

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE TOWN OF QUEEN CREEK AND THE CITY OF MESA
REGARDING PLAN DESIGNS FOR GAS LINE INSTALLATION – NORTH
IRONWOOD DRIVE AND EAST GERMANN ROAD INTERSECTION**

This Intergovernmental Agreement (“Agreement”) is entered into this _____ day of _____ 2024, (the “Effective Date”) by and between the Town of Queen Creek, an Arizona municipal corporation, (“Queen Creek”), and the City of Mesa, an Arizona municipal corporation (“Mesa”). Queen Creek and Mesa are sometimes collectively referred to as the “Parties” and each is referred to as a “Party.”

STATUTORY AUTHORIZATION

1. Arizona Revised Statutes (“A.R.S.”) §§ 11-951 et seq., provide that public agencies may enter into Intergovernmental Agreements for joint or cooperative action. Queen Creek and Mesa are authorized by A.R.S. § 9-240 to provide the services required under this Agreement; Mesa is additionally so authorized by A.R.S. § 9-276.

BACKGROUND

2. Mesa provides natural gas utility service in certain locations within the boundaries of Queen Creek. A private party has requested service to a new commercial customer in Queen Creek located north of the Ironwood Drive and Germann Road Intersection (the “Intersection”). To service that customer, new gas lines would need to be installed in the Intersection, running from approximately 260 feet west of the Ironwood Drive monument line to 350 feet east of Ironwood Drive monument line, and extending approximately 130 feet north of the Germann Road monument line on Ironwood Drive (such lines shall be collectively referred to herein as, “the Gas Line Extension”). A depiction of the Gas Line Extension is attached as Exhibit “A”.
3. Queen Creek has engaged and paid an engineering firm to prepare plan designs for the Gas Line Extension. Queen Creek has received the plan designs and provided the plan designs to Mesa in February 2024.
4. For the foregoing reasons, the reimbursement of Queen Creek for the cost of designing the Gas Line Extension will serve the best interests of the public.

PURPOSE OF THE AGREEMENT

5. The purpose of this Agreement is to reimburse Queen Creek for the actual costs incurred in the design of the proposed Gas Line Extension.

TERMS OF THE AGREEMENT

6. Mesa shall pay Queen Creek up to \$190,000.00 for the engineering design plans for the Gas Line Extension within sixty (60) days of the Effective Date of this Agreement.

7. **General Provisions:**

- 8.1 This Agreement contains the entire understanding between the Parties with respect to the subjects addressed and supersedes all prior negotiations and agreements.
- 8.2 This Agreement may be amended only by an instrument in writing signed by authorized representatives of the Parties.
- 8.3 The Parties are governmental agencies which rely upon the appropriation of funds by their respective governing bodies to satisfy their obligations. If a party reasonably determines that it does not have funds to meet its obligations under this Agreement, such party shall have the right to terminate this Agreement without penalty on the last day of the fiscal period for which funds were legally available. In the event of such a termination, such terminating party agrees to provide written notice of its intent to terminate 30 days prior to the termination date.
- 8.4 Nothing in this Agreement shall create a relationship of agency, partnership, or employer/employee between Mesa and Queen Creek, and it is the intent and desire of the parties that the relationship be and be construed as that of independent contracting parties and not as agents, partners, joint venturers, joint employers or a relationship of employer or employee.
- 8.5 This Agreement is solely for the benefit of the parties hereto and, except as aforesaid, no provision of this Agreement shall be deemed to convert any remedy, claim or right upon any third party, including any Assigned Employee or former employee of City or any participant or beneficiary in any benefit plan, program or arrangement.
- 8.6 If any provision of this Agreement shall be held invalid, illegal or unenforceable, the validity, legality or enforceability of the other provisions of this Agreement

shall not be affected thereby, and there shall be deemed substituted for the provision at issue a valid, legal and enforceable provision as similar as possible to the provision at issue.

- 8.7 All notices, requests, instructions or other documents to be given hereunder to either party shall be in writing and shall be deemed to have been duly given when delivered in person or upon confirmation of receipt when transmitted by facsimile or electronic mail or on receipt after dispatch by registered or certified mail, postage prepaid, addressed as follows:

If to City:

Beth Huning
City Engineer
City of Mesa
P.O. 1466
Mesa, AZ 85201
Fax: 480 644 3392
Beth.Huning@mesaaz.gov

With a copy to:

Mesa City Attorney's Office
City of Mesa
20 E. Main Street
Mesa, AZ 85201
Fax: 480 644 2498
Jack.Vincent@mesaaz.gov

If to Town:

Dave Lipinski
CIP Director
Town of Queen Creek
19715 South 220th Street
Queen Creek, AZ 85142
Dave.Lipinski@queencreekaz.gov

With a copy to:

Scott A. Holcomb
Town Attorney
1850 N. Central Avenue, #1400
Phoenix, AZ 85004
sholcomb@dickinsonwright.com

9. Indemnity

- 9.1 Queen Creek hereby agrees that, to the extent permitted by law, Queen Creek shall defend, indemnify, and hold harmless Mesa, its departments, agencies, officers, employees, elected officials or agents, from and against all losses and expenses (including, without limitation, court costs, expenses for litigation, and reasonable attorney fees), damages, claims, or other liabilities of any kind ("Liability") to the extent such Liability results or arises out of this Agreement and Queen Creek's performance hereunder (including, without limitation, Liability on account of any injury, sickness, disease, or death of any person or damage, destruction, or loss of any property), provided, however, that such obligation shall not extend to Liability attributable to the negligent or willful acts or omissions of Mesa, its officers, employees, elected officials, agents, or anyone under Mesa's direction and control.
- 9.2 Mesa hereby agrees that, to the extent permitted by law, Mesa shall defend, indemnify, and hold harmless Queen Creek, its departments, agencies, officers, employees, elected officials or agents, from and against all losses and expenses (including, without limitation, court costs, expenses for litigation, and reasonable attorney fees), damages, claims, or other liabilities of any kind ("Liability") to the extent such Liability results or arises out of this Agreement and Mesa's performance hereunder (including, without limitation, Liability on account of any injury, sickness, disease, or death of any person or damage, destruction, or loss of any property), provided, however, that such obligation shall not extend to Liability attributable to the negligent or willful acts or omissions of Queen Creek, its officers, employees, elected officials, agents, or anyone under Queen Creek's direction and control.
10. The term of this Agreement shall commence on the Effective Date and shall automatically terminate upon payment by Mesa to Queen Creek. The Agreement may be terminated earlier by agreement of the Parties.
11. Attached to this Agreement are copies of appropriate action by ordinance, resolution or otherwise authorizing the respective Parties to enter into this Agreement.
12. Pursuant to A.R.S. § 38-511, this Agreement may be cancelled.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective the date first written above.

TOWN OF QUEEN CREEK

Approved and Accepted By:

Julia Wheat 11/07/2024
Mayor Date

Attest:

Marie Gonzalez 11/07/2024
Town Clerk Date

APPROVAL OF QUEEN CREEK TOWN ATTORNEY

I hereby state that I have reviewed the proposed Intergovernmental Agreement, between the Town of Queen Creek and the City of Mesa, and declare the Agreement to be in proper form and within the powers and authority granted to their respective governing bodies under the laws of the State of Arizona.

Scott A. Holcomb
Scott A. Holcomb
Town Attorney

Date: 11/07/2024

