



BOARD OF SUPERVISORS AGENDA ITEM REPORT  
AWARDS / CONTRACTS / GRANTS

Award  Contract  Grant

Requested Board Meeting Date: 03/07/2023

\* = Mandatory, information must be provided

or Procurement Director Award:

**\*Contractor/Vendor Name/Grantor (DBA):**

Town of Sahuarita

**\*Project Title/Description:**

Intergovernmental Agreement between Pima County and the Town of Sahuarita for the Campbell Avenue Extension Project

**\*Purpose:**

The purpose of this agreement is to set forth the responsibilities of the County and Town for the funding, design and implementation of the Project located in both jurisdictions.

**\*Procurement Method:**

This IGA is a non-Procurement contract and not subject to Procurement rules.

**\*Program Goals/Predicted Outcomes:**

The goal is to jointly fund the design and implementation of the project. The predicted outcome is a successfully constructed roadway that is funded by both agencies.

**\*Public Benefit:**

This new roadway project will connect both jurisdictions and provide additional access for residential and commercial properties and the Continental Elementary School. The new road will also provide a secondary and alternative access route if Madera Canyon Road floods or is blocked by the Union Pacific Railroad.

**\*Metrics Available to Measure Performance:**

Successful design and construction of a new public roadway.

**\*Retroactive:**

No.

TO: COB 2-17-23 (2)  
Vers: 1  
pgs: 6

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THE APPLICABLE SECTION(S) BELOW MUST BE COMPLETED

Click or tap the boxes to enter text. If not applicable, indicate "N/A". Make sure to complete mandatory (\*) fields

Contract / Award Information

Document Type: CTN Department Code: TR Contract Number (i.e., 15-123): 23-104
Commencement Date: 03/07/2023 Termination Date: 03/06/2028 Prior Contract Number (Synergen/CMS):
Expense Amount \$ Revenue Amount: \$ 500,000.00

\*Funding Source(s) required: Revenue

Funding from General Fund? Yes No If Yes \$ %

Contract is fully or partially funded with Federal Funds? Yes No

If Yes, is the Contract to a vendor or subrecipient?

Were insurance or indemnity clauses modified? Yes No

If Yes, attach Risk's approval.

Vendor is using a Social Security Number? Yes No

If Yes, attach the required form per Administrative Procedure 22-10.

Amendment / Revised Award Information

Document Type: Department Code: Contract Number (i.e., 15-123):

Amendment No.: AMS Version No.:

Commencement Date: New Termination Date:

Prior Contract No. (Synergen/CMS):

Expense Revenue Increase Decrease

Amount This Amendment: \$

Is there revenue included? Yes No If Yes \$

\*Funding Source(s) required:

Funding from General Fund? Yes No If Yes \$ %

Grant/Amendment Information (for grants acceptance and awards)

Award Amendment

Document Type: Department Code: Grant Number (i.e., 15-123):

Commencement Date: Termination Date: Amendment Number:

Match Amount: \$ Revenue Amount: \$

\*All Funding Source(s) required:

\*Match funding from General Fund? Yes No If Yes \$ %

\*Match funding from other sources? Yes No If Yes \$ %

\*Funding Source:

\*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?

Contact: Jonathan Crowe (Administrative Contact: Angela Alvarez 724-5927)

Department: Transportation

Telephone: 724-6383

Department Director Signature: Kathryn Skinner

Digitally signed by Kathryn Skinner
DN: cn=Kathryn Skinner, o=Transportation, ou=Pima County,
email=kathryn.skinner@pima.gov, c=US
Date: 2023.02.15 12:49:33 -0700

Date: 2/15/2023

Deputy County Administrator Signature:

Date: 2/15/2023

County Administrator Signature:

Date: 2/15/2023

**INTERGOVERNMENTAL AGREEMENT**  
**between**  
**PIMA COUNTY and the TOWN OF SAHUARITA**  
**for the**  
**CAMPBELL AVENUE EXTENSION PROJECT**

This Intergovernmental Agreement ("Agreement") is entered into by Pima County, a political subdivision and body politic of the State of Arizona ("County"); and the Town of Sahuarita, a municipal corporation of the State of Arizona ("Town"); pursuant to Arizona Revised Statutes section A.R.S. § 11-952. The Town and the County are collectively referred to in this Agreement as "the Parties" and either may be individually referred to as a "Party."

