



BOARD OF SUPERVISORS AGENDA ITEM REPORT  
AWARDS / CONTRACTS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: 01/10/2023

\* = Mandatory, information must be provided

or Procurement Director Award: ☐

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

Town of Marana

**\*Project Title/Description:**

Intergovernmental Agreement between Pima County and Town of Marana for the Joint Administration of Public Works Projects

**\*Purpose:**

This agreement will allow Pima County and Town of Marana respective directors to enter into agreements for roadway projects that extend across jurisdictional boundaries.

**\*Procurement Method:**

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

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

Partner with Town of Marana on roadway projects

**\*Public Benefit:**

The logistics of paving continued road segments that cross jurisdictions is more cost effective than starting and stopping at county boundaries. Also, this allows the public to see continuity of efforts and consistency.

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

Metrics will consist of tracking number of projects using shared resources and dollar amounts used.

**\*Retroactive:**

No.

TO: COB 12/22/22 (1)

ver: 1

Pgs: 13

DEC21\*22PM0335 PD

**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: CT Department Code: TR Contract Number (i.e., 15-123): 23-271  
 Commencement Date: 01/10/2023 Termination Date: 01/09/2028 Prior Contract Number (Synergen/CMS): \_\_\_\_\_  
☒ Expense Amount \$ 1,000,000 \* ☒ Revenue Amount: \$ 1,000,000

**\*Funding Source(s) required: HURF**

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

Is there revenue included? ☐ Yes ☐ No If Yes \$ \_\_\_\_\_

Amount This Amendment: \$ \_\_\_\_\_

**\*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: Jason Boley (Administrative Contact: Angela Alvarez 724-5927)

Department: Transportation

Telephone: 724-2626

Department Director Signature: Kathryn Skinner

Date: 12/9/2022

Deputy County Administrator Signature: \_\_\_\_\_

Date: 12/15/2022

County Administrator Signature: \_\_\_\_\_

Date: 12/15/2022

Digitally signed by Kathryn Skinner  
 DN: cn=Kathryn Skinner, o=Transportation, ou=Pima  
 County, email=kathryn.skinner@pima.gov, c=US  
 Date: 2022.12.09 07:53:49 -0700

**Intergovernmental Agreement**  
**between**  
**Pima County**  
**and Town of Marana**  
**for the Joint Administration of Public Works Projects**

This Intergovernmental Agreement ("IGA") is entered into by and between Pima County, a body politic and corporate of the State of Arizona, and Town of Marana, an Arizona municipal corporation, pursuant to Arizona Revised Statutes A.R.S. § 11-952.

**1. Background.**

- 1.1 Pima County and Town of Marana may contract for services and enter into agreements with one another for joint or cooperative action pursuant to A.R.S. § 11-952, *et seq.*
- 1.2 Pima County and Town of Marana have statutory authority to enter into cooperative agreements for highway maintenance purposes pursuant to A.R.S. § 28-6707.
- 1.3 Pima County and Town of Marana have highway maintenance responsibilities within their respective jurisdictions.

**2. Definitions.**

- a. Director: As to Pima County, the Director of the County's Department of Transportation. As to the Town of Marana, the Director of the Town's Public Works Department.
- b. Project: Any transportation project involving design, construction, maintenance, or operations.
- c. Project Agreement: A specific agreement between Sponsoring Agency and Provider Agency for the provision of Project Services for a particular Project, in substantially the form depicted in **Exhibit A**.
- d. Project Services: Design, project management, utility coordination, materials testing, construction surveillances, quality assurance support services, and contract administration of Projects.
- e. Provider Agency: The agency that performs the Project Services being requested.
- f. Sponsoring Agency: The agency that owns and finances the Project and is requesting the Project Services.

- 2. **Purpose.** Pima County and Town of Marana want to enter into Project Agreements to set forth the responsibilities of the parties for Projects that extend across jurisdictional boundaries and will be jointly administered.

