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MEMORANDUM Transportation and Development Department – Memo No. TR13-005

DATE: DECEMBER 10, 2012

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*
 PAT MCDERMOTT, ASSISTANT CITY MANAGER *pm*
 R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR *RJZ*

FROM: DANIEL W. COOK, P.E., TRANSPORTATION MANAGER *DWC*

SUBJECT: RESOLUTION NO. 4660, AMENDMENT NO. 1 TO AN INTERGOVERNMENTAL AGREEMENT WITH THE MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION FOR COST SHARING FOR IMPROVEMENTS TO OCOTILLO ROAD FROM ARIZONA AVENUE TO MCQUEEN ROAD

RECOMMENDATION: Staff recommends approval of Resolution No. 4660, Amendment No. 1 to an Intergovernmental Agreement (IGA) with the Maricopa County Department of Transportation (MCDOT) for cost sharing for improvements to Ocotillo Road from Arizona Avenue to McQueen Road.

BACKGROUND/DISCUSSION: The City of Chandler is planning to construct the road improvements to Ocotillo Road from Arizona Avenue to McQueen Road in late fall of 2013. These improvements will result in a fully improved four lane roadway. The IGA approved in May 2012 defines the responsibilities of the City and MCDOT for the funding of the new construction and the ongoing operations, maintenance, and annexations of the roadway. The City’s jurisdictional control and operation and maintenance responsibilities begin with the start of the road construction. Until that time significant portions of Ocotillo Road will remain under the jurisdiction of MCDOT.

The Municipal Utilities Department is currently constructing two pipelines in Ocotillo Road from the new Intel facility, one to the Airport Water Reclamation Plant and the other to McQueen Road. These two pipelines will be completed in early 2013. Because portions of this section of Ocotillo Road will remain under the jurisdiction of MCDOT until the roadway construction starts, MCDOT is requiring that this project provide a slurry backfill in the pipe trench and reconstruct their portions of Ocotillo Road to a permanent roadway cross-section. To avoid these construction requirements by MCDOT, this amendment to the IGA will define the start of these two pipeline projects as the point when the City assumes jurisdictional control and operation and maintenance of this section of Ocotillo Road, thus saving the City approximately \$350,000.

FINANCIAL IMPLICATIONS: This amendment to the IGA will not change any other provisions of the IGA. However, because the City is accepting jurisdictional control and operation and maintenance responsibilities for this section of Ocotillo Road earlier than originally anticipated in the IGA, some additional roadway maintenance costs may be incurred. These costs, if any, would be minimal and are included in the current Transportation Division's operations budget.

PROPOSED MOTION: Move that Council approve Resolution No. 4660, Amendment No. 1 to an Intergovernmental Agreement with the Maricopa County Department of Transportation for cost sharing for improvements to Ocotillo Road from Arizona Avenue to McQueen Road.

RESOLUTION NO. 4660

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, APPROVING AMENDMENT NO.1 TO AN INTERGOVERNMENTAL AGREEMENT NO. C-64-12-045-M-00 BETWEEN THE CITY OF CHANDLER AND MARICOPA COUNTY, ACTING BY AND THROUGH THE MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION, REGARDING COST SHARING FOR THE IMPROVEMENT OF OCOTILLO ROAD FROM ARIZONA AVENUE TO MCQUEEN ROAD.

WHEREAS, the City of Chandler and Maricopa County, by and through the Maricopa County Department of Transportation, desires to amend Intergovernmental Agreement (IGA) No. C-64-12-045-M-00 regarding cost sharing on the construction improvements to Ocotillo Road from Arizona Avenue to McQueen Road; and

WHEREAS, this Amendment No. 1 will give the City jurisdictional control for the Maricopa County portions of Ocotillo Road upon the City and Maricopa County approval of the IGA; and

WHEREAS, the remaining provisions of IGA No. C-64-12-045-M-00 will remain unchanged.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Arizona, as follows:

1. Amendment No. 1 to an IGA between the City of Chandler and Maricopa County, acting by and through the Maricopa County Department of Transportation, is approved in substantially the form attached hereto as Exhibit "A" for the purpose of transferring jurisdictional control of the Maricopa County portions of Ocotillo Road between Arizona Avenue and McQueen Road to the City until the roadway annexation occurs in accordance with the IGA.
2. The Mayor of the City of Chandler is authorized to execute Amendment No. 1 to IGA No. C-64-12-045-M-00.