**RECITALS**

- A. Pima County ("County") is authorized by A.R.S. § 11-251(4) and A.R.S. §§ 28-6701 et seq. to lay out, maintain, control, and manage public roads and to establish, construct, alter, and maintain county highways within Pima County.
- B. The Town of Sahuarita ("Town") is authorized by A.R.S. § 9-276 to lay out and establish, regulate the use, open, vacate, alter, widen, extend, grade, pave, plant trees or otherwise improve streets, alleys, avenues, sidewalks, parks, public grounds and off-street parking sites and acquire any property necessary or convenient for that purpose by the exercise of the right of eminent domain.
- C. The Town and County wish to cooperate in the design and construction of roadway improvements for the Campbell Avenue Extension Project ("the Project").
- D. A portion of the Project lies within the jurisdictional limits of the Town and a portion lies within unincorporated Pima County.
- E. Pima County will be the Lead Agency ("Lead Agency") for the Project and will be responsible for all aspects of project implementation including, but not limited to, planning, project management, risk management, design, construction, service delivery and operation, administration, advertisement, award, execution and administration of the Project.
- F. The Town and County intend to execute this Agreement in two phases. The parties intend to first contribute funding to design the Project and prepare an accurate cost estimate of the Project's total cost. Once the Project design is complete, a cost estimate has been prepared, and both parties agree to the Project's cost and assignment of responsibilities, this Agreement shall be amended to include the construction phase of the project.
- G. The Town intends to contribute up to \$500,000 to the Project under the terms and conditions contained in this Agreement and has entered into this Agreement with the County for that purpose.

**NOW THEREFORE**, the County and Town, pursuant to the above and in consideration of the matters and things thereafter set forth, do mutually agree as follows:

## AGREEMENT

1. **Purpose.** The purpose of this Agreement is to set forth the responsibilities of the County and Town for the funding, designing and implementation of the Project.
2. **Project.** The Project consists of planning, design, development, and construction of a new two-lane roadway from Whitehouse Canyon Road within the County, northward to connect with South Campbell Road within the Town of Sahuarita, including a bridge structure over the Sawmill Canyon Wash. The Project will be executed in two phases. The first phase will consist of planning and designing the Project to ensure both parties can feasibly finance and divide responsibilities for the second phase of the Project. The second phase will consist of administering the development and construction of the Project.
3. **Town Responsibility.** The Town shall provide any formerly prepared project engineering and roadway design plans to Pima County. In addition, Town shall pay up to \$500,000 ("Town Contribution") toward the design and construction for its proportionate share of the Project located within its Town limits. Payment in full shall be made within 90 days of this Agreement being signed by both parties.
4. **Permits.** The Town shall grant the County and its contractors such required right of way use permits allowing full accessibility to perform the work as described. These permits shall be granted at no cost to the Project.
5. **County Responsibility; Changes; Disputes.** As Lead Agency for the Project, the County will have responsibility for Project oversight, including administration of the design and construction contracts. This includes responsibility for verification of quantities, quality of workmanship, contract change orders, and Project modifications as necessary. The County will provide to the Town design plans for the Project prior to finalization. The County will exercise due diligence to consult with the Town on items and issues as they arise so that the Town has ample opportunity to provide input. In the event that there is a disagreement over any Project elements, the issue shall be escalated as appropriate. In the event that the disagreement remains unresolved, the County will retain the final decision making authority.
6. **Ownership of Improvements.** Upon completion of the Project, ownership of all Project improvements that are located within the limits of the Town of Sahuarita, shall automatically vest in the Town, and ownership of all Project improvements that are located within unincorporated Pima County shall automatically vest in the County. Except as the Parties otherwise agree or have agreed to through separate maintenance agreements, each Party shall operate and maintain those Project improvements that it owns.
7. **Effective Date and Term**
  - a. This Agreement shall be effective on the date it is signed by the last Party to sign this Agreement.
  - b. This Agreement shall remain in effect through completion of the Project and completion of all payments required under this Agreement.
8. **Legal Jurisdiction.** Nothing in this Agreement shall be construed as either limiting or extending the

legal jurisdiction of the County or Town.

