

AGREEMENT BETWEEN
MARICOPA ASSOCIATION OF GOVERNMENTS
AND THE CITY OF MESA
FOR PEDESTRIAN AND BICYCLE IMPROVEMENTS FOR MESA GATEWAY PHASE III

This agreement (Agreement) is between the Maricopa Association of Governments (MAG), an Arizona non-profit corporation, and the City of Mesa, an Arizona municipal corporation (CITY), collectively referred to as the "Parties," or individually as a "Party."

This Agreement shall become effective as of the date it is duly executed by the last Party and shall continue in full force and affect until June 30, 2020. MAG and CITY view this Agreement as a mutually beneficial relationship.

A) Statutory Authorization Agreement

MAG

MAG is empowered by Arizona Revised Statutes §§ 28-6308 and 28-6353 to enter into this Agreement. MAG is the recipient of Regional Area Road Funds, Federal Highway Administration (FHWA) Funds, and Federal Transit Administration Funds as described in the FY 2019 MAG Unified Planning Work Program and Budget (FY 2019 UPWP), and as described in the agreement between MAG and the Arizona Department of Transportation (ADOT).

THE CITY OF MESA

CITY is authorized by Arizona Revised Statutes § 11-952 to enter into this Agreement.

B) Purpose of the Agreement

The purpose of this Agreement is to identify and define the level of financial participation by CITY and MAG to prepare PEDESTRIAN AND BICYCLE IMPROVEMENTS FOR MESA GATEWAY PHASE III (PROJECT).

The PROJECT will be completed through MAG Contract No. 0600-0145-18-E001-828A-0P.000000 using a consultant(s) from the approved FY 2019 Pedestrian and Bicycle Facilities Design Assistance Program and Bicycle and Pedestrian Master Plans and First Time Updates On-Call Consultant list (CONSULTANT). The cost of this PROJECT will not exceed ONE HUNDRED AND EIGHTY THREE THOUSAND EIGHT HUNDRED NINETY TWO DOLLARS AND 00/100 (\$183,892.00). The scope of services is set forth in Exhibit "A."

C) Mission/Goal Statement

The goal of the PROJECT is to provide a Project Assessment (PA) and 15% design concept plans for the Mesa Gateway Phase III project. The design concept will be to progress the preferred alignment for the Mesa Gateway Shared Use Path Phase III.

D) Study Funding

1. MAG is the recipient of FY 2019 FHWA Planning Funds as described in the FY 2019 UPWP and in the agreement between MAG and the ADOT.
2. The FY 2019 UPWP includes the PROJECT as part of the approved FY 2019 Bicycle and Pedestrian

Master Plans and First Time Updates On-Call.

3. The consultant contract for the PROJECT will be for an amount not to exceed (\$183,892.00). Subject to the availability of funding and approval of their respective governing bodies, funding for the PROJECT will be shared among the Parties as follows:

Maricopa Association of Governments	\$ \$147,113.60	80%
<u>City of Mesa</u>	<u>\$ \$36,778.40</u>	<u>20%</u>
Total	\$ \$183,892.00	100%

4. Cost adjustments: The MAG/CITY proportional share is to be split 80/20 for any amount less than or equal to \$183,892.00. CITY shall be responsible for all cost in excess of \$183,892.00.
5. CITY'S financial participation is limited to paying CITY'S proportional share as provided in Paragraphs 3 and 4 above. It shall be MAG's responsibility to enter into the CONSULTANT contract.
6. MAG will invoice CITY for CITY'S proportional share within thirty (30) calendar days of execution of this Agreement. The CITY shall make payment to MAG within thirty (30) calendar days after receipt of invoice. The financial contribution of both Parties shall be deposited into the specified account no later than sixty (60) calendar days after payment of invoice. MAG shall maintain billing accounts and financial records during and for three (3) years after the completion of this Agreement and will produce the same to CITY upon CITY's reasonable written request.
7. All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other Party in writing, delivered in person, sent by confirmed email, deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, or deposited with any commercial air courier or express service at the addresses set forth below, or to such address as the Parties may substitute by written notice given in the manner described in this paragraph.

