



BOARD OF SUPERVISORS AGENDA ITEM REPORT **CONTRACTS / AWARDS / GRANTS**

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: 4/16/2019

*** = Mandatory, information must be provided**

or Procurement Director Award ☐

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

State of Arizona Department of Transportation (ADOT)

***Project Title/Description:**

Intergovernmental Agreement between ADOT and Pima County to Reconstruct Ruthrauff at I-10 Interchange

***Purpose:**

ADOT will design, advertise, award and administer construction of a traffic interchange project at I-10 and Ruthrauff Road, which will reconstruct Ruthrauff Road over I-10. ADOT will acquire right of way to construct culverts, drainage basins and an underpass at Davis Road. They will also obtain funds for the design and construction costs associated with the project. After final acceptance, ADOT will abandon ownership, jurisdiction and maintenance responsibilities as depicted in the IGA and Exhibit A respectfully to the County.

***Procurement Method:**

Non-Procurement Contract as identified in BOS D29.4

***Program Goals/Predicted Outcomes:**

ADOT will make the necessary improvements to the I-10 and Ruthrauff interchange.

***Public Benefit:**

The project will improve safety, reduce congestion and increase mobility of traffic getting on I-10 at Ruthrauff over the railroad tracks.

***Metrics Available to Measure Performance:**

Standard engineering design performance measures (scope, budget and schedule, quality/stakeholder reviews, etc.)
Standard construction performance measures (schedule and budget, quality control testing, material submittals, etc.)

***Retroactive:**

No

*To: COB - 3.28.19
Ver. - 1
Pgs - 9
(2)*

Contract / Award Information

Document Type: CTN Department Code: TR Contract Number (i.e.,15-123): 19*169
Effective Date: 4/16/19 Termination Date: 4/15/29 Prior Contract Number (Synergen/CMS): N/A
☐ Expense Amount: \$ ☒ Revenue Amount: \$ 0

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

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? NO

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 22-73.

Amendment / Revised Award Information

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

Amendment No.: AMS Version No.:

Effective Date: New Termination Date:

Prior Contract No. (Synergen/CMS):

☐ Expense or ☐ 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):

Effective 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: Jim Cunningham (Please return completed contracts to Michelle Guardado, 724-2663)

Department: Transportation Telephone: 724-2814

Department Director Signature/Date:  3/21/19

Deputy County Administrator Signature/Date:  3/21/19

County Administrator Signature/Date:  3/24/19

(Required for Board Agenda/Addendum Items)

CONTRACT	
NO. <u>CTN-TR-19-169</u>	
AMENDMENT NO. _____	
This number must appear on all invoices, correspondence and documents pertaining to this contract.	

ADOT CAR No.: IGA 18-0006885-I
 AG Contract No.: P001 2018 002971
 Project Location/Name: Ruthrauff Road
 TI
 Type of Work: Reconstruct TI & Mainline
Federal-aid No.: 010-D(213)A
ADOT Project No.: H8480 01D/01C
TIP/STIP No.: 5.12
**CFDA No.: 20.205 - Highway Planning
 and Construction**
Budget Source Item No.: 10015, 11417

INTERGOVERNMENTAL AGREEMENT

BETWEEN
 THE STATE OF ARIZONA
 AND
 PIMA COUNTY

THIS 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 PIMA COUNTY, (the "County"). The State and the County are collectively referred to as "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 County is empowered by A.R.S. § 11-251 to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.
3. The State will design, advertise, award and administer construction of a traffic interchange project at Interstate 10 (I-10) (Casa Grande – Tucson Highway) and Ruthrauff Road, which will construct Ruthrauff Road over the I-10. At the request and on behalf of the County, the State will acquire right-of-way to construct culverts, drainage basins, and an underpass at Davis Road, to maintain County access, and two-inch mill and fill of Highway Drive to the south side of Violet Avenue returns (the "Project"). The State will obtain federal funds for the design and construction costs associated with the Project. The State will, by Resolution, bring into the State system the necessary rights-of-way needed for the Project. After final acceptance of the Project, the State will abandon ownership, jurisdiction, and maintenance responsibilities as depicted in Exhibit A, to the County. The County agrees to waive the requirements of A.R.S. § 28-7209.

THEREFORE, in consideration of the mutual terms expressed in this Agreement, it is agreed as follows:

