by the State. The Department and the cities and towns shall collaboratively establish and maintain minimum justification standards and procedures City shall adhere to when submitting an audit request.
- (b) City may conduct an audit of a taxpayer engaged in business only in City. Before commencing such audit, City shall submit a Field Audit Request Form. The Department will provide City with a determination to proceed or not within ten calendar days of the notice from City.

- (c) Except as permitted below, the Department shall conduct all audits of taxpayers having locations in two or more cities or towns. A City auditor may participate in any audit City requested the Department to perform.
- (d) City shall notify the Department if it wants to audit a taxpayer having locations in two or more Arizona cities or towns and whose business activity is subject to tax by the City but is not subject to tax by the State. The Department will authorize such audits, to be overseen by the Department, unless there is already an audit of the taxpayer scheduled, or the Department determines the audit selection is discriminatory, an abuse of process or poses other similar defects. The Department will notify City of its determination within fifteen (15) calendar days. No initial audit contact may occur between City and a taxpayer until the Department approves the audit notice.
- (e) In the case of taxpayers doing business in more than one city/town:
  - (1) City may either request the Department conduct an audit of a taxpayer having locations in two or more Arizona cities or towns and whose primary business is subject to both city and state tax, or
  - (2) City may request to conduct an audit of a taxpayer having locations in two or more Arizona cities or towns and whose primary business is subject to both cities' and state tax.
  - (3) Requests pursuant to (e)(1) or (e)(2) shall be made using the Department's Field Audit Request Form. The Department shall notify City of its decision regarding the request within fifteen (15) calendar days of receipt of the request.
- (f) The Department may deny a request for an audit in writing within 15 days of City request for the following reasons:
  - (1) An audit is already scheduled or planned for the taxpayer within six months of the request;
  - (2) The requested audit would interfere with strategic tax administration planning;
  - (3) The audit selection is discriminatory, an abuse of process or poses other similar defects;
  - (4) The request lacks sufficient information for the Department to determine whether it is appropriate;
  - (5) The Taxpayer was audited within the previous two years;
  - (6) The Department lacks sufficient resources to conduct the audit; or



- (7) The scope or subject of the audit does not justify the use of Department resources.
- (g) If the Department denies a request to conduct an audit because it either lacks resources to conduct the audit itself or the scope or subject of the audit does not justify the use of Department resources then City shall notify the Department if it wants to conduct the audit under the supervision of the Department. No initial audit contact may occur between City and a taxpayer until the Department's supervisor is appointed to the audit.
- (h) Any decision by the Department denying City's request to conduct any audit may be referred to SMART in accordance with Section 14 of this Agreement.
- (i) All audits conducted by City shall be in accordance with standard audit procedures defined in the Department audit manual and the Standard Audit Life Cycle Process Map. All auditors shall be trained in accordance with Section 4.1 above.
- (j) The Department may appoint a Department manager to supervise any audit conducted by City.
- (k) All audits shall include all taxing jurisdictions in the State regardless of which jurisdiction's auditors participate in the audit. All desk reviews must include all taxing jurisdictions for which there is information provided by the taxpayer.
- (l) The Department shall issue all audit assessments on behalf of all taxing jurisdictions in a single notice to the taxpayer.
- (m) The Department shall issue amendments to audit assessments on behalf of all taxing jurisdictions in a single notice to the taxpayer.

#### **4.4 Claims for Refund:**

- (a) When a taxpayer files a request for refund, including refunds requested by filing amended returns, the Department shall process the request and review it for mathematical errors or for the failure of the taxpayer to properly compute the tax based on the taxable income reported on the return or refund request.
- (b) The Department will notify City of all refund requests that are processed involving City's Municipal Taxes within thirty calendar days of processing the refund. City may request an audit of the taxpayer as set forth in Section 4.3 above.
- (c) The Department may assign an auditor to review requests for refunds. The Department will notify City, within thirty calendar days of initiating a review, of all refunds under review by an auditor pertaining to a taxpayer who engages

in business within City's taxing jurisdiction and may request that City assist with such reviews. The Department may assign a refund request to a City auditor for review. The Department may only assign refund requests to a City auditor if the City is involved in the refund request.

