

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
PINAL COUNTY
AND
CITY OF APACHE JUNCTION
FOR
COMMERCIAL DRIVER LICENSE TESTING SERVICES**

THIS INTERGOVERNMENTAL AGREEMENT (“**Agreement**”) dated the ____ day of _____, 20____, is made by and between PINAL COUNTY, a political subdivision of the State of Arizona (“**County**”) and CITY OF APACHE JUNCTION, an Arizona municipal corporation (“**City**”).

RECITALS

A. County and City are authorized pursuant to Arizona Revised Statutes (“A.R.S.”) §§ 11-251 and 9-240, respectively, to provide Commercial Driver License (“CDL”) Testing Services to their respective employees.

B. County and City are authorized pursuant to A.R.S. § 11-951, *et seq.* to enter into intergovernmental agreements for the purposes of taking joint or cooperative action.

C. County currently provides CDL Testing Services (“Services”) to its employees desiring to obtain a CDL.

D. The parties desire that County make the Services available to City employees desiring to obtain a CDL pursuant to the terms and conditions set forth in this Agreement.

E. This Agreement will promote efficiency in the use of public funds and will encourage future cooperation between the parties.

F. The Parties have mutual interests in this project and wish to enter into this Agreement with certain terms and conditions.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual promises and covenants set forth herein, and for other consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. **ACCURACY OF THE RECITALS.** The Parties hereby confirm the accuracy of the Recitals set forth above, which are incorporated herein by this reference.

2. SERVICES. County will make available to City employees the Services as described in the attached Exhibit A.

3. TERM. This Agreement shall commence upon execution by both parties hereto, and shall terminate one (1) year thereafter unless terminated sooner as provided in paragraph 9 below. This Agreement shall automatically renew for successive one (1) year periods unless either party gives written notice to the other of that party's intention not to renew this Agreement at least thirty (30) calendar days prior to termination.

4. INDEMNIFICATION AND INSURANCE. To the extent permitted by law, each Party covenants and agrees to fully indemnify, defend and hold harmless the other Party, its special districts, elected and appointed officers, employees, and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature relating to this Agreement, including attorney and expert witness fees, which, are the result of any act or omission of the Party, its officers, employees, contractees, agents, and anyone acting under its direction or control, whether intentional or negligent, in connection with or incident to this Agreement. If any action or claim shall be brought or asserted against either Party or its directors, officers, agents, servants or employees for which indemnity may be sought from either Party, the Parties shall promptly notify one another in writing. The noticed Party shall, within ten (10) working days of receiving such notice, assume the defense thereof, and the payment of all expenses, including any attorney fees and all court costs which shall be paid as incurred. It is understood and agreed that both Parties may elect to self-insure or obtain insurance through their pooling agreement with other governmental entities against any or all of the risks related to this Agreement. This section shall survive the expiration or early termination of this Agreement.

5. INDEPENDENT CONTRACTOR. The parties acknowledge and agree that all services provided under this Agreement are being performed by County as an independent contractor and not as an employee or agent of City. This Agreement is not intended to constitute, create, give rise to or otherwise recognize any agency, partnership or joint venture agreement or relationship of any kind or create an employer/employee relationship between County and City and their respective employees, subcontractors, subcontractors' employees or any other persons.

6. NO THIRD PARTY BENEFICIARY. This Agreement shall not create any third party beneficiary right to any person or entity who is not a party to this Agreement.

7. WORKERS COMPENSATION. Each party hereto shall be responsible for its own employees' workers' compensation claim, if any arises under the performance of this Agreement.

8. ASSIGNMENT. This Agreement is non-assignable in whole or in part by either party hereto.

9. NOTICE. All notices and other communications connected with this Agreement shall be in writing and shall be deemed to have been given when delivered personally or deposited in a U.S. mail box, in a postage, prepaid envelope addressed to the other party to the address provided herein:

Pinal County
ATTN: _____

Florence, AZ 85132

City of Apache Junction
Public Works Department
ATTN: Public Works Director
575 East Baseline Avenue
Apache Junction, Arizona 85119

10. **TERMINATION.** This Agreement may be terminated at any time and for any reason by either party giving the other party at least thirty (30) calendar days prior written notice of such termination.

11. **ENTIRE AGREEMENT.** This Agreement and any attachments represent the entire agreement between City and Consultant and supersede all prior negotiations, representations or agreements, either express or implied, written or oral. It is mutually understood and agreed that no alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the parties hereto. Written and signed amendments shall automatically become part of the Supporting Documents, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

12. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by all parties hereto or their respective successors in interest.