- 9. Legal Authority.** Neither party warrants to the other its legal authority to enter into this Agreement. If a court, at the request of a third person, should declare that either party lacks authority to enter into this Agreement, or any part of it, then the Agreement, or parts of it affected by such order, will be null and void, and no recovery may be had by either party against the other for lack of performance or otherwise.
- 10. No Joint Venture.** It is not intended by this Agreement to, and nothing contained in this Agreement shall, be construed to create any partnership, joint venture or employer-employee relationship between County and Town. No Party shall be liable for any debts, accounts, obligations nor other liabilities whatsoever of the other Party as a result of this Agreement, including (without limitation) any party's obligation to withhold Social Security and income taxes for itself or its employees.
- 11. No Third Party Beneficiaries.** This Agreement shall not create any right to any person or entity as a third party beneficiary.
- 12. Compliance with Laws.** The Parties shall comply with all applicable federal, state and local laws, rules, regulations, standards and executive orders, without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona shall govern the rights of the Parties, the performance of this Agreement and any disputes hereunder. Any action relating to this Agreement shall be brought in an Arizona court.

  - a. *Anti-Discrimination.* The provisions of Arizona Executive Order 2009-09 including flow down of all provisions and requirements to any subcontractors. Executive Order 2009-09 supersedes Executive Order 99-4 and amended Executive Order 75-5; and A.R.S. § 41-1463 are incorporated by this reference as a part of this Agreement.
  - b. *Americans with Disabilities Act.* 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.
- 13. Force Majeure.** A Party shall not be in default under this Agreement if it does not fulfill any of its obligations under this Agreement because it is prevented or delayed in doing so by reason of uncontrollable forces. The term uncontrollable forces shall mean, for the purpose of this Agreement, any cause beyond the control of the Party affected, including but not limited to floods, earthquakes, acts of God, or orders of any regulatory government officer or court (excluding orders promulgated by the Party itself), which, by exercise of due diligence and foresight, such Party could not reasonably have been expected to avoid. A Party rendered unable to fulfill any obligations by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.
- 14. Waiver.** Waiver by either Party of any breach of any term, covenant or condition herein contained shall not be deemed a waiver of any other term, covenant or condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
- 15. Termination.**

  - a. For cause. Either Party may terminate this Agreement for material breach of the Agreement by

the other Party. Prior to any termination under this paragraph, the Party allegedly in default shall be given written notice by the other Party of the nature of the alleged default. The Party said to be in default shall have forty-five days to cure the default. If the default is not cured within that time, the other Party may terminate this Agreement. Any such termination shall not relieve a Party from liabilities or costs already incurred under this Agreement.

- b. A.R.S. § 38-511. This Agreement may be terminated pursuant to A.R.S. § 38-511 in certain instances involving conflict of interest.
- c. Non-appropriation. It is acknowledged that, notwithstanding any other provision contained herein, this Agreement may be terminated if for any reason the Pima County Board of Supervisors or if the Town of Sahuarita Town Council fails to appropriate sufficient monies for the purpose of maintaining this Agreement. In the event of such cancellation, the County and the Town shall have no further obligation to each other, other than for payment for services rendered prior to such termination.
- d. Ownership of property upon termination. Any termination of this Agreement shall not relieve a Party from liabilities or costs already incurred under this Agreement, nor affect any ownership of the Project constructed pursuant to this Agreement.