- (d) City is responsible for payment of all amounts to be refunded to taxpayers for Municipal Tax incorrectly paid to City. The Department may offset a remittance to City under this Agreement to cover the amounts of allowed refunds paid to the Department. If there are insufficient funds available to pay the refund, City must pay the Department within sixty days of written demand from the Department.
- (e) The Department shall issue refund approvals/denials on behalf of all taxing jurisdictions in a single notice to the taxpayer. City may request copies of such determinations.

**4.5 Protests:** Taxpayer protests of audit assessments and desk review assessments and refund denials shall be directed to the Department. Appeals of audit assessments, desk review assessments and refund denials shall be administered pursuant to A.R.S. Title 42, Chapter 1, Article 6. The Department shall notify City of any appeals within 30 days of receipt of the protest.

**4.6 Status Reports:** The Department shall keep SMART apprised of the status of each protested matter involving the imposition of Municipal Taxes. City may request to be on a distribution list for monthly status reports by contacting the Department.

## **5. Voluntary Disclosure Agreements**

The Department may enter into a voluntary disclosure agreement with a taxpayer. A voluntary disclosure agreement may limit the years subject to audit and waive penalties. The Department will notify City of the Department's intent to enter into an agreement and the Department will provide the taxpayer's identity within thirty (30) calendar days of disclosure. City may request an audit of a taxpayer subject to a voluntary disclosure agreement pursuant to Section 4.3 above.

## **6. License Compliance**

**6.1 License Issuance and Renewal:** The Department shall issue new Municipal Tax licenses and renew such licenses for City Municipal Tax. The Department of Revenue shall provide City with information about all persons obtaining and renewing tax licenses as set forth in Appendix B.

**6.2 License Checks:** The Department and City shall coordinate efforts to conduct tax license compliance checks through canvassing and other compliance methods.

**6.3 Confidentiality:** Any tax license information City obtains from the Department is considered Confidential Information and may only be disclosed as authorized by A.R.S. § 42-2003. Any tax license information City obtains through its own efforts may be disclosed as allowed by applicable City laws.

**6.4 Changes to License Fees:** Within ten (10) business days following the adoption of an ordinance (or official acknowledgment of approval of an ordinance by voters in an election of a charter city) issuing or modifying a tax license fee, one copy of the ordinance and notification of the effective date of such ordinance shall be sent to the Department's City Services Unit. The Department shall not be obligated to begin collection of the new or modified fee any sooner than sixty calendar days after the date the Department received the ordinance from City.

## **7. Closing Agreements**

The Department shall notify City before entering into a Closing Agreement and shall seek a range of settlement authority from City related to the tax levied and imposed by City in accordance with the Standard Audit Life Cycle Process.

## **8. Responsibility for Representation in Litigation**

**8.1 Administrative Proceedings:** The Department shall be responsible for coordinating the litigation and defending the assessment or refund denial in any administrative appeals before the Office of Administrative Hearings or the Director of the Department regardless of the jurisdiction that conducted the audit in accordance with the Standard Audit Life Cycle Process Map. The Department shall be diligent in defending the interests of City and City shall assist in such representation as may be requested by the Department or by City.

**8.2 Further Appeals:** The Arizona Attorney General is responsible for defending the assessment or refund denial at the Board of Tax Appeals, the Arizona Tax Court and all higher courts. City shall assist the Attorney General in such representation and litigation as requested by the Attorney General's Office in accordance with the Standard Audit Life Cycle Process Map.

**8.3 Mutual Cooperation:** The Department and City agree they shall cooperate in the appeal and litigation processes and shall ensure their auditors, supervisors, and other necessary employees are available to assist the Department and the Attorney General for informal interviews, providing documents and computer records, preparing for depositions, attending depositions and trial as witnesses, and assisting in trial/hearing preparation, as needed.

**8.4 Administrative Decisions:** The Department shall provide a copy of any and all administrative hearing level decisions, including Director's decisions issued by the

Department to all jurisdictions on a distribution list. City may request to be on the distribution list by contacting the Department's Cities Unit. Administrative decisions are Confidential Information and must be stored and destroyed in accordance with the Confidentiality Standards.

## **9. Collection of Municipal Taxes**

**9.1 Tax Returns:** Taxpayers who are subject to City Municipal Taxes shall pay such taxes to the Department. Tax payments shall be accompanied by a return prepared by taxpayer on a form prescribed by the Department.

