

## MARICOPA COUNTY ELECTIONS SHARED SERVICES AGREEMENT

The MARICOPA COUNTY BOARD OF SUPERVISORS (the “Board”) and the MARICOPA COUNTY RECORDER (the “Recorder”) enter into this Shared Services Agreement (“Agreement”) to outline the mutual understanding of the Board and the Recorder (together, the “Parties”) for the management of election-related activities in Maricopa County.

### **1. Intent of the Agreement.**

The Parties are charged by the Arizona Revised Statutes with the responsibility of accomplishing certain election-related activities. The Parties have historically jointly overseen the Elections Department and shared certain services to fulfill their statutory responsibilities. This Agreement expressly declines to utilize a jointly overseen Elections Department. Instead, the Recorder and the Board will each be independently responsible to fulfill their own responsibilities for elections, as delineated by Arizona law and this Agreement. The Parties have a shared interest in fulfilling their responsibilities and ensuring that elections are administered efficiently and effectively. Therefore, certain services will continue to be shared or delegated in this interest. The purpose of this Agreement is to coordinate election-related activities in Maricopa County for sound economic reasons, efficiency, and public convenience.

### **2. General Provisions.**

**2.1. Supersedes Prior Agreements.** The Agreement shall supersede and replace all prior agreements and understandings between the Parties, whether oral or written, including without limitation the 2021 Elections Operations Agreement executed by the Parties on August 16, 2021 (C-06-22-742-X-00).

**2.2. Successors and Assigns.** The Agreement will be binding upon and inure to the benefit of the Parties and their respective representatives, successors, and assigns. The Parties will continue to be bound by all terms of the Agreement without regard to the individuals holding the respective offices of the Parties. The Agreement is intended to be solely for the benefit of the Parties, their successors, and assigns. The Parties represent that they freely and voluntarily enter into the Agreement without any degree of duress or compulsion.

**2.3. Amendment.** The Agreement may not be amended except by a written amendment signed by each of the Parties.

**2.4. Choice of Law.** The Agreement shall be governed by and construed in accordance with the laws of the state of Arizona, including Title 16 of the Arizona Revised

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Statutes and the operative Elections Procedures Manual (“EPM”) published pursuant to A.R.S. § 16-452.

**2.5. Severability.** If any term of the Agreement is to any extent invalid, for any reason, including illegality or conflict with applicable law or regulation, or is otherwise unenforceable, such particular term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.

**2.6. Reporting Relationships—No “Dual Reports”.** Employees of the Recorder will report to the Recorder or the Recorder’s designee. Employees of the Board (*i.e.*, the County) will report to the County Manager or the Board’s designee. No employee of the Recorder or the County will have a “dual report” status such that they report to both the Recorder and the County Manager or the Board’s designee.

**2.7. Term and Termination.** The Agreement shall become effective upon the signature of all the Parties and will continue until terminated by one or both of the Parties. Any Party seeking to terminate the Agreement shall do so by providing written notice to all other Parties a minimum of 90 days prior to the end of a General Election year. The termination date will be effective, and the Agreement terminated, at 11:59 p.m. on December 31 of the General Election calendar year in which the 90 days’ notice is complete. A notice of termination can be rescinded by the terminating Party at any time before the expiration of the 90 days’ notice, but must be rescinded in a writing signed by the Party that invoked this Termination Clause. Any such revocation of termination must be accepted in writing by the other Party.

### **3. Election Administration Generally.**

The Parties hereby agree to work together to administer elections as required by Arizona law for the benefit of Maricopa County’s citizens, as detailed in this Agreement. In addition to their individual responsibilities as delineated herein, the Parties agree as follows:

**3.1. Discontinuation of the Elections Department Jointly Overseen by the Board and the Recorder.** Prior agreements between the Parties for election administration created the Maricopa County Elections Department, under the joint oversight of the Recorder and the Board, to oversee and administer elections. The Board will continue to employ a Director of Elections to oversee those areas of election administration for which the Board is responsible.

