

**INTERGOVERNMENTAL AGREEMENT BETWEEN
TUSAYAN SANITARY DISTRICT AND TOWN OF TUSAYAN**

This Intergovernmental Agreement (“Agreement”) is made as of _____, 2021, by and between the Tusayan Sanitary District, a political subdivision of the State of Arizona (“District”), and the Town of Tusayan, a political subdivision of the State of Arizona (“Town”). The Town and the District are collectively referred to as “Parties.”

RECITALS

A. The purpose of this Agreement is to facilitate cooperation between the Town and the District regarding a floodplain study. In addition, the Town and the District believe it is in the public’s best interest for the Parties to cooperate on other public infrastructure repairs and improvements, including but not limited to public lighting, sidewalks, parks, recreational facilities, and utility projects (“Public Works Projects”).

B. The Town and the District have the authority to enter into intergovernmental agreements pursuant to A.R.S. §11-952.

AGREEMENT

NOW THEREFORE, in consideration of the recitals and the mutual covenants, terms, and conditions in this Agreement, the Parties agree as follows:

1. Term. This Agreement is effective upon its execution by both Parties and will remain effective for 2 years thereafter. At the end of the term, and each subsequent term, this Agreement will renew automatically for a term of one year unless a Party provides written notice to the other Party that it will not renew the Agreement.

2. Flood Channel. The Parties will mutually benefit from a floodplain study in the Coconino Wash floodplain, design of improvements, and construction of improvements in the floodplain. The Parties will cooperate to retain the services of a professional engineering firm, acceptable by both Parties, who will conduct a floodplain study in the floodplain and design the construction of improvements. The Parties will cooperate to retain the services of contractors, acceptable by both Parties, who will construct the floodplain improvements.

3. Public Works Projects. Both Parties agree that each may render assistance to the other Party regarding Public Works Projects. This assistance may include, but is not limited to, the use of labor, equipment, facilities, and financial support.

a. Each Party has the discretion to offer or deny assistance to the other Party regarding any Public Works Project and the terms of such assistance will be determined on a case-by-case basis and will be facilitated through the parties’ respective managers (listed below).

4. Payments and Compensation.

a. Floodplain Project. The Parties intent is to address the cost of the floodplain study, design of improvements, and construction of improvements as the costs become known. When these costs are reasonably known, the Parties will work in good faith to determine how much funding each Party will provide for the project. An addendum will be added to this Agreement once the agreement on cost sharing is reached by the Parties. There is no requirement for the Parties to reach an agreement on cost sharing.

b. Public Works Projects. Each Party will develop rates and fees for services related to the Public Works Projects and such rates and fees will be uniformly applied. Notwithstanding the above, either Party may waive payment for services provided the value of the service is less than \$1,000.00.

5. Insurance. Town shall maintain in force the insurance policies and coverages set forth below.

a. Liability Insurance Coverage and Limits. A commercial general liability insurance policy insuring against claims for personal injury, bodily injury, death, property damage occurring on, in or related to work performed on the Public Works Joint Efforts with a "Combined Single Limit" covering personal injury liability, bodily injury liability and property damage liability of not less than Two Million Dollars (\$2,000,000.00). The Town and the District must be endorsed as an additional insured on such policy. The coverage set forth above shall be primary coverage.

b. Workers' Compensation Insurance. All Workers' Compensation and Employers' Liability Insurance required under applicable Workers' Compensation Acts and/or applicable law. In addition, the District shall maintain Employers' Liability Insurance with a minimum limit of not less than Five Hundred Thousand Dollars (\$500,000.00).

c. Automobile Insurance. Automobile Liability Insurance with a minimum limit of not less than One Million Dollars (\$1,000,000.00) Combined Single Limit per accident, and coverage applying to "Any Auto."

d. Waiver. District hereby waives and shall cause its insurance carriers to waive any and all rights of subrogation, recovery, claims, actions or causes of action against the Town, the School District and the Trust for any loss or damage with respect to each of their respective property and the Improvements, including rights, claims, actions and causes of action based on negligence, which loss or damage is (or would have been, had the insurance required by this Agreement been carried) covered by insurance.

