

Intergovernmental Agreement
Between
City of Maricopa
and
Maricopa Consolidated Domestic Water Improvement District
for the
Inspection of the Flushing Hydrants within the District's Maricopa System

This Agreement (hereinafter "the Agreement") is entered into this _____ day of _____, 2021 by and between the Maricopa Consolidated Domestic Water Improvement District ("District"), a special taxing district formed pursuant to Title 48 Chapter 30 of the Arizona Revised Statutes (A.R.S.), and the City of Maricopa, an Arizona municipal corporation ("City").

Recitals

- A. Whereas, the City and the District are authorized to enter into intergovernmental agreements for the purposes of contracting for services, jointly exercising powers common to the contracting parties, and taking joint or cooperative action pursuant to ARS 11-951 et seq. City and District may be referred to herein collectively as "Parties" or individually as "Party;" and
- B. Whereas, the District owns and operates a domestic water utility located within the District's Maricopa System boundaries as set forth in Exhibit A("Maricopa System"); and
- C. Whereas, the District has flushing hydrants within the Maricopa System and the City and District desire to study, review, and evaluate the flushing hydrants within the Maricopa System; and
- D. Whereas, the City and District desire to set forth the terms and conditions to conduct the study and evaluation; and
- E. Whereas, the City has primary responsibility for the public health, safety and welfare of all citizens to include the effective and efficient application of public safety personnel, equipment and water for fire flow supply.

Agreement

Now, therefore, in consideration of the mutual covenants contained herein, the Parties agree as follows:

1. The purpose and intent of this Intergovernmental Agreement (“Agreement”) is to set forth the respective obligations of the City and District with respect to the terms and conditions of conducting a study and review of the flushing hydrants within the District’s Maricopa System. Such study and review related to the City’s desire to understand the fire flow supply from the flushing hydrants shall include, but not be limited to, inspecting the condition of the hydrant, valves, stems, caps and testing fire flow and pressure rates in accordance with NFPA 291 and NFPA 25.
2. This Agreement shall remain in full force and effect from the date indicated above until May 31, 2021, unless extended in writing by mutual agreement of the Parties.
3. The parties agree to hire Arizona Flow Testing, LLC (“Contractor”) to conduct an inspection on all of the flushing hydrants within the District’s Maricopa System, as set forth in Exhibit “B.” Both parties shall be entitled to have a representative present during all inspections conducted as outlined in Exhibit “B.” The City shall pay for all services provided by Contractor.
4. At the conclusion of the review and evaluation of the flushing hydrants within the District System, City agrees to provide a copy of all findings prepared by Contractor to the District.
5. Each Party shall provide and maintain in full force while this Agreement is in effect (i) Public Liability and property damage insurance from a reliable insurance company authorized to transact business in Arizona in an amount of not less than \$1,000,000 for bodily injury or death or property damage, one occurrence, and (ii) workers’ compensation insurance as required by Arizona law. Public liability and property damage insurance shall list the other Party as an additional insured.
6. Either Party may terminate this Agreement at any time with a 30-day notice, in writing, to the other Party. Such notice shall be given by personal delivery, registered or certified mail, or e-mail.
7. The City agrees, to the extent permitted by law, to indemnify, defend and hold the District and its officers, directors, members, representative, employees, and agents harmless for, from and against any claims, damages, and causes of action, costs or expenses, including reasonable attorney’s fees, caused by any negligent act or omission of City or any personnel provided by the City. District agrees to indemnify, defend and hold the City and its officers, directors, members, representatives, employees, and agent harmless for, from and against any claims, damages, and causes of action, costs or expenses, including reasonable attorney’s fees, caused by any negligent act or omission of District or any personnel of District.

8. Miscellaneous Provisions

- a. **Assignability.** This Agreement is non-assignable in whole or in part by either party without the written consent of both Parties.
- b. **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.
- c. **Cancellation.** The Agreement is subject to cancellation for conflict of interest without penalty or further obligation as provided by ARS § 38-511.
- d. **Incorporation of Documents.** All documents referred to in this Agreement are hereby incorporated by reference into the Agreement.
- e. **Integration.** This Agreement contains the entire agreement between the Parties regarding the inspection of the flushing hydrants within the District's Maricopa System. No statement, promise, or inducement made by either Party that is not contained in this Agreement and signed by both parties shall be valid or binding.
- f. **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

Chairman Christopher Giles
P.O. Box 209
Maricopa, AZ 85139
Email: mdwid85239@hotmail.com

City

Mayor Christian Price
39700 W Civic Center
Maricopa, AZ 85138
Email: Christian.Price@maricopa-az.gov

- g. **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 provisions.
- h. **Amendments.** The parties to this Agreement may amend, modify, or supplement this Agreement in writing at any time by mutual consent. All other unaffected provisions set forth in this Agreement shall remain in effect.
- i. **Governing Law and Venue.** The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either Party for the purpose of enforcing a right or rights provided for in this Agreement shall be tried in a court of competent jurisdiction in Pinal County, State of Arizona. The Parties hereby waive all provisions of law providing for a change of venue in such proceeding to any other county. If there is a dispute that is subject to the mandatory provisions of ARS § 12-133, the Parties shall submit the matter to non-binding arbitration. In the event either party shall bring suit to enforce any term or condition in this Agreement, it is mutually agreed that the prevailing Party in such action shall recover all 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.
- j. **Non-Discrimination.** Both parties shall comply with all applicable State and Federal employment laws, rules, and regulations including the Americans with Disabilities Act and Executive Order 2009-09, which requires that all persons shall have equal access to employment opportunities regardless of race, color, religion, sex, age, national origin or political affiliation.
- k. **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.
- l. **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.

IN WITNESS WHEREOF, the parties here to have executed this agreement on the date and year specified below.

CITY OF MARICOPA

**MARICOPA CONSOLIDATED DOMESTIC
WATER IMPROVEMENT DISTRICT**

Christian Price
Mayor

Chris Giles
Chairman

ATTEST:

ATTEST:

City Clerk

District Clerk

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney

District Attorney

Date: _____

Date: _____

Exhibit “A”

The Maricopa System

Exhibit “B”

*Proposal from 3rd Party Contractor