ADOT CAR No.: IGA 24-0009731-I
AG Contract No.: P0012024001684
Project Location/Name: Sand Tanks Wash Bridge Replacement
Type of Work: Bridge Replacement
Federal-aid No.:
ADOT Project No.: T0603 01D/03D/01C
TIP/STIP No.:
CFDA No.: 20.205 - Highway Planning and Construction
Budget Source Item No.:

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
PINAL COUNTY

THIS AGREEMENT ("Agreement") is entered into this date _____, pursuant to the Arizona Revised Statutes ("A.R.S.") §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State" or "ADOT") and the PINAL COUNTY, acting by and through its CHAIRMAN and BOARD OF SUPERVISORS (the "County" or "Local Agency"). The State and the Local Agency are each individually referred to as a "Party" and are collectively referred to as the "Parties."

I. RECITALS

1. The State is empowered by A.R.S. § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The Local Agency is empowered by A.R.S. § 11-251 to enter into this Agreement and has by resolution, if required, a copy of which is attached and made a part of, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Local Agency.

3. The work proposed under this Agreement consists of the replacement of the Sand Tanks Wash Bridge, (the "Project"). The Project cost, shown in Exhibit A, is estimated at $2,251,000, which includes federal aid. The State will administer the design and advertise, bid and award, and administer the construction of the Project.

4. The interest of the State in this Project is the acquisition of federal funds for the use and benefit of the Local Agency and authorization of such federal funds for the Project pursuant to federal law and regulations. The State shall be the designated agent for the Local Agency for the Project, if the Project is approved by Federal Highway Administration (FHWA) and funds for the Project are available.

5. The foregoing Recitals and Exhibit A shall be incorporated into this Agreement.

In consideration of the mutual terms expressed herein, the Parties agree as follows:

II. SCOPE OF WORK

1. The Parties agree:

   a. The Project will be completed, accepted, and paid for in accordance with the requirements of the Project plans and specifications.

   b. The final cost estimate may exceed the initial estimate identified in Exhibit A, and in such case, the Local Agency is responsible for and agrees to pay, the difference prior to bid advertisement.

   c. The final Project amount may exceed the initial estimate(s) identified in Exhibit A, and in such case, the Local Agency is responsible for, and agrees to pay, any and all actual costs exceeding the initial estimate. If the final Project amount is less than the initial estimate, the difference between the final bid amount and the initial estimate will be de-obligated or otherwise released from the Project. The Local Agency acknowledges it remains responsible for actual costs and agrees to pay according to the terms of this Agreement.

   d. The Local Agency and ADOT will each separately file a Notice of Intent (NOI) under the Construction General Permit (CGP) with the Arizona Department of Environmental Quality (ADEQ) before construction begins, if applicable to the Project.

2. The State will:

   a. Execute this Agreement, and if the Project is approved by FHWA and funds for the Project are available, be the Local Agency's designated agent for the Project.

   b. If Project Development Administration ("PDA") or design costs exceed the estimate during the development of design, notify the Local Agency, obtain concurrence prior to continuing with the development of design, and invoice as determined by ADOT and the Local Agency for additional PDA costs to complete the design the Project. If design costs exceed the estimate prior to completion of design, invoice the Local Agency for Project costs exceeding design. After the Project costs are finalized invoice or reimburse the Local Agency for the difference between actual costs and the amount the Local Agency has paid for PDA and design.

   c. Submit all required documentation pertaining to the Project to FHWA with the recommendation that the maximum federal funds programmed for this Project be approved for scoping/design. After receipt of FHWA authorization, proceed to advertise for and enter into contract(s) with the consultant(s) for the design and post-design of the Project. Should costs exceed the maximum federal funds available it is understood and agreed that the Local Agency will be responsible for any overage.

d. Prepare and provide all documents pertaining to the design and post-design of the Project, incorporating comments from the Local Agency, as appropriate. Review and approve documents required by FHWA to qualify the Project for and to receive federal funds. Perform tasks that may consist of, but are not limited to, preparation of environmental documents; analysis and documentation of environmental categorical exclusion determinations; geologic materials testing and analysis; right of way related oversight and stewardship activities; preparation of reports, design plans, maps, specifications and cost estimates and other related tasks essential to the design development of the Project.

