

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE CITY OF MESA
AND
THE TOWN OF GILBERT

THIS AGREEMENT is entered into this _____ of 2024, between the CITY OF MESA, an Arizona municipal corporation (“Mesa”), and the TOWN OF GILBERT, an Arizona municipal corporation (“Gilbert”). Mesa and Gilbert are each a “Party” and collectively referred to herein as “Parties.”

I. RECITALS

1. Arizona Revised Statutes ("A.R.S."), §§ 11-951 et seq., authorizes Mesa and Gilbert to enter into intergovernmental agreements for the provision of services, or for joint or cooperative actions. Gilbert and Mesa are authorized by A.R.S. § 9-240 to provide the street planning, utility design and construction required under this Agreement, and are additionally so authorized by A.R.S. § 9-276.
2. A.R.S. § 48-572 also empowers Mesa and Gilbert to enter into this Agreement, and they have by resolution (copies of which is attached and made a part of) resolved to enter into this Agreement and authorized the undersigned to execute this Agreement on behalf of the Parties.
3. Except to the extent where they directly conflict, this agreement does not supersede or negate prior IGAs between Mesa and Gilbert such as IGAs 04-A095, 04-A096, 05-A030, and their respective amendments.
4. Mesa plans to complete the installation of a reclaimed water line known as the Central Mesa Reuse Pipeline (“CMRP”) to transport reclaimed water from its Northwest Water Reclamation Plant to the Gila River Indian Community (“GRIC”) by connecting the CMRP to existing lines that pass through the Greenfield Water Reclamation Plant shared by Mesa, Gilbert, and the Town of Queen Creek.
5. A portion of the CMRP will pass within Gilbert’s right-of-way (the “Gilbert Segment”). The proposed alignment for the Gilbert Segment is reflected on Exhibit A.
6. When completed, the CMRP will require periodic dewatering to allow for maintenance and repair of the line. Dewatering of the Gilbert Segment will require the occasional use of Gilbert’s wastewater infrastructure. Additionally, the design of the Gilbert Segment shall include a series of access points to facilitate and expedite such maintenance.
7. Appurtenances on the completed CMRP, including but not limited to isolation valves, air-release valves and corrosion monitoring and protection equipment require periodic access for inspection, testing, maintenance and repairs by Mesa or Mesa’s third-party contractors.
8. This Agreement sets forth the roles and responsibilities of the Parties with respect to the Gilbert Segment.

THEREFORE, in consideration of the mutual terms expressed in this Agreement, it is agreed as follows:

II. SCOPE

1. Responsibilities of Mesa:

- 1.1.** Shall provide Gilbert with a proposed scope and schedule for Gilbert Segment completion, including construction plans, specifications, and schedule for review and approval. The scope shall include, but shall not be limited to, a requirement that all pavement marking must match the existing marking pattern and shall align with Gilbert Public Works and Engineering Standard 4.5.2.1.
- 1.2.** Negotiate for the acquisition of all purchases of real property and easements as necessary to install the Gilbert Segment through the entirety of its planned alignment. All such purchases shall be at the sole cost and expense of Mesa.
- 1.3.** Where necessary, exercise at its sole cost and expense its power of eminent domain pursuant to A.R.S. §9-511(C) to acquire land rights required to install the Gilbert Segment.
- 1.4.** Shall obtain all permits, pay for necessary utility relocations, and provide all notifications necessary for performing work related to the Gilbert Segment.
- 1.5.** Upon completion of the Gilbert Segment and acceptance by Mesa, shall provide Gilbert with record drawings for all improvements.
- 1.6.** Construct, repair, and maintain the Gilbert Segment in accordance with all applicable laws, rules, regulations and ordinances. Mesa covenants that once construction, repair or maintenance of any portion of the Gilbert Segment commences it will diligently pursue the completion thereof, subject to Excusable Delays (as defined below), and that initial construction of the Gilbert Segment shall be completed within twelve (12) months after commencement thereof, subject to Excusable Delays. Mesa shall use commercially reasonable efforts to minimize construction noise or disturbance to the owners, residents, guests and visitors within the vicinity of the Gilbert Segment, and shall not unreasonably interrupt traffic flow upon Gilbert streets or access to and from real property located adjacent to the Gilbert Segment. Gilbert agrees that the foregoing completion deadlines shall be extended for any period of time that progress of construction of the Gilbert Segment is delayed due to inclement weather, acts of God, unavailability or shortage of labor or materials, national emergency, fire or other casualty, natural disaster, war, delays or actions of governmental authorities or utilities, riots, acts of violence, labor strike, or any other circumstance not reasonably within the control of Mesa (but excluding financial inability) (each, an "Excusable Delay"). If Mesa moves, removes, damages or alters any turf, paving, landscaping, curbs, sidewalks or other improvements in connection with the installation, construction, maintenance, operation, use, repair or replacement of the Gilbert Segment, Mesa shall promptly restore, replace and repair, at its sole cost and expense, all such turf, paving, landscaping, curbs, sidewalks and improvements to the condition which existed prior to such actions.
- 1.7.** Shall provide Gilbert with at least 60-days' prior written notice of any planned repair and maintenance activities within the Gilbert Segment, including any planned traffic control

measures.