#### **4. Project Agreements.**

- a. Pima County delegates to its Director, or Director's designee, and Town of Marana delegates to its Director, or Director's designee, the authority to negotiate, execute, modify, and terminate any Project Agreement in accordance with the terms and conditions of this IGA.
- b. Either party's Director, or Director's designee, may request that the parties enter into a Project Agreement. Upon a request, the Director, or Director's designee, will review the request and, if mutually desirable, meet to discuss it.
- d. Any proposed Project Agreement will be in writing, in substantially the form attached as **Exhibit A**, and will include, at a minimum:
  - i. The term of the Project Agreement.
  - ii. A description of the Project Services that Provider Agency will provide to Sponsoring Agency under the Project Agreement.
  - iii. The specific responsibilities of Sponsoring Agency and Provider Agency with respect to the Project.
  - iv. An estimate of the cost of the Project Services for the Project that is the subject of the Project Agreement. The estimate is for budgetary scheduling and is not a contractual guarantee, a cost ceiling, or an "upset limit."
  - iv. If the Project Services will be compensated on a cost-reimbursable basis, the Project Services Agreement will include billing rates and the method for calculating payment, if applicable, to the other party. The billing rates may be reviewed periodically during the term of the Project Agreement, and the parties, through their Directors, or Directors' designees, may agree in writing to revise the rates to reflect actual costs.
  - vi. Identification of a designated representative of Sponsoring Agency to receive invoices from Provider Agency and to approve the invoices for payment.
  - vii. A schedule for paying invoices, if applicable, which will provide that payment is due no later than 30 days after receipt of an invoice.
- e. Each Project Agreement will be signed by the Director or Director's designee of each party.
- f. Any amendment to a Project Agreement must be in writing and signed by the Director or Director's designee of each party.
- g. Either party may terminate a Project Agreement at any time by providing the other party with 30 days' written notice of such termination. After a Project Agreement is terminated, the parties' obligations will be limited to payment for services rendered before termination, including any non-cancelable obligations incurred by prior to termination.

- 5. Execution of Projects Subject to Project Agreements.** After a Project Agreement is executed, Provider Agency will perform the Project Services specified in the Project Agreement for Sponsoring Agency. Personnel from both parties will work together on the Project for coordination purposes. Coordination will include regular meetings and interaction between corresponding personnel at all levels for each assignment.

**6. Responsibilities of the Parties.**

**Provider Agency will be responsible for:**

- a. Identifying and developing recommendations with respect to the Project Services and sharing those recommendations with Sponsoring Agency.
- b. Establishing fixed price or cost reimbursable budget estimates for Project Services.
- c. Providing sufficient qualified personnel to perform or supervise the Project Services with the necessary care, skill, and diligence, and in accordance with the plans, specifications, statutes, rules and regulations of Sponsoring Agency.
- d. Preparing invoices (in the form approved by Sponsoring Agency) for submission to Provider Agency. Provider Agency will approve, sign, and forward invoicing documents to Sponsoring Agency's designated representative for approval and payment.

**Sponsoring Agency will be responsible for:**

- a. Decision making authority over the Project.
- b. Procurement review, contract processing, and payment procedures for each Project.
- c. Approving and processing all change orders, progress payments, and final acceptance of the Project Services completed.
- d. Upon review and approval of invoices, paying Provider Agency in a timely manner.
- e. Evaluating, at its discretion, the Project Services or auditing any books or records of Provider Agency relative to the Project Services being provided and to verify that the Project Services are completed in accordance with the Project Agreement.

**7. Change Orders/Amendments.**

- a. Change Orders/Amendments to any Project Agreement will be approved in writing by the Sponsoring Agency prior to implementation unless the changes are deemed to be of an emergency nature, or due to unforeseen conditions or other circumstances, or could cause extra cost to Sponsoring Agency if not done immediately. If such conditions exist, Provider Agency may execute the necessary changes with verbal approval of Sponsoring Agency's designated representative and provide a written notification of the changes to Sponsoring Agency within three working days of the discovery.
- b. All amendments to this IGA will be in writing signed by each party prior to the implementation of the amended terms.