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this _____ day of _____ 2012.

ATTEST:

CITY CLERK

MAYOR

APPROVED AS TO FORM:

CITY ATTORNEY GAB

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4660 was duly passed and approved by the City Council of the City of Chandler, Arizona, at the regular meeting held on the _____ day of _____, 2012, and that quorum was present thereat.

CITY CLERK

**1ST AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT
BETWEEN MARICOPA COUNTY AND THE CITY OF CHANDLER
FOR IMPROVEMENTS TO OCOTILLO ROAD
FROM ARIZONA AVENUE TO MCQUEEN ROAD**

This First Amendment to the Intergovernmental Agreement (**Agreement**) for Improvements to Ocotillo Road from Arizona Avenue to McQueen Road (**C-64-12-045-M-00**) (**First Amendment**) is entered into by and between the County of Maricopa, a political subdivision of the State (**the "County"**), and the City of Chandler, a municipal corporation (**the "City"**). The City and the County are collectively referred to herein as the **Parties** or individually as a **Party**.

This Amendment shall become effective as of the date it is approved by the Maricopa County Board of Supervisors.

BACKGROUND

1. The Parties previously entered into an Intergovernmental Agreement (C-64-12-045-M-00) recorded as Maricopa County Recorder No. 2012-0565100 to effect improvements to Ocotillo Road from Arizona Avenue to McQueen Road (the "Project"), a portion of which is located in the jurisdiction of Maricopa County. The Agreement was effective June 20, 2012, the date it was approved by the Maricopa County Board of Supervisors.
2. The City has begun construction on the Project, and now wishes to begin construction and/or improvements to water transmission and sewer main facilities along Ocotillo Road (the "Subsurface Improvements").
3. The City desires to secure a permit for the construction of the Subsurface Improvements which will occur within County right-of-way.
4. The City also wishes to construct the Subsurface Improvements according to specifications which would not conform to Maricopa County's required standards, although the Subsurface Improvements will meet or exceed City standards.
5. The City has begun its annexation of the County right-of-way affected by the Project and affirms that if the annexation is not complete as of the date of this First Amendment, it will complete its annexation as soon as possible.

Now therefore, it is agreed as follows:

6. Section 18.1 of the Agreement is amended by adding at the end of the existing Section 18.1 the following:

"The County shall issue a no-cost permit to the City for the Subsurface Improvements

notwithstanding the fact that they do not meet County standards, provided that such improvements meet or exceed City standards, and the City's application for the permit shall constitute its certification that the plan and specifications for the Subsurface Improvements meet or exceed City standards."

7. Section 19.8 of the Agreement is amended by adding at the end of the existing Section 19.8 the following:

"Construction of the Project shall include construction of a waterline and effluent line in Ocotillo Road from the Intel Campus at Dobson Road to McQueen Road under one or more separate contracts by the City. The City agrees to assume exclusive liability for any claims for liability which may arise at any time and which is alleged to have been caused in whole or part by the City's design, construction and/or maintenance of the Subsurface Improvements."

8. Section 19.9 of the Agreement is deleted and replaced with the following:

"The City shall immediately begin annexation of the Project area, and shall complete the annexation as expeditiously as possible."

9. Section 19.10 of the Agreement is deleted and replaced with the following:

"This agreement shall remain in effect until 1) completion and acceptance of the Project by the City, 2) all annexations are completed by the City and 3) all other terms of the Agreement are satisfied."

10. All other provisions of the Agreement shall remain in full force and effect.

End of Amendment – Signature Page Follows

IN WITNESS WHEREOF, the Parties have executed this Agreement.

MARICOPA COUNTY

CITY OF CHANDLER

Recommended by:

Recommended by:

John B. Hauskins, P.E. Date
Transportation Director

Rich Dlugas Date
City Manager

Approved and Accepted by:

Approved and Accepted by:

Max Wilson, Chairman Date
Board of Supervisors

Jay Tibshraeny Date
Mayor

Attest by:

Attest by:

Fran McCarroll Date
Clerk of the Board

Marla Paddock Date
City Clerk

APPROVAL OF DEPUTY COUNTY ATTORNEY AND CITY ATTORNEY

I hereby state that I have reviewed the proposed Intergovernmental Agreement and declare the Agreement to be in proper form and within the powers and authority granted to the Parties by their respective governing bodies under the laws of the State of Arizona.

Deputy County Attorney Date

City Attorney *GAB* Date