- 1.8. Coordinate scheduled maintenance of the Gilbert Segment with the Gilbert Public Works Department, providing at least 30-days' notice prior to any dewatering activity that will utilize Gilbert's wastewater infrastructure. In the event of the need to perform emergency repairs to the Gilbert Segment, Mesa shall notify Gilbert of its activities as soon as reasonably practicable and shall involve Gilbert staff in its response strategy to avoid overwhelming Gilbert's wastewater systems.

2. **Responsibilities of Gilbert:**

- 2.1. Shall return review comments to Mesa on all proposed plans, schedules, and specifications, related to the Gilbert Segment within thirty (30) calendar days of receipt.
- 2.2. Shall provide Mesa with no-fee permits for Gilbert Segment-related work performed within Gilbert's jurisdictional area.
- 2.3. Respond within four business days to all non-emergency requests for information supporting infrastructure operations request for information communicated by Mesa to Gilbert.
- 2.4. Permit the periodic dewatering of the Gilbert Segment into Gilbert's wastewater infrastructure at the locations and on dates agreed to between the City of Mesa Engineer and Gilbert Public Works Director. The flow rate of dewatering activities shall not exceed 400 gallons per minute. Gilbert may reduce the flow rate based on the collection, treatment, and reclaimed water system conditions and shall inform Mesa of any such restrictions at the time of coordination.

3. **Term:**

- 3.1. The term of this Agreement shall commence on the date it is fully executed, and shall survive for ninety-nine (99) years.
- 3.2. The Gilbert Segment shall be constructed according to the City of Mesa Engineering & Design Standards and the Town of Gilbert's Engineering and Design Standards. Where standards conflict, the more stringent standard shall apply. Town of Gilbert will have the final approval of the resolution of the conflict.

4. **General Provisions:**

- 4.1. Each Party reserves all rights that it may have to cancel this Agreement for conflicts of interest under A.R.S. § 38-511.
- 4.2. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, the Parties certify that they do not have scrutinized business operations in Sudan or Iran as set forth in A.R.S § 35-391 or 35-393, as applicable.
- 4.3. Each Party warrants and certifies that it does not currently, and agrees for the duration of the contract that it will not, use:

A. The forced labor of ethnic Uyghurs in the People's Republic of China.

- B. Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.
- C. Any contractors, subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China

If either Party becomes aware during the term of the Agreement that it is not in compliance with this paragraph, the Party shall notify the other Party within five (5) business days after becoming aware of the noncompliance. Failure of the Party to provide a written certification that the Party has remedied the noncompliance within one hundred eighty (180) days after notifying the public entity of its noncompliance shall result in the termination of this Agreement unless the Term of this Agreement shall end prior to said one hundred eighty (180) day period.

- 4.4. This Agreement contains the entire understanding between the Parties with respect to the subjects addressed and supersedes all prior negotiations and agreements.
- 4.5. This Agreement may be amended only by an instrument in writing signed by authorized representatives of the Parties.
- 4.6. Each Party shall (as "Indemnitor") indemnify, defend, and hold harmless the other Party, any of its departments, agencies, officers or employees (collectively referred to in this paragraph as "Indemnitee") from any and all claims, demands, suits, actions, proceedings, loss, cost and damages of every kind and description, including reasonable attorneys' fees and/or litigation expenses (collectively referred to in this paragraph as the "Claims"), which may be brought or made against or incurred by the Indemnitee on account of loss of or damage to any property or for injuries to or death of any person, to the extent caused in whole or in part by, arising out of, or contributed to, by reasons of any alleged act, omission, professional error, fault, mistake, or negligence of Indemnitor, its employees, officers, directors, agents, representatives, or contractors, their employees, agents, or representatives in connection with or incident to the performance of this Agreement. Indemnitor's obligations under this paragraph shall not extend to Claims attributable to the sole and exclusive negligence or intentional acts of the Indemnitee. The obligations under this paragraph shall survive the termination of this Agreement.
- 4.7. Mesa is a governmental agency which relies upon the appropriation of funds by its respective governing body to satisfy its obligations. If Mesa, prior to the commencement of any construction work on the Gilbert Segment, reasonably determines that it does not have funds to meet its obligations under this Agreement, then Mesa shall have the right to terminate this Agreement. In the event of such a termination, Mesa agrees to provide Gilbert written notice of its intent to terminate 30 days prior to the termination date. Mesa shall otherwise remain responsible for payment of all costs and expenses for which it is responsible under this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on or as of the day and year first written above.