**8. Financing.**

- a. Pima County's reimbursement to Town of Marana will not exceed a total of \$1,000,000 ("Pima County's NTE Amount") under all Project Agreements during the term of this Agreement. Pima County's NTE Amount may be adjusted by mutual agreement of the parties during the Initial Term of this Agreement or for any term extensions as indicated in Section 10.

b. Town of Marana's reimbursement to Pima County will not exceed a total of \$1,000,000 ("Town of Marana's NTE Amount") under all Project Agreements during the term of this Agreement. Town of Marana's NTE Amount may be adjusted by mutual agreement of the parties during the Initial Term of this Agreement or for term extensions as indicated in Section 10.

c. Each party will establish a job cost account to identify and track all costs of Project Services associated with each Project Agreement.

d. In the case of dispute on reimbursement of invoices/billings for Project Services rendered, the dispute will be escalated to the Director, or Director's designee, of each party for resolution on request of either party's designated representative. If the Directors, or Directors' designees, for either party disagree on any element of the invoices/billings or fail to take action within 10 days of the request, the element in dispute will be submitted to the Pima County Administrator and the Marana Town Manager. If the dispute is submitted to the County Administrator and the Town Manager and they are unable to resolve the dispute or fail to take action within 10 days of a request, the parties may pursue any remedies provided by law.

9. **Other Uses for this IGA.** This IGA may also be used for other professional services that fall within the intended scope and purpose of this IGA as mutually agreed upon by both parties and by the express approval of the Director, or Director's designee, of each party.

10. **Term and Termination.**

a. *Term.* The Initial Term of this IGA will begin on the date it is fully executed by both parties and will continue for a period of five years, unless it is, prior to expiration of such period, extended or terminated by agreement of the parties. Upon completion of the Initial Term, this IGA may be extended for an additional five-year term by written amendment approved and signed by the parties.

b. *Termination.* This IGA may be terminated under the following circumstances:

i. For Convenience. At any time either party to this IGA may terminate this IGA by providing to the other party written notice of such termination at least 60 calendar days prior to the termination date. Such termination will not relieve either party from those liabilities or costs incurred or obligated prior to the termination date.

ii. For Cause. A party may terminate this IGA for material breach of the IGA by the other party. Prior to any termination under this paragraph, the party allegedly in default will be given written notice by the other party of the nature of the alleged default. The party said to be in default will have 45 calendar days to cure the default. If the default is not cured within that time, the other party may terminate this IGA. Any such termination will not relieve either party from liabilities or costs already incurred or obligated under this IGA.

iii. For Failure to Appropriate Sufficient Funds. Any Project Agreement entered into pursuant to this IGA will automatically terminate or be delayed if, for any reason, either party fails to appropriate sufficient funds to fund the project or activity that is the subject of the Project Agreement. The project can restart if funds become available and both parties agree to restarting the project.

iv. For Conflict of Interest. This IGA may be terminated for a conflict of interest as set forth in A.R.S. § 38-511, the relevant portions of which are hereby incorporated by reference.