For MAG:

Eric J. Anderson
 Executive Director
 Maricopa Association of Governments
 302 North First Avenue, Suite 300
 Phoenix, Arizona 85003
 602-254-6300

For the City of Mesa:

Maria Angelica Deeb
 Transportation Projects Coordinator
 City of Mesa
 300 E 6th Street
 Mesa AZ 85211
 PO Box 1466
 (480) 644-2845

Notices shall be deemed received on date delivered, if delivered by hand; on the day it is sent by confirmed email; on the second day after its deposit with any commercial air courier or express service; or, if mailed, ten (10) calendar days after the notice is deposited in the United States mail as above provided; and on the delivery date indicated on receipt if delivered by certified or registered mail. Any time period stated in a notice shall be computed from the time the notice is deemed received. Notices sent by confirmed email shall also be sent by regular mail to the recipients at the above addresses. This requirement for duplication notice is not intended to change the effective date of the notice sent by confirmed email.

8. In the event that the MAG funds required for performance of this Agreement are withdrawn or are not available for funding, this Agreement, without penalty to any of the Parties, may be immediately terminated; and any financial contribution paid by CITY will be returned to CITY.
9. Any remaining unspent funds following PROJECT closeout will be retained by MAG for unrestricted use.

E) General Terms and Conditions of the Agreement

1. Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.
2. Severability. If any provision of this Agreement is declared invalid, illegal or unenforceable, that provision shall be severed from the Agreement, and the remaining provisions shall otherwise remain in full force.
3. Hold Harmless. Each Party to this Agreement, as INDEMNITOR, agrees to indemnify, defend and hold harmless the other Party, and such Party's departments, officers, employees, elected officials, agents and representatives (collectively, INDEMNITEES), for, from and against all liability, losses, expenses, damages or claims (collectively CLAIMS) arising from or related to the INDEMNITOR's performance or non-performance of its obligations pursuant to the terms of this Agreement.
4. This Agreement shall not be construed to imply authority to perform tasks, or accept any responsibility, not expressly set forth herein.
5. This Agreement shall be strictly constructed against the creation of a duty or responsibility unless the intention to do so is clearly and unambiguously set forth herein.
6. This Agreement shall be subject to cancellation for conflict of interest without penalty or further obligations as provided by A.R.S. § 38-511.
7. This Agreement constitutes the entire understanding of the Parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives of each Party.
8. Each Party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter into this Agreement. Each Party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

(Signature page follows)

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

City of Mesa, an Arizona municipal corporation

By: _____
CHRISTOPHER J. BRADY
City Manager

Date: _____

Attest:

By: _____
DEEANN MICKELSEN
City Clerk

Maricopa Association of Governments, an Arizona non-profit corporation

By: _____
Eric J. Anderson
Executive Director

Date: _____

Reviewed as to form by General Counsel for Maricopa Association of Governments, and Counsel for the City of Mesa

I have reviewed the above referenced Agreement between MAG and the CITY OF MESA, an agreement proper in form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of MAG to enter into this Agreement.

Jim Smith
City of Mesa
City Attorney

Mitesh V. Patel
Maricopa Association of Governments
General Counsel

APPENDIX A – SCOPE OF SERVICES
MARICOPA ASSOCIATION OF GOVERNMENTS (MAG)
FY 19 MESA GATEWAY SHARE USE PATH PHASE III

I. WORK PLAN AND TASKS

The purpose of this Section is to outline the major tasks required to be performed by the CONSULTANT in order to produce the needed analyses and deliverables to MAG.

Task 1. Project Management

1.1 General Project Management

This task includes general project management activities such as internal coordination, project schedule management and invoicing responsibilities. CONSULTANT will utilize Deltek Vision software for effective schedule, budget and workload planning activities.

1.2 CITY Team Coordination

Throughout the planning process, regular contact must be maintained with CITY Staff. Day-to-day project management will be conducted by CONSULTANT. All reports, memoranda, mapping, and deliverables will be submitted and distributed in electronic format whenever possible in an effort to promote sustainability goals throughout the PROJECT.

Task 2. Project Initiation

This task involves project team tasks to initiate work.