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**3.2. Nomenclature.** Given the unique nature of a shared responsibility for a subject matter (election administration) between two elected bodies (the Board and the Recorder), and the resulting potential confusion in the general public, the Recorder and the Board will clearly define their respective election operations, departments, events, and communications as connected to either the Recorder or the Board, and not “the Elections Department,” generally.

**3.3. Communications Department.** Prior agreements between the Parties created a jointly overseen Communications Department within the Elections Department. Pursuant to this Agreement, the Recorder and the Board will each utilize their own communications departments to publicize their messages related to elections and election administration. The Board and the Recorder are each free to speak about election administration but will be respectful of the other’s communications and positions as partners in the administration of elections and will coordinate their messages where it is advantageous and practical for them to do so. The Recorder will be responsible for responding as the Recorder sees fit to all e-mailed or messaged constituent inquiries relating to the Recorder’s particular responsibilities, as will the Board for its particular responsibilities.

**3.4. Human Resources.** Except as set forth in ¶ 4.2 concerning temporary employees, *infra*, and except as regulated by other law or regulation regarding the appointment of Chief Deputies by the Board for the County’s elected officers, the Parties will each be responsible for the human resources for their own employees, including decisions related to the discipline, training, coaching, development, hiring, and firing of their employees. Unless requested and agreed upon, the Recorder will not exercise human resources responsibilities for the Board’s employees, and the Board will not exercise such responsibilities for the Recorder’s employees, except as set forth in ¶ 4.2.

**3.5. Budget and Finance.** Unless requested and agreed upon, the Parties will each be responsible for the procurement, budget, and finance related activities for which the Agreement assigns to each Party.

**3.6. Facilities.** The principal election-administration facility for Maricopa County is the Maricopa County Tabulation and Election Center (MCTEC). The Recorder’s employees work in MCTEC, in a portion of the West Court Building, and in the basement office of the County Clerk. The Board’s election-related employees also work in MCTEC. All of these facilities are County-owned buildings.

**3.6.1. The Recorder’s Rights and Limitations vis-à-vis these Buildings.** The Recorder shall have the same responsibility and authority, and be subject to the same

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limitations, with respect to these three facilities as other county-wide elected officers have with respect to the facilities housing their employees.

### **3.6.2. The Board's Rights and Limitations vis-à-vis These Buildings.**

The Board shall have the same responsibility and authority, and be subject to the same limitations, with respect to these three facilities as it has with respect to every other county-owned building in which a county-wide elected officer has employees. The Board will be responsible for the exterior of MCTEC, including any fencing, street management, or other enhanced security.

### **3.6.3. Tours.**

Both Parties may give tours of MCTEC and will attempt to coordinate with the other Party such tours to the extent possible. Both Parties will give as much advance notice as possible to the other Party. Neither Party will be precluded from giving tours because the other does not wish to participate.

### **3.6.4. Ballot Tabulation Center and Other Areas of MCTEC With**

**“Live” Ballots.** No candidate in any election will have access to the Ballot Tabulation Center or any other area of MCTEC where ballots for that election are present. *See Arizona EPM (2019) at 201 and ARS §16-425.*

### **3.7. Legislation.**

The Parties recognize that elections are governed by law, and that “good” law is important to election administration. Accordingly, the Recorder and the Board, whether jointly or independently, are free to propose, advocate, or oppose any legislation at the state or federal level. They will coordinate these efforts where it is advantageous and practical to do so.

### **3.8. Political Party Interactions.**

The Recorder and the Board will each be responsible for communicating with the political parties for those election-related matters subject to their authority. *See, e.g., A.R.S. § 16-168(D)* (requiring the Recorder to deliver precinct lists to the chairs of each county political committee and state political parties); § 531(A) (allowing the county political committee chairs to submit lists of party members to be election board workers, which the Board’s Elections Director appoints). They will each try to coordinate with the other Party political party interactions to the greatest extent possible and will each be respectful of the other’s interactions related to their separate areas of authority. Neither will negotiate or contract with the political parties regarding the other’s responsibilities. Nothing in this Paragraph is intended to infringe upon either Party’s First Amendment free speech and association rights.