e. After completion of design and receipt of actual PDA costs and the difference between the final and initial construction cost estimates, if applicable, submit all required documentation to FHWA with the recommendation that the maximum federal funds programmed for construction of this Project be approved. Should costs exceed the maximum federal funds available, it is understood and agreed that the Local Agency will be responsible for any overage.

f. After receipt of FHWA authorization, proceed to advertise for, receive and open bids, award and enter into a contract with the firm for the construction of the Project. If the bid amounts exceed the construction cost estimate, obtain Local Agency concurrence and invoice the Local Agency for the difference between the construction cost estimate and the bid amount prior to awarding the contract.

g. Notify the Local Agency of completion and final acceptance of the Project. At such time, file a Notice of Termination (NOT) with ADEQ transferring CGP responsibilities to the Local Agency, and provide a copy to the Local Agency indicating that the State's maintenance responsibility of the Project is terminated, as applicable.

h. Notify the Local Agency of completion and final acceptance of the Project; coordinate with the Local Agency and turn over full responsibility of the Project improvements.

i. Not be obligated to maintain the Project, should the Local Agency fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

3. The Local Agency will:

a. Designate the State as the Local Agency authorized agent for the Project.

b. Agree to be responsible for actual PDA and design costs, if during the development of design, such costs exceed the initial estimate. Be responsible and pay for the difference between the estimated and actual PDA and design costs of the Project within 30 days of receipt of an invoice.

c. Review design plans, specifications, cost estimates and other such documents required for the construction bidding and construction of the Project, including scoping/design plans and documents required by FHWA to qualify projects for and to receive federal funds; provide design review comments to the State as appropriate.

d. After completion of design, within 30 days of receipt of an invoice from the State and prior to bid advertisement, pay to the State, any outstanding PDA, design costs, and the difference between the final and initial construction cost estimates, as may be applicable. Be responsible for and pay the difference between the estimated construction cost and Project bid amount prior to award. After Project completion, be responsible for and pay any outstanding Project costs, within 30 days of receipt of an invoice.

e. Be responsible for all costs not covered by federal funding that are incurred in performing and accomplishing the work as set forth under this Agreement. Should costs be deemed ineligible or exceed the maximum federal funds available, it is understood and agreed that the Local Agency is responsible for these costs; payment for these costs shall be made within 30 days of receipt of an invoice from the State.

f. Certify that all necessary rights of way have been or will be acquired prior to advertisement for bid and also certify that all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the Project area, shall be removed from the proposed right of way, or will be removed prior to the start of construction, in accordance with The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended; 49 CFR 24.102 Basic Acquisition Policies; 49 CFR 24.4 Assurances, Monitoring and Corrective Action, parts (a) & (b) and ADOT Right of Way Procedures Manual: 8.02 Responsibilities, 8.03 Prime Functions, 9.06 Monitoring Process and 9.07 Certification of Compliance. Coordinate with the appropriate State's Right of Way personnel during any right of way process performed by the Local Agency, if applicable.

g. As applicable, the Local Agency shall certify that it has adequate resources to discharge the Local Agency's real property related responsibilities and ensures that its Title 23-funded projects are carried out using the FHWA approved and certified ADOT Right of Way Procedures Manual and that they will comply with current FHWA requirements whether or not the requirements are included in the FHWA approved ADOT Right of Way Procedures Manual (23 CFR 710.201). Additionally the Local Agency shall certify that all real estate related activities requiring licensure are performed by licensed individuals as defined by the Arizona Department of Real Estate (A.R.S. §§ 32-2121 & 32-2122).

h. Not permit or allow any encroachments on or private use of the right of way, except those authorized by permit. In the event of any unauthorized encroachment or improper use, the Local Agency shall take all necessary steps to remove or prevent any such encroachment or use. Provide a copy of encroachment permits issued within the Project limits to the State.

i. Automatically grant to the State, by execution of this Agreement, its agents and/or contractors, without cost, the temporary right to enter the Local Agency's rights of way, as required, to conduct any and all construction and preconstruction related activities for the Project, on, to and over said Local Agency's rights of way. This temporary right will expire with completion of the Project.