Town of Gilbert, an Arizona Municipal Corporation

City of Mesa, an Arizona Municipal Corporation

By: _____
Brigette Peterson
Mayor

By: _____
Christopher J. Brady
City Manager

Date: _____

Date: _____

Attest:

By: _____
Chaveli Herrera
Town Clerk

Approved as to Form:

Undersigned counsel has reviewed the foregoing Agreement pursuant to A.R.S. § 11-952 (D) and has determined it is in proper form and within the powers and authority granted under the laws of this state to the County, City, and Town.

Christopher Payne, Town Attorney
Attorney for Town of Gilbert

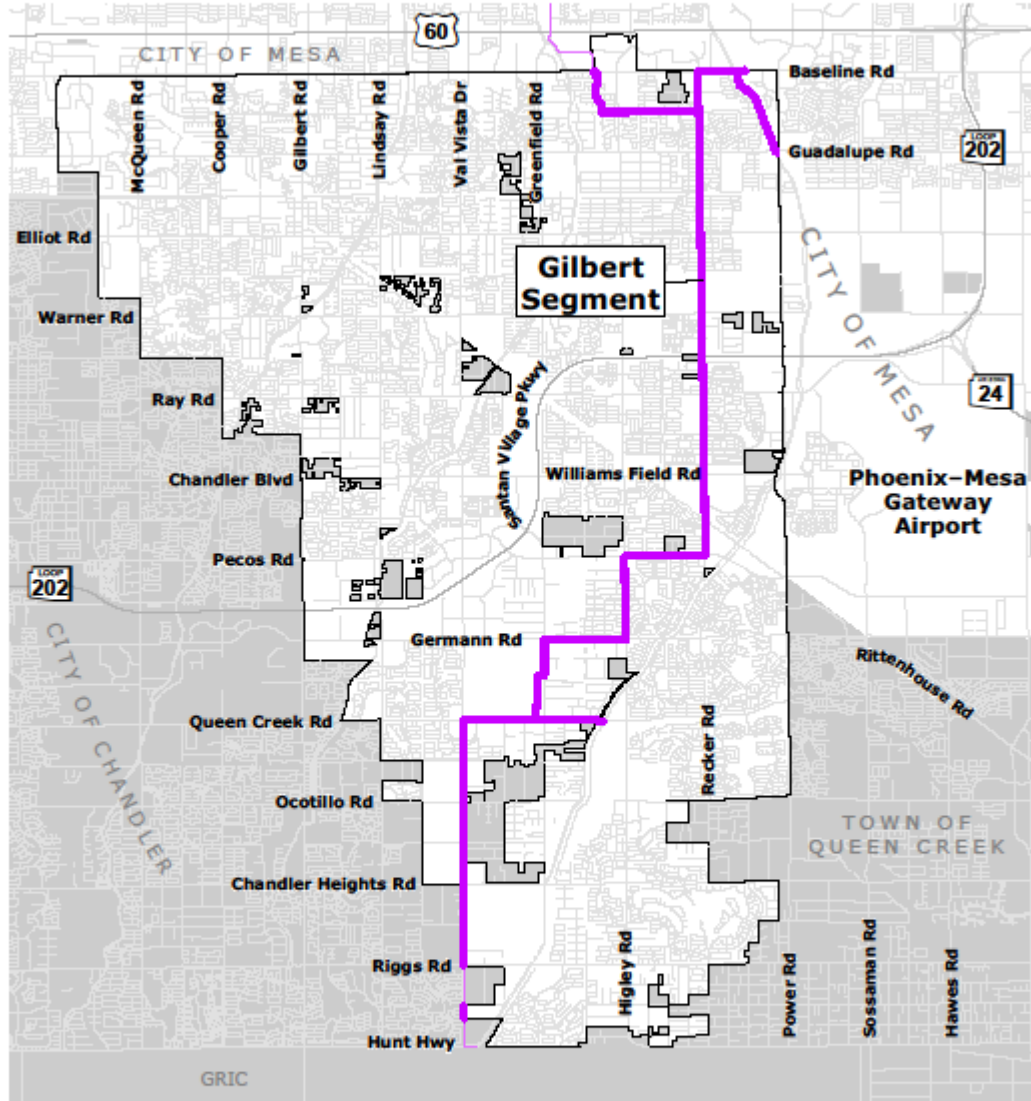
Jim Smith, City Attorney
Attorney for City of Mesa

Date

Date



Exhibit A



Map created by Engineering GIS DATE SAVED: 7/27/2023 Path: I:\GIS_Mapping\Project_Files\Engineering_CP_Project\CP0896\VERC.MRP_IGA_Gilbert\CP0896.MRP_IGA_Gilbert.mxd

Central Mesa Reuse Pipeline IGA with Town of Gilbert Project Number: CP0896

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