### **3.9. Legal Representation.**

The Parties are jointly represented by the Maricopa County Attorney (hereafter, the County Attorney and deputy county attorneys will be referred to as “MCAO”). If any part of this Paragraph, including its sub-Paragraphs,

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conflicts with any provision of the Arizona Rules of Professional Conduct (Ariz. Sup.Ct. Rules, Rule 42), the Arizona Rules of Professional Conduct shall control.

**3.9.1. Confidentiality.** With this Agreement, the Parties do not waive the duty of confidentiality inherent in the attorney-client relationship. Where a duty of confidentiality exists, MCAO shall preserve inviolate the confidentiality of both the Board and the Recorder vis-à-vis each other unless expressly authorized by the Party holding the privilege to share the subject confidences with the other party, as it always does. Where no duty of confidentiality exists, including without limitation when the Parties' interests are aligned in litigation, the Parties shall have no expectation of attorney-client confidentiality vis-à-vis the other Party concerning discussions that may be had between MCAO and each of the Parties.

**3.9.2. Litigation and Appellate Services.** Each of the Parties shall be represented by MCAO for all election-related litigation and appeals unless the County Attorney determines that outside counsel is appropriate because of a conflict or some other reason. When both Parties are a litigant in a proceeding, MCAO shall make joint filings for the Parties (rather than a separate filing for each of the Parties) at MCAO's sole discretion based on its judgment concerning how best to represent the interests of the Parties. MCAO's decision concerning whether to make joint filings shall not be grounds for either of the Parties to assert a conflict.

**3.9.3. Outside Counsel.** Each of the Parties retains the right to request that the County Attorney appoint outside counsel to represent its interests. Whether to appoint such outside counsel is within the sole purview of the County Attorney.

**3.10. Designated Supervisor.** The Recorder shall work with the Chairperson of the Board or Chairperson's designee for all election related matters. Nothing in this Agreement is intended to obviate the responsibility of the Recorder and the Board's Elections Director to communicate with one another concerning those matters as necessary.

**3.11. Information Systems Security.** The Board and the Recorder will jointly provide information systems security services. The Parties will cooperate and coordinate with respect to these security services, consistent with all State and Federal laws and regulations governing election security, including, but not limited to, threat monitoring, video recording, and cyber-attack prevention. Both the Recorder and the Board will work with the Maricopa County Sheriff's Office and other law enforcement agencies as warranted under this section.

**3.12. Chain of Custody.** Both the Board and the Recorder are responsible for ensuring the safeguarding and integrity of elections procedures for those areas under their

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authority. This includes establishing efficient and secure chain of custody practices over ballots and other voting information.

**3.13. Matters Not Covered by the Agreement.** The Agreement is not intended to be a comprehensive list of every duty, responsibility, and administrative activity necessary to the administration of elections. Rather, the Agreement highlights specific areas of responsibility that the Parties have determined fall within the purview of one or the other of them as well as administrative functions that are not addressed specifically by Arizona law. For any duty or responsibility for election administration about which the Agreement is silent:

**A.** Where that duty, responsibility, or administrative activity is delegated by statute or the EPM to one of the Parties, that Party shall be responsible for that duty or responsibility;

**B.** Where that duty, responsibility, or administrative activity is delegated by statute or the EPM to one of the Parties or “the officer in charge of elections” (or similar language), the named Party shall be responsible for that duty or responsibility; and

**C.** Where the statutes and the EPM Agreement is silent with respect to who is responsible for that duty, responsibility, or administrative activity, the Recorder and the Board shall, with advice from MCAO, determine who is best suited to carry out that duty, responsibility, or administrative activity, and that Party shall be responsible for it as agreed to by the Parties.