13. **SEVERABILITY.** City and County each believe that the execution, delivery and performance of this Agreement are in compliance with all applicable laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring the Parties to do any act in violation of any applicable laws, including any constitutional provision, law, regulation, or City Code), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. Unless prohibited by applicable laws, the Parties further shall perform all acts and execute, acknowledge and/or deliver all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

14. **GOVERNING LAW, VENUE AND ATTORNEY FEES.** The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either Party for the purpose of enforcing a right or rights provided for in this Agreement shall be tried in a court of competent jurisdiction in

Pinal County, Arizona. The Parties hereby waive all provisions of law providing for a change of venue in such proceeding to any other county. In the event either Party shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition in this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs including reasonable attorneys fees to be determined by the court in such action.

15. CANCELLATION. This Agreement is subject to cancellation for conflict of interest without penalty or further obligation as provided by A.R.S. § 38-511.

16. ISRAEL BOYCOTT PROVISION. Each party to this Agreement certifies to the other that it is not currently engaged in and agrees for the duration of this Agreement not to engage in a boycott of Israel as defined in A.R.S. § 35-393.

17. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be an original.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, these presents are hereby signed and agreed to by the parties hereto.

CITY OF APACHE JUNCTION an
Arizona municipal corporation

PINAL COUNTY, a political subdivision
of the State of Arizona

By: _____
Jeff Serdy, Mayor

By: _____
Chairman

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____
Kathy Connelly, Clerk

By: _____
Clerk/Deputy Clerk of the Board

COUNSEL APPROVAL AS TO FORM:

I have read this Agreement and have determined such Agreement is in proper form and is entered into within the powers of and authority granted under the laws of the State of Arizona.

Deputy County Attorney

Date

I have read this Agreement and have determined such Agreement is in proper form and is entered into within the powers of and authority granted under the laws of the State of Arizona.

Richard J. Stern, Apache Junction City Attorney

Date

**EXHIBIT A
TO
INTERGOVERNMENTAL AGREEMENT
BETWEEN
PINAL COUNTY
AND
CITY OF APACHE JUNCTION
FOR
COMMERCIAL DRIVER LICENSE TESTING SERVICES**

Description of Services

Pinal County's Third-Party Tester will administer the Commercial Driver's License ("CDL") Roads/Skills Test for a fee of \$200.00 per applicant. This will include three attempts to pass the test. Applicants must wait at least two business days to retake any failed portion of the skills test.

A CDL Instruction/Learner Permit holder is not eligible to take the CDL Road/Skills Test within 14 days of the initial issuance of the Commercial Instruction Permit.

The Road/Skills Test is a three part test that consists of a Pre-Trip Inspection, a Basic Vehicle Controls Test and an ON-Road Driving Test. Applicants will be required to take the test in the same class and type of motor vehicle that you have a permit for. If applicant fails any one part of the Road/Skills Test, applicant will be required to retake the entire test again. Only one Road/Skills Test can be taken per day.

Pre-Trip Inspection: Before applicant can take the CDL driving tests, you will first be tested on their knowledge of class of vehicle they plan on driving once they obtain their CDL. The Pre-Trip inspection also determines if applicant's commercial vehicle is safe enough to drive on public roads. If applicant fails the Pre-Trip Inspection, applicant may not be allowed to take the Road Skills Test.

Basic Controls Test: Before applicant can take the Road Skills Test, they will first need to prove that they have the skills to operate a commercial motor vehicle on public roads. This test consists of various off-road maneuvers such as backing up the vehicle, moving vehicle forward, and making turns within a defined area.

Road Skills Test: Once applicant passes the first two tests, they will be required to drive their commercial vehicle on public roads in various traffic situations.

The Road/Skills Test will be given by appointment only. To schedule a test appointment, contact Pinal County Public Work's Highway Superintendent at (520)866-6411. Applicants need to schedule their Road/Skills test a few weeks in advance and to arrive early for their test appointment. Appointments will be scheduled based upon availability of Pinal County's Third-Party Tester.

Pinal County will not provide a vehicle for applicant to test in, they must provide their own test vehicle. If the test vehicle is not legally equipped, registered and safe to drive, the applicant will not be able to proceed with the Skills Test.

On the day of the CDL Skills Test appointment, applicant must:

1. Arrive on time.
2. Bring their validated commercial learner's permit.
3. Bring their ADOT sealed envelope.
4. Bring a passenger (age 21 or older) that is qualified to drive commercial motor vehicle with the same class of CDL or greater than the test vehicle.
5. Bring a test vehicle that is the same class of license that applicant is testing for that is registered and safe to drive.