**9.2 Collections:** The Department shall collect any Municipal Tax imposed by City recorded on the Department's tax accounting system. Amounts the Department collects for delinquent City Municipal Tax accounts after the termination of this Agreement shall be forwarded to City. The Department and City may enter into an additional agreement to provide joint collection efforts on the following terms:

- (a) **Training:** All City collectors authorized to collect obligations in cooperation with the Department shall be trained in accordance with the policies of the Department. Training shall be provided in the same manner as set forth in Section 4.1 of this Agreement.
- (b) **Conflict of Interest:** A collector authorized under this provision may not:
  - (1) Represent a taxpayer in any tax matter against the Department or City while employed by the City.
  - (2) Attempt to use his/her official position to secure any valuable thing or valuable benefit for himself/herself or his/her family members.
  - (3) Represent a taxpayer before the Department or City concerning any matter in which he/she personally participated for a period of one year after he/she ends employment with the City.
  - (4) Use information he/she acquires in the course of the official duties as a collector in a manner inconsistent with his/her official duties without prior written approval from the Department.
  - (5) For a period of one year after he/she ends employment with the City, work in the same firm as a person who represents a taxpayer against the Department or City unless the firm institutes formal barriers to prevent any sharing of information between the trained collector and the remainder of the firm.

- (c) **Revocation:** The Department may revoke an individual's or City's authority to collect obligations under this section, subject to review by SMART upon request by the individual or City.

- 9.3 State of Arizona Liquor License Affidavit:** City may request that the Department issue a liquor license affidavit. The Department will respond to the request via secured e-mail with a note stating complete, in-process, or unable to complete. When the City request liquor license affidavits, they will need to elect the prescribed method if they are willing to pay for the Arizona Department of Liquor Licenses and Control (ADOLLC) hearing if the license is held for renewal until balance paid in full. The Department and City will negotiate how the cost of the hearing will be shared between the Department and City on a case by case basis.
- 9.4 Uncollectible/Discretionary Write-offs:** The Department will share the annual list of uncollectible/discretionary write-offs prior to the end of fiscal year write-off event. City will have 45 days to submit feedback.
- 9.5 Remittance:** All amounts collected by the Department for Municipal taxes, penalties and interest under this Agreement shall be remitted to City weekly on the basis of actual collections. To the extent possible, the Department shall initiate the electronic payment by noon on the Monday after the end of the week in which the collections were made. Remittance shall be made in the form of immediately available funds transferred electronically to the bank account designated by City.
- 9.6 Abatement:** The Department, with the approval of the Attorney General, may abate tax under certain circumstances. During the ordinary course of business, the Department may determine for various reasons that certain accounts shall be closed or cancelled. The Department shall seek input from City or SMART before abating tax or closing accounts. The Department may request a telephonic meeting of SMART if time or circumstances require immediate action.
- 9.7 Funds Owed to City:** At all times and under all circumstances payments remitted by a taxpayer to the Department for City Municipal Taxes will be considered property of City. The Department may not retain or fail to remit such funds to City for any reason not specifically set forth in this Agreement including, but not limited to, during the course of a dispute between City and the Department.
- 9.8 Adjustments to Reported Taxes:** If the Department determines that a payment remitted by a taxpayer incorrectly identifies the city or town to which the payment should be made, Department may temporarily hold the payment until the distribution of the payment is corrected to ensure the appropriate city or town receives the payment. If a payment by the Department has been made to an incorrect City, the Department and affected cities or towns shall follow the Standard Inter-Jurisdictional Transfer Process Map.

**10. Taxpayer Rulings and Uniformity**

The Department shall be responsible for issuing taxpayer ruling requests and interpretations of the Model City Tax Code. City acknowledges that pursuant to A.R.S. 42-6005(B), when the state statutes and Model City Tax Code are the same and where the Department has issued written guidance, the Department's interpretation is binding on cities and towns. The Department acknowledges that in all other situations, interpretation of the Model City Tax Code is the sole purview of Municipal Tax Code Commission or its designee. Designated persons must be authorized to receive confidential information as authorized by Section 3.1 of this agreement. The Department shall include at least two representatives of the municipalities as regular members of any group established to respond to taxpayer ruling requests and to issue uniform interpretations and guidance promulgated by the Department. This section is not intended to affect procedures for appeals and litigation as outlined in Section 4.5 and Section 8 of this agreement.