2.1 Organization and Scoping Meeting

An organization and scoping meeting will be held with staff via phone/web conference to:

- Review objectives of PROJECT:
 - Define Purpose/ Goals for short term project
 - Define Purpose/ Goals for full build out of project
- Confirm study area
- Collect available data and published materials
- Develop contact/stakeholder list
- Establish meeting schedule
- Establish communication channels with other agencies
- Review and list local, regional, state and federal required elements
- Review and list all applicable design and planning standards
- Coordinate with local governments and agencies

Changes to the Work Plan will be made (if necessary) at the conclusion of this effort, and an amended Work Plan and Schedule will be published.

2.2 Data Collection

CONSULTANT will rely on the CITY for relevant background information and suitable base mapping for areas outside of the State Route 202 corridor. CONSULTANT will submit a draft data needs memo along with this scope of work, and will follow it up with an updated

memo once under contract for any additional sources that may be needed to complete the PROJECT.

2.3 Base Map Preparation

CONSULTANT will utilize the data provided by the CITY and from external sources such as J2 Consultants (which prepared the original project assessment report), to create a detailed base map encompassing the project extents. At a minimum, this map will include property boundaries, rights of way, easements, utilities, and any available survey or other topographic information. This base map will serve as the foundation of the field work and for eventual trail alignment development.

2.4 Draft Alignments

Based on initial conversations with CITY Staff and the base mapping in Task 2.3, the CONSULTANT team will create an exhibit that displays a variety of possible alignment alternatives for both the short term and full build out. These will be substantial in number and will be used to guide discussions with CITY staff and subsequent field work.

2.5 Site Visit

CONSULTANT will send up to three (3) staff to Mesa for several days to meet with the CITY, key stakeholders and perform critical field work that will aid alignment development. At a minimum, these activities will entail:

- Kick-off meeting with CITY Staff to go over the week's schedule, identify additional needed data and to review the status of the PROJECT.
- Meet with key PROJECT stakeholders, which may include but are not limited to:
 - ADOT
 - Roosevelt Water Conservation District (RWCD)
 - Flood Control District of Maricopa County
- Dedicate ample time for field investigation to field verify and vet (to the extent possible) various potential alignments to connect Power Rd. to Hawes Rd.
- Wrap-up meeting with CITY Staff

Task 3. Alignment Definition

This task includes efforts to narrow down the multiple potential alignments to a maximum of three feasible alignments for short term and three feasible alignments for the full build out.

3.1 Alignment Analysis

CONSULTANT will use our improved understanding of field conditions, upcoming CITY transportation improvements, private development, slope/topographic conditions, right-of-way restrictions and other opportunities / constraints to narrow the multiple potential alignments down to a maximum of three most feasible short-term and a maximum of three longer term full buildout alternatives. CONSULTANT will create a memo (Technical Memo #1) with accompanying mapping that summarizes the basis for the potential alternatives for both short term connections and full project build out. A high-level cost estimate will be prepared for each of the alignments.

3.2 Review Meeting

CONSULTANT will host a phone/web conference review meeting with City staff to review the alternatives and receive feedback on these alignments. This meeting will form the basis

for the CONSULTANT team to continue on to Task 4, Project Assessment Report. This meeting will also review a set of evaluation criteria that will subsequently be used to generate a final preferred alternative alignment for a short-term project and a full build out to the previous Highway 202 corridor.

3.3 Alternatives Evaluation

CONSULTANT will take CITY feedback and generate an evaluation methodology that will use qualitative factors to narrow the three (3) potential alignments to a single preferred alignment for both the short term and final build out. This will rely on a collaboratively defined set of criteria that will be weighted and rated against each of the potential alignments. Potential criteria that could be a part of this evaluation may include:

- **Cost** – Evaluate alignments for cost, particularly as a consequence of lengthy routing, new bridges, culverts and other significant issues such as land acquisition may need to be considered.
- **Impacts to canal and flood control entities** - Evaluate alignments for level of impact to the current and future RWCD canal and flood control district infrastructure, or the trail's ability to meet any requirements imposed by these agencies.
- **Availability of existing public right-of-way / easements** – Evaluate availability of existing public right of way or available easements to accommodate 10-12 foot pathway with at least two (2) feet of shoulder buffer, safety fencing, lighting, nodes and landscape.
- **Connections to existing trails/bikeways/pedestrian connections** – Evaluate alternatives' ability to seamlessly connect with other existing and planned bikeways within the CITY.
- **Roadway crossings** – Evaluate alternatives abilities to minimize the number and complexity of roadway crossings that will impact safety/comfort of trail users.
- **Connections to activity/commercial areas** – Evaluate alignments for additional connections to existing and future activity areas/commercial areas which might enhance the functionality of the trail.
- **Functionality/Efficiency** – Evaluate alternatives' abilities to provide a positive user experience that reflects the need for access to the trail as a destination.
- **Environmental impacts** – Evaluate environmental impacts and opportunities for mitigation.