j. Investigate and document utilities within the Project limits; submit findings to ADOT determining prior rights or no prior rights; approve a location within the final right of way to re-establish the prior right location for those utilities with prior rights.

k. Be obligated to incur any expenditure should unforeseen conditions or circumstances increase Project costs. Be responsible for the cost of any Local Agency requested changes to the scope of work of the Project, such changes will require State and FHWA approval. Be responsible for any contractor claims for additional compensation caused by Project delay attributable to the Local Agency. Payment for these costs will be made to the State within 30 days of receipt of an invoice from the State.

l. After notification of final acceptance by the State, assume and maintain full responsibility of the Project, including Storm Water Pollution Prevention Plans (SWPPP) inspections, maintenance, and required documentation, until final stabilization is reached. Provide the NOI number to the State and the Contractor, accept CGP responsibilities at time of transfer, and file an NOT with ADEQ when final stabilization is reached, as applicable.

m. After completion and final acceptance of the Project, agree to maintain and assume full responsibility of the Project and all Project components.

III. MISCELLANEOUS PROVISIONS

1. Effective Date. This Agreement shall become effective upon signing and dating of all Parties.

2. Amendments. Any change or modification to the Project will only occur with the mutual written consent of both Parties.

3. Duration. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of the Project and all related deposits and/or reimbursements are made. Any and all obligations of maintenance hereunder shall remain perpetual and shall survive any termination hereof and the assignment or assumption of this Agreement or the Project by another competent jurisdiction or entity.

4. Cancellation. This Agreement may be canceled at any time up to 30 days before the award of the Project contract, so long as the cancelling Party provides at least 30 days' prior written notice to the other Party. It is understood and agreed that, in the event the Local Agency terminates this Agreement, the Local Agency shall be responsible for all costs incurred by the State up to the time of termination. It is further understood and agreed that in the event the Local Agency terminates this Agreement, the State shall in no way be obligated to complete or maintain the Project.

5. Indemnification. The Local Agency shall indemnify, defend, and hold harmless the State, any of its departments, agencies, boards, commissions, officers or employees (collectively referred to in this paragraph as the "State") 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 State on account of loss

of or damage to any property or for injuries to or death of any person, to the extent caused by, arising out of, or contributed to, by reasons of any alleged act, omission, professional error, fault, mistake, or negligence of the Local Agency, its employees, officers, directors, agents, representatives, or contractors, their employees, agents, or representatives in connection with or incident to the performance of this Agreement. The Local Agency's obligations under this paragraph shall not extend to any Claims to the extent caused by the negligence of the State, except the obligation does apply to any negligence of the Local Agency which may be legally imputed to the State by virtue of the State's ownership or possession of land. The Local Agency's obligations under this paragraph shall survive the termination of this Agreement.

6. Third-Party Indemnification. The State shall include Section 107.13 of the 2021 version of the Arizona Department of Transportation Standard Specifications for Road and Bridge Construction, incorporated into this Agreement by reference, in the State's contract with any and all contractors, of which the Local Agency shall be specifically named as a third-party beneficiary. This provision may not be amended without the approval of the Local Agency.

7. Programmed Federal Funds. The cost of scoping, design, construction and construction engineering work under this Agreement is to be covered by the federal funds programmed for this Project, up to the maximum available. The Local Agency acknowledges that actual Project costs may exceed the maximum available amount of federal funds, or that certain costs may not be accepted by FHWA as eligible for federal funds. Therefore, the Local Agency agrees to pay the difference between actual costs of the Project and the federal funds received.

8. Termination of Federal Funding. Should the federal funding related to this Project be terminated or reduced by the federal government, or Congress rescinds, fails to renew, or otherwise reduces apportionments or obligation authority, the State shall in no way be obligated for funding or liable for any past, current or future expenses under this Agreement.

9. Indirect Costs. The cost of the Project under this Agreement includes indirect costs approved by FHWA, as applicable.

10. Federal Funding Accountability and Transparency Act. The Parties warrant compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act"). Additionally, in a timely manner, the Local Agency will provide information that is requested by the State to enable the State to comply with the requirements of the Act, as may be applicable.