- 11. Limitation of Liability.** To the fullest extent permitted by law, each party (as "indemnitor") will defend, indemnify and hold harmless the other party (as "indemnitee"), its officers, officials, employees, agents, volunteers, successors, and assigns (the "indemnified group") from and against any and all claims, damages, losses, liabilities and expenses of any nature whatsoever (including but not limited to reasonable attorneys' fees, court costs, the costs of appellate proceedings, and all claim adjusting and handling expense) relating to, arising out of, resulting from or alleged to have resulted from the indemnitor's omissions, negligence, or willful misconduct relating to any action or inaction of this IGA (collectively, "claims") including but not limited to work, services, acts, errors, mistakes, or omissions in the performance of this IGA by anyone directly employed by the indemnitor. If any claim, action or proceeding is brought against the indemnified group, indemnitor must, at its sole cost and expense, resist or defend such claim or action on behalf of the indemnified group, but only to the extent that such claims result in vicarious/derivative liability to the indemnitee and are caused by the omission, negligence, or willful misconduct of the indemnitor, its officers, officials, agents, employees or volunteers; provided, however, that the indemnitor shall have no obligation to indemnify the indemnified group for the indemnified group's negligence (passive or otherwise) or willful misconduct. The indemnity provisions of this IGA survive the termination of this IGA.
- 12. Insurance.** Each party will be responsible to carry adequate insurance to cover their respective liability arising as a result of their performance under this IGA. When requested, a party will provide the other party with proof of its worker's compensation, automobile, accident, property damage, and liability coverage or program of self-insurance.
- 13. Inspection and Audit.** Either party may perform an inspection of any Project, or an audit of the Project books and records at any time in order to verify that monies spent on the Project were done so in accordance with this IGA. If a Project Agreement is funded by a third party, that third party is also entitled to perform such inspection or audit as necessary, including by the Comptroller General of the United States for any federally funded services.
- 14. Construction of IGA.**
- a. *Entire Agreement.* This instrument, 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 IGA.
  - b. *Amendment.* This IGA may not be modified, amended, altered or extended except through written amendment signed by the parties.
  - c. *Construction and Interpretation.* All provisions of this IGA will be construed to be consistent with the intention of the parties as expressed in this IGA.
  - d. *Captions and Headings.* The headings used in this IGA are for convenience only and are not intended to affect the meaning of any provision of this IGA.
  - e. *Severability.* If any provision of this IGA, or the application of a provision to the parties or any person or circumstance, is found by a court to be invalid, that invalidity will not affect other provisions or applications of this IGA that can be given effect without the invalid provision or application. If any provision of this IGA is declared invalid, the parties agree to meet promptly upon request of the other party in an attempt to reach an agreement on a substitute provision.

15. **No Joint Venture.** It is not intended by this IGA to, and nothing contained in this IGA will be construed to, create any partnership or joint venture between the parties. Neither party will be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other party's obligation to withhold Social Security and income taxes for itself or any of its employees.
16. **No Third-Party Beneficiaries.** Nothing in this IGA is intended to create duties or obligations to or rights in third parties not party to this IGA or affect the legal liability of either party to the IGA by imposing any standard of care with respect to the maintenance of public facilities different from the standard of care imposed by law.
17. **Compliance with Laws.** The parties will comply with all federal, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this IGA. The laws and regulations of the State of Arizona will govern the rights of the parties, the performance of this IGA and any disputes. Any action relating to this IGA will be brought in a court in Pima County, Arizona.
  - a. *Non-Discrimination.* The parties will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this IGA, including flow-down of all provisions and requirements to any subcontractors. During the term of this IGA, the parties will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
  - b. *Americans with Disabilities Act.* The parties will comply with 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.
  - c. *Legal Arizona Workers Act Compliance.* Each party warrants to the other that it will, at all times during the term of this IGA, comply with all federal immigration laws applicable to the warranting party's employment of its employees, and with the requirements of A.R.S. § 23-214(A) (together, the "State and Federal Immigration Laws"). Each party further agrees to ensure that each contractor who performs work associated with any Project subject to this IGA (i) complies with the State and Federal Immigration Laws, and (ii) ensures that any subcontractor who performs work for the contractor complies with the State and Federal Immigration Laws.

Each party will further require that each contractor who performs work on a Project subject to this IGA advises each subcontractor of the party's rights, and the subcontractor's obligations, with respect to this subsection, by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to subcontractor's employees, and with the requirements of A.R.S. § 23-214(A). Subcontractor further agrees that [Pima County or Town of Marana] may inspect the Subcontractor's books and records to ensure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

Any breach of the warranty of compliance with the State and Federal Immigration Laws by either party, by that party's contractor on a Project subject to this IGA, or by a subcontractor of that party's contractor on a Project subject to this IGA will be deemed to be a material breach of this IGA subjecting the breaching party to penalties up to and including suspension or termination of this IGA. A party in breach of the warranty of compliance with State and Federal Immigration



Laws will further be liable to the other party for any additional costs attributable directly or indirectly to remedial action under this subsection.