**11. Financing Collection of Taxes**

The costs incurred by the Department in administering this Agreement shall be financed through the State general fund appropriation to the Department. This provision does not relieve City of any financial obligation imposed by statute.

**12. Inter-Jurisdictional Transfers**

The Department shall administer the inter-jurisdictional transfers of Municipal Tax monies in accordance with the Standard Inter-Jurisdictional Transfer Process Map.

**13. Education and Outreach Efforts**

To further its focus on serving taxpayers and to commitment of funding Arizona's future through enhanced customer service, continuous improvement, innovation, the Department is also expanding its outreach and education program to connect with all citizens of Arizona, strategically working with taxpayer and industry groups, tax practitioners and Arizona's Cities and Towns to ensure tax education of individual and business taxpayers.

Any City may further this mission, at its own expense, in providing education and outreach to taxpayers and business. Education and Outreach shall be consistent with applicable law and Department written guidance.

Increased Education and Outreach Efforts among the Department and the Cities/Towns will ensure collaborative partnerships that are beneficial to both that emphasizes an ongoing two-way exchange of information and communication on issues of common interest and is meant to promote cooperation in areas of overlapping special projects.

Therefore, upon request, City shall provide information to the Department concerning such education and outreach efforts.

The Department shall implement the workings of an Ambassador Program; whereby, the Department provides structure/support of curriculum for education related to tax administration and compliance. The City will have a standard work process when participating in ADOR-led educational events.

The City shall have a dedicated primary point of contact (PPOC) on its list of duly authorized representatives, who is located in Arizona and is tasked with sending and receiving communications between the ADOR and the Cities/Towns.

#### **14. State & Municipal Audit Resolution Team (“SMART”)**

**14.1 Members:** The members shall consist of four seats representing municipal taxing jurisdictions and four seats representing the Department. Member seats may be split so some people fill the position for only certain issues, such as audit selection or collection abatement. There shall also be a list of alternate members, who may be asked by a regular member who is unable to attend a meeting to take that member's place at a SMART meeting.

**14.2 Selection:** The Director of the Department shall appoint people to serve as members of SMART. Municipal taxing jurisdictions shall nominate members from municipal taxing jurisdictions.

**14.3 Meetings:** SMART shall meet monthly unless there is no business to be conducted. Additional meetings can be scheduled as necessary to timely discuss issues presented. Alternate members may attend meetings but cannot vote unless filling the seat of a regular member.

**14.4 Issues:** The Department or City may refer issues to SMART to include, but not limited to:

- (a) Decisions by the Department to not audit a taxpayer;
- (b) Amendments to Department audit procedures or manuals;
- (c) Closing Agreements or a range of settlement authority;
- (d) Abatement or account closure in collections;
- (e) Suspension of disclosure of information from the Department;
- (f) Unresolved disagreement regarding proposed changes to process maps listed in Sections 1.16, 1.17 and 1.18;

- (g) Revocation of collection authority; and
- (h) Other issues as authorized by the Director of the Department or agreed upon by the parties.

**14.5 Recommendations:** SMART shall make recommendations to the Director of the Department or Director's designee. If the recommendation is approved by at least five members of SMART, the Director will accept the recommendation of SMART. If SMART cannot reach a recommendation agreeable to at least five members of the group, the Director or Director's designee may act as he deems to be in the best interests of all parties. Notwithstanding the above, upon request by a City, the Director will submit his decision to the Attorney General's Office for review.

**14.6 Voting:** Any voting member of the committee may request the vote be held by secret ballot.

**14.7 Procedures:** SMART shall develop procedures concerning the operation of the group consistent with this Agreement.

## **15. Funding of Additional Auditors by City**

**15.1 Funding:** At the sole discretion of City, City may contribute funding to the Department to pay for additional auditors to assist the Department in the performance of audits of Municipal Tax owed to City. Such additional auditors funded by City shall at all times be deemed to be employees of the Department and under no circumstances shall be deemed to be employees or agents of City. It is the parties' intention that City funding be used to increase the capabilities of the Department to perform Municipal Tax audits and not to subsidize or replace State funding required for audit and collection of taxes.

**15.2 Use of Funds:** City funding for additional auditors under this Section shall be used to fund the auditors' salaries and related expenses and shall not be used to pay for Department office space, utilities, equipment, supplies, or similar kinds of overhead.