#### **4. Board of Supervisors’ Responsibilities.**

The Board’s responsibilities with respect to elections are broad, ranging from the requirement to call and notice elections to tallying election results and canvassing elections. Consistent with the duties and responsibilities conferred by the Arizona Revised Statutes and EPM, the Board of Supervisors is responsible to:

- A. Call, notice, and (where applicable) cancel elections.
- B. Determine polling locations for election day and emergency voting, and provide supplies to the polling locations.
- C. Appoint and train poll workers and other election board members.
- D. Tally and certify election results by canvassing the election.

Pursuant to this Agreement, the Board is responsible for the following additional activities necessary to elections. In order to accomplish these responsibilities and fulfill its statutory

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duties, the Board will appoint and employ an Elections Director and will exercise its authority, and fulfill its responsibilities, through that Director or the Director's designee/s.

**4.1. Campaign Finance and Candidate Services.** Arizona law requires that candidates for superior court judge or for county, district, and precinct offices for which the electors of a county or a subdivision of a county are entitled to vote must file their nomination papers with "the county elections officer." A.R.S. § 16-311(F). Arizona law further provides that those required by law to file certain campaign finance statements and reports must make their filings to "the county officer in charge of elections," who is "the filing officer" for county, school district, and special taxing district elections, including retention elections for superior court judges. A.R.S. § 16-928(A)(2). Pursuant to this Agreement, the Board is the filing officer and county elections officer in charge of elections for all such nomination papers and campaign finance reports, and so shall be responsible to oversee Maricopa County's campaign finance and candidate services as required by Arizona law. The Recorder will host information concerning campaign finances and candidate services on the Recorder's elections website and will implement all reasonable requests made by the Board of the Recorder for the design, maintenance, and administration of this section of the website.

**4.2. Temporary Election Workers.** Many temporary employees are recruited and hired for each election. Some of these workers, such as poll workers, report to the Board's Elections Director or the Elections Director's designee. *See, e.g.,* A.R.S. § 16-531(A). Others, such as signature verification employees, report to the Recorder or the Recorder's designee. *See, e.g.,* A.R.S. § 16-550(A). Arizona law is silent, however, concerning who is responsible to recruit, hire, and pay temporary election workers necessary to Maricopa County's elections. Pursuant to the Agreement, the Board will have all such Human Resources-related responsibilities for all temporary election workers, whether they report to the Board or to the Recorder. This will include recruiting, hiring, and paying those temporary election workers. The Board will work with the Recorder in good faith to accommodate all reasonable requests made by the Recorder of the Board regarding temporary election workers who will report to the Recorder.

**4.3. Ballot Preparation.** Arizona law charges the Board to "prepare and provide ballots" for elections, A.R.S. § 16-503, and to prepare sample ballots for general elections, § 16-510. The law charges "the officer in charge of elections," however, to prepare a proof of a sample ballot for presidential preference and primary elections. §§ 16-245(C); -461(A). For elections utilizing optical scanning systems, meanwhile, the law requires two sample ballots to be provided to each polling location but does not specify who shall prepare them. § 16-468(6). Pursuant to this Agreement, the Board shall be responsible to design and prepare all ballots, including all sample ballots. This includes the responsibility

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to procure the necessary software to build the ballot, and to create and edit the various ballot styles.

**4.4. Drop Boxes.** Arizona law allows for the County to establish drop boxes into which voters may securely deposit their voted early ballots. EPM (2019) at 60. All drop boxes and their locations must be approved by the Board. *Id.* The Recorder “or officer in charge of elections” must post a list of drop off and drop box locations on the Recorder’s website. *Id.* at 61. The Recorder “or officer in charge of elections” must also “develop and implement secure ballot retrieval and chain of custody procedures.” *Id.* The Recorder “or officer in charge of elections” is also responsible to inspect the containers that transport ballots from drop boxes to the Maricopa County Tabulation and Elections Center, sign the retrieval form indicating the date and time of receipt, and note any signs of tampering; open the containers and count and note the number of ballots; and attach the completed retrieval form to the outside of each container. *Id.* at 62. Pursuant to this Agreement, the Board is the “officer in charge of elections” for all matters related to drop boxes and so shall be responsible to fulfill each of these responsibilities up until the transfer of custody of the early ballots to the Recorder for the Recorder’s execution of the Recorder’s responsibilities relating to early ballots.