Either party may, at any time, inspect the books and records of the other party in order to verify the other party's compliance with the State and Federal Immigration Laws.

18. **Waiver.** Waiver by any party of any breach of any term, covenant or condition herein contained will 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.
19. **Force Majeure.** Neither party is responsible for a failure to perform any obligation under this IGA if such failure to perform is directly caused by a Force Majeure Event. A "Force Majeure Event" will mean an event or circumstance that is beyond the reasonable control and without the fault or negligence of the party impacted, and that could not have been prevented by the reasonable diligence of that party. Without in any way limiting the foregoing, Force Majeure Events may include, but are not restricted to (a) acts of God or of a public enemy, (b) acts of the Government in either its sovereign or contractual capacity, (c) fires, (d) floods, (e) epidemics or pandemics, (f) quarantine restrictions, (g) strikes, (h) freight embargoes; (i) failure or disruption of utilities or critical electronic systems, (j) mass health issues or disease, and (k) unusually severe weather. If a party is impacted by a Force Majeure Event, that party will give prompt notice to the other party and take commercially practical actions to mitigate the impacts of the Force Majeure Event.
20. **Notice.** Any notice required or permitted to be given under this IGA must be in writing, unless other forms are designated elsewhere, and must be delivered in person or sent by certified mail addressed as follows:

Town of Marana:  
Fausto Burruel, Director  
Department of Public Works  
11555 W. Civic Center Drive  
Marana AZ 85653  
fburruel@maranaaz.gov

Pima County:  
Kathryn Skinner, Interim Director  
County Dept. of Transportation  
201 N Stone Ave, Fourth Floor  
Tucson, AZ 85712  
Kathryn.Skinner@pima.gov

Either party may, by written notice to the other (email acceptable), designate a different person or address for the receipt of notices under this IGA.

Any written notice under this IGA will be deemed delivered and received on the date of delivery, if delivered by hand, or three business days after the date of mailing, if sent by mail.

21. **Remedies.** Either party may pursue any remedies provided by law for the breach of this IGA. No right or remedy is intended to be exclusive of any other right or remedy and each will be cumulative and in addition to any other right or remedy existing at law or in equity or by virtue of this IGA. The Parties acknowledge that disputes arising from this Agreement may be subject to arbitration in accordance with applicable law and court rules.
22. **Legal Authority.** Neither party warrants to the other its legal authority to enter into this IGA. If a court, at the request of a third person, should declare that either party lacks authority to enter into this IGA, or any part of it, then the IGA, 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.

**23. Effective Date.** This IGA will become effective when all parties have signed it. The effective date of the IGA will be the date this IGA is signed by the last party (as indicated by the date associated with that party's signature).

**24. Counterparts.** This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterpart may be removed from such counterpart and attached to a single instrument.

PIMA COUNTY:

Town of Marana:

\_\_\_\_\_  
Chair, Board of Supervisors

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ATTEST:

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

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

### Intergovernmental Agreement Determination

The foregoing Intergovernmental Agreement between Pima County and Town of Marana has been reviewed 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 he or she represents.

PIMA COUNTY:

Town of Marana:

  
\_\_\_\_\_  
Deputy County Attorney

\_\_\_\_\_  
Deputy County Attorney

\_\_\_\_\_  
Christopher Gerber  
Print Name

\_\_\_\_\_  
Print Name


12/05/2022

Date

Date

### Approval

The foregoing Intergovernmental Agreement between Pima County and Town of Marana has been reviewed by the undersigned and is hereby approved as to content.