**15.3 Pool of Funds:** The Department may pool any City funding with any other similar funding provided by other municipal taxing jurisdictions to pay for additional auditors dedicated to serving those jurisdictions. The Department shall separately account for such funds in its annual budget.

**15.4 Accounting:** The Department shall provide an annual accounting to City, by August 31 each year describing how City funding was used during the prior fiscal year.



**16. Satellite Offices for Department Auditors**

- 16.1 Funding:** City, at its own expense and at its sole discretion, may provide one or more satellite offices and associated amenities for use by Department employees to provide audit and/or customer service to taxpayers. Use of such facilities by Department employees shall be at the sole discretion of the Department. Nothing in this section shall require the Department to make use of such facilities provided by City.
- 16.2 Requirements:** Any Department employee using a City satellite office must meet reasonable requirements of City related to the use of the facility. City shall be responsible for notifying the Department of any concerns, and the Department shall be responsible for taking appropriate actions to resolve those concerns.
- 16.3 Termination:** Once a satellite office is established, City shall provide at least 180 calendar days written notice to the Department prior to the termination or relocation of a satellite office. The Department may discontinue the use of a satellite office at any time upon notice to City and shall promptly remove all Department property.
- 16.4 License:** All requirements of City and the Department related to the satellite office shall be outlined in a mutually acceptable form of license and subject to separate approval.

**17. Non-availability of Funds**

Every payment obligation of the Department and the City pursuant to this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation, except for the rendering of funds to City paid by a taxpayer for Municipal Taxes or tax license fees of City. If funds are not appropriated, allocated and available or if the appropriation is changed resulting in funds no longer being available for the continuance of this Agreement, this Agreement may be terminated at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this Section. The termination of this Agreement shall not entitle the Department to retain any Municipal Tax collected on behalf of City pursuant to this Agreement.

**18. Waiver**

Nothing in this Agreement should be interpreted as City relinquishing its legal rights under the Arizona Constitution or other applicable law, nor that City is conceding the administration and collection of its Municipal Tax is not of a local interest or should not be under local control.

**19. Cancellation**

The requirements of A.R.S. § 38-511 apply to this Agreement. The Department or City/Town may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Department or City is, at any time while this Agreement or any extension is in effect, an employee, agent or consultant of the other party with respect to the subject matter of this Agreement. The obligation of the Department to remit City taxes shall survive cancellation.

**20. Notice**

- (a) When any Notice to City is required under the terms of this Agreement, such Notice shall be sent by electronic correspondence to: [Angele.Ozoemelum@maricopa-az.gov](mailto:Angele.Ozoemelum@maricopa-az.gov).
- (b) When any Notice to the Department is required under the terms of this Agreement, such Notice shall be sent by electronic correspondence to: [cityservices@azdor.gov](mailto:cityservices@azdor.gov).

**21. Non-discrimination**

The Department and City shall comply with Executive Order 2009-9, which mandates all persons, regardless of race, color, religion, sex, age, or national origin, shall have equal access to employment opportunities, and all other applicable State and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Department and City shall take affirmative action to ensure applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

**22. Compliance with Immigration Laws and A.R.S. § 41-4401**

- 22.1** The Department and City shall comply with all Federal immigration laws and regulations relating to employees and warrants compliance with A.R.S. § 23-214(A) which reads in part: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the e-verify program.”
- 22.2** A breach of compliance with immigration laws and regulations shall be deemed a material breach of this Agreement and may be grounds for the immediate termination of this Agreement.

**22.3** The Department and City retain the legal right to inspect the papers of any employee who works on the Agreement to ensure the Department and City/Town is complying with the applicable Federal immigration laws and regulations and State statutes as set forth above.

**23. Audit of Records**

City and the Department shall retain all data, books, and other records (“Records”) relating to this Agreement for at least six (6) years (a) after termination of this Agreement, and (b) following each annual renewal thereof. All Records shall be subject to inspection by the Department at reasonable times. Upon request, the Department and City shall produce any or all such records. This Agreement is subject to A.R.S. §§ 35-214 and -215.

**24. Amendments**

Any amendments to the enumerated provisions or Appendices A, B, and C of this Agreement must be executed in writing in accordance with the provisions of this Agreement. The Standard Process Maps described within certain enumerated provisions are not themselves part of the Agreement.