#### **16. Indemnification.**

- a. *Mutual Indemnity*. To the fullest extent permitted by law, each Party to this Agreement shall indemnify, defend and hold the other Party, its governing boards or bodies, officers, departments, employees and agents, harmless from and against any and all suits, actions, legal or administrative proceedings, claims, demands, liens, losses, fines or penalties, damages, liability, interest, attorney's, consultant's and accountant's fees or costs and expenses of whatsoever kind and nature, resulting from or arising out of any act or omission of the indemnifying party, its agents, employees or anyone acting under its direction or control, whether intentional, negligent, grossly negligent, or amounting to a breach of contract, in connection with or incident to the performance of this Agreement.
- b. *Notice*. Each Party shall notify the other Party in writing within thirty (30) days of the receipt of any claim, demand, suit or judgment against the receiving Party for which the receiving Party intends to seek indemnification from the other Party pursuant to this paragraph. Each Party shall keep the other Party informed on a current basis of its defense of any claims, demands, suits, or judgments relating to this Agreement.
- c. *Negligence of indemnified Party*. The obligations under this paragraph 15 shall not extend to the negligence of an indemnified Party, its agents or employees.
- d. *Survival of termination*. This paragraph 15 shall survive the termination, cancellation or revocation, whether in whole or in part, of this Agreement.

**17. Insurance.** Each Party warrants that it maintains self-insurance or other insurance covering that Party's liability regarding the Project.

**18. Books and Records.** Each Party shall keep and maintain proper and complete books, records and



accounts, which shall be open for inspection and audit by duly authorized representatives of the other Party at all reasonable times. All design and construction drawings, records, documentation and correspondence shall be the property of the County at the completion of the Project. Within six months after acceptance of the Project by the Town and County, the County shall provide, at no cost to the Town, As-Built original drawings of the Project.

- 19. Inspection and Audit of Records.** The appropriate designated representatives of a Party may perform any inspection of the Project or reasonable audit of any books or records of the other Party to satisfy itself that the monies on the Project have been spent and the Project operated and maintained in accordance with this Agreement.
- 20. Amendment.** This Agreement may only be modified, amended, altered or changed by written agreement signed by the parties.
- 21. Severability.** In the event that any provision of the Agreement or the application thereof is held invalid, such invalidity shall have no effect on other provisions and their application that can be given effect without the invalid provision, or application, and to this extent, the provisions of the Agreement are severable.
- 22. Entire Agreement.** This Agreement, and any exhibits attached to it, constitutes the entire agreement between the parties pertaining to the subject matter addressed, and all prior or contemporaneous agreements and understandings, oral or written, are superseded and merged into this Agreement. This Agreement may not be modified, amended, altered or extended except through a written amendment signed by the parties.
- 23. Notification.** All notices or demands upon a Party to this Agreement shall be in writing, unless other forms are specifically authorized by this Agreement, and shall be delivered in person or sent by mail addressed as follows:

TOWN SAHUARITA:

Beth Abramovitz, P.E.,  
Assistant Town Manager/ Public Works  
Director/Town Engineer  
375 W Sahuarita Center Way  
Sahuarita, Arizona 85629

PIMA COUNTY:

Kathryn Skinner, P.E., Director  
Pima County Dept. of Transportation  
201 N. Stone, 4<sup>th</sup> Floor  
Tucson, Arizona 85701

Notices shall be deemed delivered and received on the date of delivery, if delivered in person, or on the third business day after mailing, if delivered by any form of mail.

Any party may, by written notice to the other parties, designate another address or person for receipt of notices under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this \_\_\_\_ day of \_\_\_\_\_, 2023.

**PIMA COUNTY**

**TOWN OF SAHUARITA**

\_\_\_\_\_  
Chairman, Board of Supervisors

\_\_\_\_\_  
Authorized Officer Signature

\_\_\_\_\_  
Date

Tom Murphy, Mayor  
Printed Name and Title

\_\_\_\_\_  
Date

ATTEST:

ATTEST:

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

Lisa Cole, MMC Town Clerk

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Intergovernmental Agreement Determination**

The foregoing Intergovernmental Agreement between Pima County and Town of Sahuarita has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, each of whom has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the party represented by the him/her.

Pima County:



Kyle Johnson, Deputy County Attorney

2-7-2023

Date

Town of Sahuarita:



Title  
Town Attorney

Date 2-2-2023