6. Severability. In the event that a court of competent jurisdiction shall hold any part or provision of this Agreement void or of no effect, the remaining provisions of this Agreement shall remain in full force and effect, to the extent that the continued enforcement of such remaining terms shall continue to reflect substantially the intent of the Parties hereto the rights and obligations

granted herein shall inure to the benefit of and be binding upon the successors and assign of the parties hereto

7. Compliance with Laws. The Parties shall comply with all applicable federal, state and local laws, rules, regulations, standards and executive orders, without limitation to those designated within this Agreement. This Agreement is subject to A.R.S. § 38-511.

8. No Third Party Beneficiaries. Except as provided in Section 5, nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement. This Agreement shall not create any right to any person or entity as a third party beneficiary.

9. Notices. All notices, demands, instructions, approvals or other communications required or permitted to be given hereunder shall be in writing, which includes email, to the authorized representative designated by the Party. The mailing and email addresses for the initial representatives are set forth below.

To District:

Robert Petzoldt
Tusayan Sanitary District Manager
PO Box 3055 P.O.
Tusayan, AZ 86023
Sgcsd2000@yahoo.com

To Town:

Charlie Hendrix, Town Manager
Town of Tusayan
Box 709
Tusayan, AZ 86023
Tusayantownmanager@tusasyan-az.gov

10. Conflict of Interest. Pursuant to A.R.S. § 38-511, the parties acknowledge that this Agreement is subject to cancellation within three years after its execution if any person significantly involved in negotiating, drafting, securing or obtaining this Agreement for, or on behalf of, the Town or District becomes an employee of, or consultant to, any other party with reference to the subject matter of this Agreement while the Agreement or any extension hereof is in effect.

11. Dispute Resolution. The Parties hereby covenant and agree to make all reasonable effort to resolve any and all disputes arising under this Agreement by good faith negotiations. If such negotiations fail, then the Parties shall seek mediation of the dispute. The Parties shall share the expense of the mediator, but each Party shall bear its own cost of presentation before the mediator, including the cost of attorney fees if the Party desires legal representation at the mediation.

12. Integration. Each of the Parties acknowledges and agrees that it has not relied upon any statements, representations, agreements or warranties, except as expressed herein, and that this Agreement constitutes the Parties' entire agreement with respect to the matters addressed in the Agreement. All prior or contemporaneous agreements and understandings, oral or written, with respect to such matters are hereby unenforceable unless expressed in this Agreement.

13. Amendment. This Agreement may be modified or amended only by written agreement executed by both of the Parties.

14. No Assignment; Binding Effect. The benefits of this Agreement may not be assigned by either Party. The duties and obligations of this Agreement may be delegated by either Party and shall be binding upon the successors and delegates. No delegation shall relieve a Party of obligations under this Agreement unless the delegate assumes the obligations of the Party in writing and delivers such to the other Party.

15. Waiver. No failure to enforce any condition or covenant of this Agreement shall imply or constitute a waiver of the right to insist upon performance of such condition or covenant, of or any earlier provision hereof, nor shall any waiver by either Party of any breach of any one or more conditions or covenants of this Agreement constitute a waiver of any succeeding or earlier breach hereunder.

16. Governing Law. This Agreement shall be governed, interpreted and enforced in accordance with the laws of the State of Arizona.

17. Compliance with Federal Immigration Laws and Regulations. Each Party warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A). The Parties acknowledge that pursuant to A.R.S. § 41-4401 a breach of this warranty is a material breach of this Agreement subject to penalties up to and including termination of this Agreement.

18. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the Parties have executed this Agreement by signing their names on the day and date first written above.

(Signature Pages follow)

Tusayan Sanitary District

Town of Tusayan

Chairman

Mayor

Attest:

Attest:

A.R.S. § 11-952(D) CERTIFICATION

This Agreement is determined to be in proper form and within the powers and authority granted under the laws of this State to the Town:

Attorney for Town

A.R.S. § 11-952(D) CERTIFICATION

This Agreement is determined to be in proper form and within the powers and authority granted under the laws of this State to the District:

Attorney for District