**25. Mutual Cooperation**

In the event of a disagreement between the parties with regard to the terms, provisions and requirements of this Agreement or in the event of the occurrence of any circumstances bearing upon or affecting this Agreement, parties hereby agree to mutually cooperate in order to resolve the said disagreement or deal with the said circumstance.

**26. Arbitration**

To the extent required by A.R.S. § 12-1518(B) and as provided for in A.R.S. § 12-133, the parties agree to resolve any dispute arising out of this Agreement by arbitration. The parties agree that any lawsuit filed by City relating to the issues outlined in Section 17 of this Agreement is not considered to be a dispute arising out of this Agreement.

**27. Implementation**

The implementation and execution of the provisions of this Agreement shall be the responsibility of the Director of the Department or his representative and the Mayor his/her

designee, or another party with designated authority pursuant to applicable law or City charter on behalf of City.

## **28. Limitations**

Nothing in this Agreement shall be construed as limiting or expanding the statutory responsibilities of the parties in performing functions beyond those granted to them by law, or as requiring the parties to expend any sum in excess of their appropriations.

## **29. Duration**

- 29.1** The term of this Agreement shall commence from the latest date as indicated in Section 32 and continue in force through December 31st of that same year unless canceled or terminated as provided herein. The term of the Agreement shall automatically be extended for successive one (1) year terms commencing on January 1st and ending on December 31st of each year thereafter unless canceled or terminated as provided herein. Amendments to this Agreement that are negotiated and agreed to by a simple majority of the review committee referenced in Section 29.5 shall thereafter be executed by the parties hereto by a separate, signed amendment and incorporated herein to be effective during the term of the Agreement and any extensions. This Agreement may be canceled or terminated effective on December 31st of any year by either party by providing written notice no later than sixty (60) calendar days prior to the expiration of the term then in effect. This Agreement shall expire on December 31st of any year the Department is subject to sunset review. Upon expiration, cancellation or termination, any subsequent Agreement must be ratified through signature by both parties.
- 29.2** If State legislation enacted subsequent to the date of this Agreement substantially affects the performance of this Agreement by either party or substantially diminishes the benefits either party would receive under this Agreement, either party may then terminate this Agreement by giving at least thirty calendar days' notice to the other party. The termination will become effective immediately upon the expiration of the notice period unless otherwise agreed to by the parties.
- 29.3** Notwithstanding any provision to the contrary herein, both parties may by mutual agreement provide for the termination of this contract upon such terms and at such time as is mutually agreeable to them.
- 29.4** Any notice of termination shall be mailed and served on the other party in accordance with Section 20 of this Agreement.
- 29.5** During the term of this Agreement, the terms and conditions of this Agreement will undergo an annual review to be initiated no later than June 1st of each year. The review will be performed by a committee made up of equal parts representatives of

the Department and representatives of the municipal taxing jurisdictions entering into an IGA with the Department for the administration and collection of Municipal Taxes.

**30. Choice of Law**

The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Agreement, and any disputes arising from this Agreement.

**31. Entire Agreement**

This document, including the specific appendices attached hereto, and any approved subcontracts, amendments and modifications made thereto, shall constitute the entire Agreement between the parties and shall supersede all other understandings, oral or written.

**32. Signature Authority**

**32.1** By signing below, the signer certifies he or she has the authority to enter into this Agreement on behalf of his or her respective party, and he or she has read the foregoing and agrees to accept the provisions herein on said party's behalf.

**32.2** This Intergovernmental Agreement may be executed in counterpart.

Signature		Date	Signature		Date
Grant Nülle, Deputy Director					
Typed Name and Title			Typed Name and Title		
Arizona Department of Revenue					
Entity Name			Entity Name		
1600 W. Monroe					
Address			Address		
Phoenix	Arizona	85007			
City	State	Zip	City	State	Zip
<b>RESERVED FOR THE ATTORNEY GENERAL:</b>			<b>RESERVED FOR CITY/TOWN ATTORNEY:</b>		

This agreement between public agencies has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General who 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 Arizona Department of Revenue represented by the Attorney General.

**MARK BRNOVICH**  
The Attorney General

\_\_\_\_\_  
Signature  
Assistant Attorney General

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

APPROVED AS TO FORM AND AUTHORITY:

BY: \_\_\_\_\_  
CITY/TOWN ATTORNEY

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