 Kathryn  
Skinner

Digitally signed by Kathryn Skinner  
DN: cn=Kathryn Skinner,  
o=Transportation, ou=Pima County,  
email=kathryn.skinner@pima.gov,  
c=US  
Date: 2022.12.05 07:57:48 -0700

Kathryn Skinner, Director

Fausto Burruel, Public Works Director

## Exhibit A – Sample Project Agreement

### **Project Agreement between Pima County and Town of Marana for the \_\_\_\_\_ Project**

This Project Agreement is entered into by and between Pima County, a body politic and corporate of the State of Arizona, and **Town of Marana**, an Arizona municipal corporation, pursuant to A.R.S. § 28-6707 and the Intergovernmental Agreement between Pima County and **Town of Marana** for the Joint Administration of Public Works Projects dated \_\_\_\_\_ (“IGA”).

#### **1. Background.**

- 1.1 On \_\_\_\_\_, Pima County and **Town of Marana** entered into the IGA that enables this Project Agreement.
- 1.2 [Pima County or **Town of Marana**] plans to: [*title and description of Project*] (the “Project”).
- 1.3 The parties estimate that the cost of Project to be provided under this Project Agreement is \$\_\_\_\_\_. [*Remove if not applicable*]

#### **2. Purpose.**

- 2.1 [Pima or **Town of Marana**], as Provider Agency, wants to provide the Project Services set forth in this Project Agreement and as provided in the IGA.
- 2.2 [Pima County or **Town of Marana**], as Sponsoring Agency, wants to provide the Project Services set forth in this Project Agreement and as provided in the IGA.

#### **3. Incorporation by Reference.** This Project Agreement incorporates all definitions, terms, and conditions of the IGA.

#### **4. Effective Date; Term.** The initial term of this Project Agreement will begin on the date it is fully executed by both parties and will continue for a period of \_\_\_\_ year(s), unless it is, prior to expiration of such period, extended or terminated by agreement of the parties.

#### **5. Termination.** Either party’s Director, or Director’s designee, may terminate this Project Agreement by 30 days’ advance written notice to the other party’s Director, or Director’s designee.

#### **6. Project Services.** Provider Agency will provide Sponsoring Agency with the following Project Services for the Project:

[*List services*]

#### **7. Responsibilities of the Parties.**

##### **7.1 Provider Agency.** In addition to the responsibilities set forth in the Agreement, Provider Agency will have the following responsibilities:

[*List additional responsibilities or anything else that is applicable*]

7.2 **Sponsoring Agency.** In addition to the responsibilities set forth in the Agreement, Sponsoring Agency will have the following responsibilities:

*[List additional responsibilities or anything else that is applicable]*

8. **Rates.** The parties agree to the following rates for Project Services:

*[List rates]*

9. **Billing and Payment.** Provider Agency shall invoice Sponsoring Agency for Project Services rendered at the rates agreed to be reasonable and applicable and defined within Section 8 of this Project Agreement. Sponsoring Agency's Designated Representative shall review each invoice to approve the invoices for payment. Invoices reviewed and approved for payment shall be paid within 30 days of submission to the Sponsoring Agency. *[Remove if not applicable]*

10. **Designated Representatives.** The parties designate the following individuals to serve as their Designated Representatives for purposes of initial communication regarding the Project:

**Provider Agency:** *[Insert name, title, address, telephone]*

**Sponsoring Agency:** *[Insert name, title, address, telephone]*

11. **Notices.** Any notice required or permitted to be given under this Project Agreement must be in writing, unless other forms are designated elsewhere, and must be delivered in person or sent by certified mail addressed as follows:

**Pima County:**

Kathryn Skinner, Director  
Pima County Department of Transportation  
201 N. Stone, 4<sup>th</sup> Floor  
Tucson, Arizona 85701  
(520) 724-6410

**Town of Marana:**

Fausto Burrue, Public Works Director  
11555 W. Civic Center Drive  
Marana, AZ 85653

Either party may, by written notice to the other (email acceptable), designate a different person or address for the receipt of notices under this Project Agreement.