Following evaluation, CONSULTANT will present the result of the analysis to CITY staff for review in memo form (DRAFT Technical Memo #2). No more than up to two (2) CONSULTANT staff will travel to review the Draft Alternatives Analysis at a review meeting to gain consensus on a preferred short-term and full build alternative for Task 4.

Task 4. Project Assessment Report

This task will progress the preferred alignment through a project assessment report that is similar in structure to the Mesa Gateway Shared Use Pathway Project Assessment Report dated December 2012.

4.1 Draft Report

CONSULTANT team will follow the same basic outline of the previous project assessment report focusing on the study area of Power Rd. to Hawes Rd. CONSULTANT will update and expand upon all sections present while producing layout plans for the preferred alignment. It is likely that detailed survey will not be available for the full length of the alignment, so grading and other plan elements may not be consistent throughout the 20 percent plans.

4.2 Review Meeting

In keeping with our collaborative approach with city staff, CONSULTANT will present the draft concept report via web conference and solicit feedback. CONSULTANT will also allow up to two (2) weeks for comments. This meeting and comments from CITY staff as well as other reviewers (ADOT, MAG, Maricopa County, RWCD, etc) will form the basis for the Final Project Assessment Report.

4.3 Final Project Assessment Report

The final report will incorporate one round of feedback from CITY staff and others (see Task 4.2) will include the following elements:

- Introduction
- Background Data
- Project Scope
- Project Development Conditions
- Bridges/Structures
- Lighting
- Other Requirements
- Project Costs
- Project Intergovernmental Agreements
- Itemized opinion of probable cost
- Cross-sections
- Proposed Plan Sheets
 - Short-Term Project
 - Full Build Out Project

II. DELIVERABLES

The PROJECT assumes an April 2019 start date. Any delay in kickoff will proportionally impact deliverable dates noted below.

Task 1.

- Monthly invoices, schedule and budget management, general project management activities, correspondence, etc. – Timeline ongoing.
- Formal and informal meetings with various key city staff as specified in scope. – As needed.

Task 2.

- Kick-off meeting with CITY Staff to go over the week's schedule, identify additional needed data and to review the status of the project. – Early April 2019
- Meet with key PROJECT stakeholders in early May 2019, which may include but are not limited to:
 - ADOT
 - Roosevelt Water Conservation District (RWCD)
 - Flood Control District of Maricopa County
- Dedicate ample time for field investigation to field verify and vet (to the extent possible) various potential alignments to connect Power Rd. to Hawes Rd. Early May 2019
- Wrap-up meeting with CITY Staff – Early May 2019

Task 3.

- Technical Memo #1: Alignment Analysis – End of May 2019
- Technical Memo #2: DRAFT Alternatives Analysis – End of July 2019
- Technical Memo #2: Final Alternatives Analysis – Early August 2019

Task 4.

- Draft Project Assessment Report – End of November 2019

- Final Project Assessment Report – End of December 2019

III. **SCHEDULE**

It is anticipated that the PROJECT will commence on or about April 1, 2019, and will be completed by January 30, 2020. Any delay in kickoff will proportionally impact deliverable dates noted below.

	<u>Task</u>	<u>Schedule for Completion</u>
1.	Project Management	January 30, 2020
2.	Project Initiation	May 30 th , 2019
3.	Alternatives Evaluation	August 30, 2019
4.	Project Assessment Report	January 30, 2020

IV. **BUDGET**

The budget for the project by task is as follows:

	<u>Task</u>	<u>Budget</u>
1.	Project Management	\$40,539
2.	Project Initiation	\$47,635
3.	Alternatives Evaluation	\$37,624
4.	Project Assessment Report	\$58,093
	Total	\$183,892