11. Governing Law. This Agreement shall be governed by and construed in accordance with Arizona laws.

12. Conflicts of Interest. This Agreement may be canceled in accordance with A.R.S. § 38-511.

13. Inspection and Audit. The Local Agency shall retain all books, accounts, reports, files and other records relating to this Agreement which shall be subject at all reasonable times to inspection and audit by the State for five years after completion of the Project. Such records

shall be produced by the Local Agency, electronically or at the State office as set forth in this Agreement, at the request of ADOT.

14. Title VI. The Local Agency acknowledges and will comply with Title VI of the Civil Rights Act Of 1964.

15. Non-Discrimination. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The Parties to this Agreement shall comply with Executive Order Number 2009-09, as amended by Executive Order 2023-01, issued by the Governor of the State of Arizona and incorporated in this Agreement by reference regarding "Non-Discrimination."

16. Non-Availability of Funds. Every obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the fulfillment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

17. Arbitration. In the event of any controversy, which may arise out of this Agreement, the Parties agree to abide by arbitration as is set forth for public works contracts if required by A.R.S. § 12-1518.

18. E-Verify. The Parties shall comply with the applicable requirements of A.R.S. § 41-4401.

19. Contractor Certifications. The Parties shall certify that all contractors comply with the applicable requirements of A.R.S. §§ 35-393.01 and 35-394.

20. Other Applicable Laws. The Parties shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.

21. Notices. All notices or demands upon any Party to this Agreement shall be in writing and shall be delivered electronically, in person, or sent by mail, addressed as follows:

For Agreement Administration:

Arizona Department of Transportation
Joint Project Agreement Group
205 S. 17th Avenue, Mail Drop 637E
Phoenix, AZ 85007
JPABranch@azdot.gov

Pinal County
Attn: John Rogala
PO Box 749
Florence, AZ 85132
john.rogala@pinal.gov

For Project Administration:

Arizona Department of Transportation
Project Management Group
205 S. 17th Avenue, Mail Drop 614E
Phoenix, AZ 85007
PMG@azdot.gov

Pinal County
Attn: John Rogala
PO Box 749
Florence, AZ 85132
john.rogala@pinal.gov

For Financial Administration:

Arizona Department of Transportation
Project Management Group
205 S. 17th Avenue, Mail Drop 614E
Phoenix, AZ 85007
PMG@azdot.gov

Pinal County
Attn: John Rogala
PO Box 749
Florence, AZ 85132
john.rogala@pinal.gov

22. Revisions to Contacts. Any revisions to the names and addresses above may be updated administratively by either Party with written notice to the other Party.

23. Legal Counsel Approval. In accordance with A.R.S. § 11-952 (D), the written determination of each Party's legal counsel providing that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form is set forth below.

24. Electronic Signatures. This Agreement may be signed in an electronic format including DocuSign.

Remainder of this page is intentionally left blank.

(Signatures begin on the next page)

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective upon the full completion of signing and dating by all Parties to this Agreement.

PINAL COUNTY

By _____Date_____
MIKE GOODMAN
Chairman of the Board

ATTEST:

By _____Date_____
NATASHA KENNEDY
Clerk of the Board

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its Department of Transportation, and Pinal County, an agreement among public agencies which, has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and A.R.S. § 11-251 and declare this Agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement. Approved as to Form:

By _____Date_____
Pinal County Attorney's Office

ARIZONA DEPARTMENT OF TRANSPORTATION

By _____Date_____
STEVE BOSCHEN, PE
Infrastructure Delivery and Operations Division
Division Director

This Agreement between public agencies, the State of Arizona and Pinal County, has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and A.R.S. § 28-401, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona. No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

By _____Date_____
Assistant Attorney General

EXHIBIT A

Cost Estimate

T0603 01D/03D/01C

The Project costs are estimated as follows:

ADOT Project Development Administration (PDA) Cost:	
Federal-aid funds @ 100%	$ 45,000
Scoping/Design:	
Federal-aid funds @ 100%	$ 500,000
Construction:*	
Federal-aid funds @ 100%	$ 1,706,000
Estimated TOTAL Project Cost	$ 2,251,000

* (Includes 15% construction engineering (CE) and administration cost (this percentage is subject to change, any change will require concurrence from the Local Agency) and 5% Project contingencies)