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**INTERGOVERNMENTAL AGREEMENT NO. 101746  
BETWEEN  
THE CITY OF PHOENIX  
AND  
THE CITY OF CHANDLER  
FOR SHARING OF TELECOMMUNICATIONS FACILITIES**

This Intergovernmental Telecommunications Facilities Sharing Agreement, (hereinafter called "AGREEMENT"), is made and entered into this 1<sup>st</sup> day of June, 2002 (the "Effective Date"), by and between the City of Phoenix, a municipal corporation duly organized and existing under the laws of the State of Arizona, located at 200 W. Washington Street, Phoenix, Arizona, (hereinafter called "Phoenix"), and City of Chandler, an Arizona municipal corporation (hereinafter called "Chandler"). The parties are sometimes referred to jointly herein as "AGENCIES" and individually as "AGENCY."

**RECITALS:**

- A. Phoenix and Chandler have the power to execute intergovernmental agreements pursuant to A.R.S. Section 11-952.
- B. Phoenix has the power to execute intergovernmental agreements pursuant to Chapter 2, Section 2(i) of the Phoenix City Charter.
- C. Chandler has the power to execute intergovernmental agreements pursuant to Section 1.02 of the Chandler City Charter.
- D. Phoenix and Chandler desire to share telecommunications facilities owned by each AGENCY under the conditions set forth in this AGREEMENT.
- E. Phoenix and Chandler are agreeable to permitting such use under the terms and conditions set forth in this AGREEMENT.
- F. Potential electronic sites are limited, and in order to avoid a proliferation of site developments by a number of users, it is in the public interest for both AGENCIES to share those facilities that serve the common good.

**AGREEMENT:**

IT IS HEREBY AGREED, by and between the parties as follows:

- 1. Facilities Reciprocal Use. The AGENCIES agree to enter into Site-Specific Supplemental Agreements to share facilities owned by and/or operated by the other.
- 2. Subject to the terms specified in this agreement the AGENCIES each agree to allow the other AGENCY to use its telecommunications facilities, wherever

located, upon request of the other AGENCY and without a usage fee, except where the requested usage would cause substantial interference with the telecommunications operations or service of the AGENCY owning the facility, or where prohibited by this or other agreements.

3. Site-Specific Supplemental Agreement. Whenever an AGENCY desires to share telecommunications facilities owned by another AGENCY, such AGENCY shall give the other written notification specifying the site and the character of the equipment, which the requesting AGENCY desires to install at the site. If the other AGENCY accepts the request, the AGENCIES shall then enter into a Site-Specific Supplemental Agreement which shall set forth all relevant terms and conditions with respect to the site. Each of these Site-Specific Supplemental Agreements shall make reference to this AGREEMENT and become supplements to this AGREEMENT. The AGENCIES will cooperate with each other in obtaining any necessary consents or rights-of-way should the underlying ownership to the site be in a person other than one of the AGENCIES.
4. Consulting Fees. Any consulting fees incurred shall be paid by the AGENCY employing the consultant.
5. Frequency Protection. The responsibility for resolving interference problems shall be specified in the Site-Specific Supplement Agreement.
6. Use Approval Procedure. Reciprocal use by one AGENCY of another AGENCY'S telecommunications facilities shall be subject to the following conditions:
  - a. The AGENCY requesting the use of the facility shall submit a site installation plan to owner's telecommunications section, and obtain written approval from that section prior to installation.
  - b. The AGENCY requesting use of the facility shall bear the cost of purchasing, installing and maintaining the equipment necessary to complete the installation. Such AGENCY shall establish and maintain a budget according to its own rules and regulations.
  - c. The host AGENCY (of the facility) shall take reasonable precautions to protect the other AGENCY'S equipment located at the facility, but shall not be responsible for damage to, or loss of, such equipment whether by fire, theft or otherwise unless caused by negligence of the owner of the facility.
7. Reciprocal Use, Rights, and Obligations.
  - a. Each AGENCY shall have its transmitter frequencies examined by the telecommunications manager for the facility where the installation is to

take place to detect any potential cause of interference at the telecommunications site. Transmitters shall employ isolators, circulators, resonant cavities and other devices to reduce interference as the state-of-the art and good engineering practices dictate.