Any written notice under this Agreement shall be deemed delivered and received on the date of delivery, if delivered by hand, or three business days after the date of mailing, if sent by mail.

12. **Conflict of Interest.** This Project Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated herein by reference.

**13. Compliance with Laws.** The parties will comply with all federal, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this IGA. The laws and regulations of the State of Arizona will govern the rights of the parties, the performance of this IGA and any disputes. Any action relating to this IGA will be brought in a court in Pima County, Arizona.

- 13.1 *Non-Discrimination.* The parties will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this IGA, including flow-down of all provisions and requirements to any subcontractors. During the term of this IGA, the parties will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
- 13.2 *Americans with Disabilities Act.* The parties will comply with 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.
- 13.3 *Legal Arizona Workers Act Compliance.* Each party warrants to the other that it will, at all times during the term of this IGA, comply with all federal immigration laws applicable to the warranting party's employment of its employees, and with the requirements of A.R.S. § 23-214(A) (together, the "State and Federal Immigration Laws"). Each party further agrees to ensure that each contractor who performs work associated with any Project subject to this IGA (i) complies with the State and Federal Immigration Laws, and (ii) ensures that any subcontractor who performs work for the contractor complies with the State and Federal Immigration Laws.

Each party will further require that each contractor who performs work on a Project subject to this IGA advises each subcontractor of the party's rights, and the subcontractor's obligations, with respect to this subsection, by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to subcontractor's employees, and with the requirements of A.R.S. § 23-214(A). Subcontractor further agrees that [Pima County or Town of Marana] may inspect the Subcontractor's books and records to ensure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

Any breach of the warranty of compliance with the State and Federal Immigration Laws by either party, by that party's contractor on a Project subject to this IGA, or by a subcontractor of that party's contractor on a Project subject to this IGA will be deemed to be a material breach of this IGA subjecting the breaching party to penalties up to and including suspension or termination of this IGA. A party in breach of the warranty of compliance with State and Federal Immigration Laws will further be liable to the other party for any additional costs attributable directly or indirectly to remedial action under this subsection.

Either party may, at any time, inspect the books and records of the other party in order to verify the other party's compliance with the State and Federal Immigration Laws.



**14. Non-Appropriation.** Notwithstanding any other provision in this Project Agreement, this Project Agreement may be terminated if for any reason either party does not appropriate sufficient monies for the purpose of maintaining this Project Agreement. In the event of such cancellation, the parties will have no further obligations under this Project Agreement other than for payment for services rendered prior to cancellation.

**15. No Joint Venture.** It is not intended by this Project Agreement to, and nothing contained in this Project Agreement will be construed to, create any partnership or joint venture between the parties. Neither party will be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other party's obligation to withhold Social Security and income taxes for itself or any of its employees.

**16. No Third-Party Beneficiaries.** Nothing in this Project Agreement is intended to create duties or obligations to or rights in third parties not party to this Project Agreement or affect the legal liability of either party to the Project Agreement by imposing any standard of care with respect to the maintenance of public facilities different from the standard of care imposed by law.

**17. Legal Authority.** Neither party warrants to the other its legal authority to enter into this Project Agreement. If a court, at the request of a third person, should declare that either party lacks authority to enter into this Project Agreement, or any part of it, then the Project 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.

**18. Entire Agreement.** This Project Agreement and the IGA, incorporated by reference herein, constitute 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 Project Agreement.

**19. Amendment.** This Project Agreement may only be modified, amended, altered or changed by written agreement signed by the parties.

PIMA COUNTY:

\_\_\_\_\_  
Kathryn Skinner, Director  
Pima County Department of Transportation

\_\_\_\_\_  
Date

Town of Marana:

\_\_\_\_\_  
Fausto Burruel, Director  
Public Works Department

\_\_\_\_\_  
Date