**4.5. In-person Early Voting.** Arizona law requires that every election must provide for early voting, A.R.S. § 16-541(A), which includes in-person early voting, *id.*; EPM (2019) at 46. Generally, it is the Board that is responsible to establish polling locations for in-person voting, § 16-411, except that the Recorder may (but is not required to) establish early voting locations for in-person voting at the Recorder’s Office or elsewhere in the county as the Recorder deems necessary, § 16-542(A). Pursuant to this Agreement, the Board will be responsible to establish and administer all voting locations and replacement ballot sites for all in-person early voting, just as it is responsible to establish and administer such locations for election day and emergency voting.

**4.6. Tabulation of Provisional Ballots.** Arizona law specifies that those who appear at polling locations but are not listed on the precinct register may vote a provisional ballot. A.R.S. §§ 16-579(A)(2); 16-584(B) – (F). The law further provides that the Recorder shall determine whether those who cast provisional ballots are registered voters and eligible to vote in the given election; if they are not, their provisional ballot affidavit envelopes must remain unopened. § 16-584(E). The Recorder shall then notify the Board’s Elections Director of that determination for each provisional ballot. Following the Recorder’s announcement of a determination, the Board is responsible to decide which provisional ballots should be tabulated and to count those ballots, *id.*, because all tabulation of ballots is under the direction of the Board, § 16-621(A). The Board is also responsible for providing a method for notifying those casting provisional ballots whether their ballots were verified and counted. § 16-584(F).

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**4.7. Hand-Count Audits.** Arizona law requires “the officer in charge of the election” to conduct a hand-count audit of “each countywide primary, special, general and presidential preference election.” A.R.S. § 16-602(B). Pursuant to this Agreement, the Board is “the officer in charge of the election” for the hand-count audit and so shall be responsible to conduct the hand-count audit. The Recorder shall assist the Board as the Board and Recorder determine necessary.

**4.8. Procuring Tabulation Equipment.** Arizona law allows the use of vote tabulation equipment in Arizona elections, § 16-445(A), and authorizes the Board to procure tabulation equipment to count ballots, § 16-451. Consistent with those requirements and pursuant to this Agreement, the Board is responsible to select the vendor for Maricopa County’s tabulation equipment; contract for, manage, service, and maintain the equipment; and communicate with the vendor concerning the equipment.

**4.9. Procuring In-Person Voting Equipment.** The Board shall be responsible for the selection, procurement, management, and maintenance of all equipment and contracts necessary for the administration of in-person voting.

**4.10. Jurisdictional and Other Contracted Elections.** Maricopa County has long provided election services to municipal and other government entities at their direction. The administration of jurisdictional elections will be consistent with the provisions of the Agreement, regardless of whether the jurisdiction chooses to conduct an “all mail” election. The Board, or its designee, will be responsible for maintaining the relationships with jurisdictions, including, but not limited to, contracting, communication and coordination of election services.

### **5. Recorder’s Responsibilities.**

The Recorder’s duties are broad with respect to voter registration, early voting, and other aspects of election administration. Consistent with the duties and responsibilities conferred by the Arizona Revised Statutes and the EPM, the Recorder is responsible for many aspects of election administration, including:

- A. Voter Registration.
- B. Maintaining voter rolls, including the Voter Registration Database, and maintaining inactive voter lists.
- C. Creating, certifying, and distributing precinct registers.
- D. Ensuring compliance with the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”).

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Pursuant to this Agreement, the Recorder is responsible for the following additional activities necessary to elections:

**5.1. Early Ballot Processing.** Arizona law provides that the Board of Supervisors or officer in charge of elections shall appoint early ballot boards to process early ballots. EPM (2019) at 69-72. Pursuant to this agreement, the Recorder is the “officer in charge of elections” for early ballot processing and is responsible to carry out all early ballot processing as prescribed by statute and the EPM.