- b. Each AGENCY shall be responsible for obtaining and maintaining any licenses required by the Federal Communications Commission for the AGENCY'S telecommunication equipment.
  - c. Private vendor(s) on contract with an AGENCY shall be escorted by an employee of the City contracting with the vendor when working at the telecommunications site.
8. Term. The term of this AGREEMENT shall be for ten (10) years, commencing on June 1, 2002 and ending on June 1, 2012.
  9. Option to Extend. This AGREEMENT may be renewed for one additional ten (10) year term under the same terms and conditions as stated in this AGREEMENT and any intervening amendments thereof.
  10. Termination. The AGENCY owning a telecommunication facility may terminate this AGREEMENT or the other AGENCY'S use of any facility at any time by giving no less than 365 days written notice to the other AGENCY. The AGENCY not owning a telecommunications facility may terminate this AGREEMENT or its use of the other AGENCY'S telecommunication facility at any time by giving no less than ninety (90) days written notice to the other AGENCY. Either AGENCY may terminate this AGREEMENT at any time by giving no less than 365 days written notice to the other AGENCY. In the event this AGREEMENT is terminated, all Site Specific Supplemental Agreements will terminate automatically.
  11. Removal of Equipment. Equipment shall be removed or left in place and the facility restored as specified in the Site-Specific Supplement Agreement.
  12. Hold Harmless. Each AGENCY shall indemnify, defend and hold harmless each other AGENCY and its officers and employees from any liability, expense of damages resulting from the negligence of the AGENCY or its officers, employees, agents or contractors arising out of or in connection with this AGREEMENT.
  13. Successors and Assigns. This AGREEMENT shall be binding upon the AGENCIES and upon their successors and assigns. An AGENCY may assign its rights or obligations under this AGREEMENT.
  14. Modification. Any amendment or modification of this AGREEMENT shall be in writing and shall be effective only after signature of each of the AGENCIES. In

the event of any conflict in the provisions of this AGREEMENT and any Site-Specific Supplemental Agreement, the provisions of the Site-Specific Supplemental Agreement shall control.

15. Arbitration. In the event of a dispute under the AGREEMENT, the AGENCIES agree to use arbitration to the extent required under A.R.S. § 35-1518 and A.R.S. § 12-133.
16. Books. To the extent required by A.R.S. § 35-214, the parties agree to retain all books, accounts, reports, files and other records relating to the AGREEMENT and to make such records available at all reasonable times for inspection and audit by the City or the Auditor General of the State of Arizona, or their agents, during the term of and for a period of 5 years after the completion of the AGREEMENT.
17. Employment. The personnel of either Agency will not for any purpose be considered employees or agents of the other Agency and that each Agency assumes full responsibility for the actions of its personnel while performing services under this AGREEMENT, and shall be solely responsible for their supervision, daily direction and control, payment of salary (including withholding income taxes and social security), worker's compensation and disability benefits.
18. Notice. Any notice, consent or other communication ("NOTICE") required or permitted under this AGREEMENT shall be in writing and either delivered in person, sent by facsimile transmission, deposited in the United States mail, return receipt requested, or deposited with any commercial air courier or express service addressed as follows:

If intended for the City of Chandler:

Communications Manager  
Mail Stop 604  
P.O. Box 4008  
Chandler, Az 85244-4008  
Telephone (480) 782-2221  
Fax (480) 782-2221

If intended for the City of Phoenix

Information Technology Department  
Wireless Communications Manager  
2441 S. 22<sup>nd</sup> Avenue  
Phoenix, AZ 85009  
Telephone: (602) 262-6973  
Fax: (602) 495-5698

Notice shall be deemed received at the time it is personally served, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or, if mailed five (5) days after the notice is deposited in the United States mail as above provided. Anytime period stated in a notice shall be computed from the time the notice is deemed received. Either party may change its mailing address, telephone or FAX number, or the person to receive the notice, by notifying the other party as provided in this section.

Notices sent by facsimile transmission shall also be sent by regular mail to the recipient at the above address. This requirement for duplicate notice is not intended to change the effective date of the notice sent by facsimile transmission.

- 19. Transactional Conflicts of Interest. Each AGENCY acknowledges that this AGREEMENT is subject to cancellation by the other pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

IN WITNESS WHEREOFF, the parties have executed this Intergovernmental Agreement on the date first above written.

Attest:

CITY OF PHOENIX, an Arizona municipal corporation,  
Frank Fairbanks, City Manager

2002 JUL 30 AM 10:44  
CITY CLERK DEPT.

DEPUTY Gary D. Murpho  
City Clerk

By: Danny W. Murphy  
Chief Information Officer

Attest:

CITY OF CHANDLER, an Arizona municipal corporation,

Marla Padgett  
City Clerk



By: [Signature]  
Mayor

DETERMINATION OF LEGAL COUNSEL

The foregoing Intergovernmental Agreement has been reviewed pursuant to A.R.S. Section 11-952 and Article I, Section 1.03 of the City Charter of the City of Chandler by the undersigned Chandler City Attorney who has determined that it is in proper form and within the power and authority granted under the laws of the State of Arizona.

\_\_\_\_\_  
Date

D.C.  
\_\_\_\_\_  
Chandler City Attorney

The foregoing Intergovernmental Agreement has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Phoenix City Attorney who has determined that it is in proper form and within the power and authority granted under the laws of the State of Arizona.

\_\_\_\_\_  
Date

Alan J. Wax  
\_\_\_\_\_  
Phoenix, City Attorney      ACTING *MS*