**5.2. Voter Registration Automated System (VRAS).** The Recorder will host and maintain the VRAS system. The Recorder will continue to maintain and allow the Board access to all VRAS systems and applications necessary for the Board to fulfill its statutory and delegated election administration responsibilities, including, but not limited to, the following:

- A. Board Worker System and related applications.
- B. Facilities Acquisition and related applications.
- C. Candidate Filing/ Campaign Finance / Precinct Committeeman.
- D. Election Setup and ballot building Jobs (through FY2025).
- E. Command Center Related Applications including the Election Reporting System and Fresh Service.
- F. SSRS Reports – Elections (Audit, Board Worker, Campaign Finance, Locations, Precinct Ballot Reports, Early Voting-In Person, Canvass and Results Reports, EAVS, Election Setup, Provisional Ballots, Voting Location Statistics, Warehouse, Configuration).
- G. Site Book Check-in process (VRAS Voter Registration Real-time Connection, MOFI, VPN, GIS).
- H. Election Day Command Center Support.
- I. Warehouse Tags, GTAC Scanning, and Seal Tracking.
- J. Early Ballot (EVEN and EVRT) applications to calculate ballots left to count.

**5.3. Website Hosting and Maintenance.** The Recorder will host and maintain an elections-specific website, which will encompass all elements of the election process and so will incorporate information and data concerning both the Recorder’s and the Board’s election-related responsibilities. The Recorder will implement all reasonable requests made by the Board of the Recorder for the design, maintenance, and administration of the sections of the website pertaining to its statutory and delegated election administration responsibilities.

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**5.4. Information Technology Services.** The Recorder shall continue to provide and maintain all IT-related services for the Board’s election related responsibilities, which are under the direction of the Board’s Elections Director. These services include, but are not limited to, the Recorder’s Data Analytics and Geographic Information System (“GIS”) team providing data analysis and GIS services to the Board for the Board’s “reprecincting” responsibilities, as well as those set forth in ¶¶ 5.2 and 5.3. The Recorder will implement all reasonable requests made by the Board of the Recorder for the design, maintenance, and administration of any IT-related service necessary for the Board to effectively perform its election related responsibilities. The Recorder must provide a minimum of ninety (90) days’ written notice to the Board and the Board’s Election Director of any significant changes to the type, level or maintenance of any IT-related service that the Recorder is providing.

**5.5. Public Records Requests.** The Recorder’s Public Records Team will manage, administer, and respond to all public records requests directed to or concerning the Recorder, the Board’s Elections Director, or anyone else in the County’s employ who oversees, administers, or participates in elections or election administration. This includes, but is not necessarily limited to, anyone with a “@risc.maricopa.gov” email address. When public records requests are made for records that are within the custody and control of the Board’s Elections Director or other County employees, those employees will coordinate and cooperate with the Recorder’s Public Records Team to produce the responsive records. Except as just stated, the Recorder’s Public Records Team will not be responsible for public records requests made to the Board, their offices, or their staff.

**5.6. STAR Call Center.** Maricopa County has a call center known as the STAR Call Center,<sup>1</sup> which is designed to provide answers and information to all incoming telephone questions related to Recording, Elections, Treasurer and Assessor services. The Recorder shall be responsible for STAR Call Center services related to elections, including to provide answers to questions concerning the Board’s election-related activities.

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<sup>1</sup> STAR is an acronym for “Supervisors, Treasurer, Assessor, Recorder.”

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**MARICOPA COUNTY  
BOARD OF SUPERVISORS**

**MARICOPA COUNTY  
RECORDER**

\_\_\_\_\_  
Clint Hickman, Chairman  
Board of Supervisors

\_\_\_\_\_  
Stephen Richer,  
Maricopa County Recorder

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk of the Board

**MARICOPA COUNTY  
CLERK OF THE BOARD**

\_\_\_\_\_  
Juanita Garza, Clerk of the Board

Date: \_\_\_\_\_