II. SCOPE OF WORK

1. The Parties agree:

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

2. The State will:

- a. Prepare and provide the design plans, specifications and other such documents and services required for the construction bidding and construction of the Project and incorporate comments from the County as appropriate.
- b. With FHWA authorization, proceed to administer construction: advertise, receive and open bids, award, and enter into a contract with the firm for the construction of the Project. Administer contract(s) for the Project and make all payments to the contractor(s).
- c. Ensure any design revisions during construction, final storm drain plans and contractor designed elements shall be sealed by a Registered Professional Engineer and are to be reviewed by the County.
- d. Confirm, per established procedures of the State's Southcentral District Permits Office, that the County has a valid annual blanket encroachment permit on file for only routine/minor maintenance and emergency maintenance work provided by the County within the State's rights-of-way. Agree that any new construction or installation shall require a separate encroachment permit through the State's Southcentral District Permits Office, and shall issue those encroachment permits in accordance with established regulations and procedures based on scope of work.
- e. After signing and execution of this Agreement, by Resolution of the State's Transportation Board, bring into the State system the necessary rights-of-way needed for the Project.
- f. After final acceptance of the Project, with approval by Resolution of the State's Transportation Board, abandon and transfer ownership, jurisdiction, and maintenance responsibilities of right-of-way to the County, as depicted in Exhibit A.
- g. After acceptance by the County of ownership, jurisdiction, and maintenance responsibilities of right-of-way depicted in Exhibit A, automatically be granted continued right of entry to access crossroads as necessary to perform required maintenance by execution of this Agreement.
- h. Notify the County of final inspection and acceptance of all the Project improvements, and maintain improvements within ADOT right-of-way.
- i. Be responsible for all mainline high-mast lighting along I-10, including ramp gore lighting. Maintain and operate lighting under, the Union Pacific Railroad ("UPRR").

3. The County will:

- a. Review the design documents required for construction of the Project and provide comments to the State as appropriate.
- b. Not permit or allow any encroachments upon or private use of the public right-of-way, except those authorized by permit. In the event of any unauthorized encroachment or improper use, the County shall take all necessary steps to remove or prevent any such encroachment or use.
- c. Investigate and document utilities within the Project limits; submit findings to ADOT determining prior rights or no prior rights; approve an easement within the final right-of-way to re-establish the prior right location for those utilities with prior rights.
- d. Automatically grant to the State, by execution of this Agreement, its agents and/or contractors, without cost, the temporary right to enter County rights-of-way, as required, to conduct any and all construction and preconstruction related activities for the Project, on, to and over said County rights-of-way. This temporary right will expire with completion of the Project.
- e. Maintain and follow requirements of a valid annual blanket encroachment permit for the routine/minor maintenance and emergency maintenance work provided by the within the State's rights-of-way. Any new construction or installation shall require a separate encroachment permit as per the State's established procedures, which may be obtained through the State's Southcentral District Permits Office. Notify the State's Southcentral District Permits Office of any emergency maintenance work affecting the State right-of-way.
- f. Waive the requirements of A.R.S. Section § 28-7209.
- g. After final acceptance of the Project by the State and approval by Resolution of the State's Transportation Board, accept ownership, jurisdiction, and maintenance responsibilities of right-of-way as depicted in Exhibit A.
- h. After final inspection and acceptance of the Project is complete, maintain improvements on County right-of-way, be responsible for the electrical power costs, maintenance and operation of all street lighting east of the bridge over UPRR, and be solely responsible for repair and replacement of all street lighting east of the resolution limits. Be solely responsible for electrical power costs and the traffic signal at Maryvale Avenue. Continue ownership, operation, and maintenance of the storm drain line, depicted on Exhibit A, within UPRR and ADOT rights-of-way until the line outlets to the Santa Cruz River.

III. MISCELLANEOUS PROVISIONS

- 1. This Agreement shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

2. Any change or modification to the Project will only occur with the mutual written consent of both Parties.
3. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of the Project and acceptance by the County of right-of-way, as depicted in Exhibit A. Any provisions for maintenance shall be perpetual, unless assumed by another competent entity.
4. This Agreement may be cancelled at any time prior to the award of the Project contract and after 30 days written notice to the other Party. It is understood and agreed that, in the event the County terminates this Agreement, the County 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 County terminates this Agreement, the State shall in no way be obligated to complete or maintain the Project.
5. To the extent permitted by law, the County shall indemnify, defend, and hold harmless the State, any of its departments, agencies, 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 County, 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 County'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 County which may be legally imputed to the State by virtue of the State's ownership or possession of land. The County's obligations under this paragraph shall survive the termination of this Agreement.
6. The State shall include Section 107.13 of the 2008 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 County shall be specifically named as a third-party beneficiary. This provision may not be amended without the approval of the County.
7. 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.
8. The cost of the Project under this Agreement includes indirect costs approved by the FHWA, as applicable.
9. 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 County shall provide information that is requested by the State to enable the State to comply with the requirements of the Act, as may be applicable.

10. The County acknowledges and will comply with Title VI of the Civil Rights Act Of 1964.
11. This Agreement shall be governed by and construed in accordance with Arizona laws.
12. This Agreement may be cancelled in accordance with A.R.S. § 38-511.
13. To the extent applicable under law, the provisions set forth in A.R.S. §§ 35-214 and 35-215 shall apply to this Agreement.
14. 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 09-09 issued by the Governor of the State of Arizona and incorporated by reference regarding "Non-Discrimination."
15. 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.
16. 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.
17. The Parties shall comply with the applicable requirements of A.R.S. § 41-4401.
18. The Parties shall certify that all contractors comply with the applicable requirements of A.R.S. §35-393.01.¹
19. The Parties shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.
20. All notices or demands upon any Party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

¹ In *Jordahl v. Brnovich et al.*, Case No. 3:17-cv-08263 (D. Ariz.), the U.S. District Court entered a preliminary injunction that enjoins the State from enforcing A.R.S. § 35-393.01(A) (the "Anti-Israel Boycott Provision"). That statute states that: "[a] public entity may not enter into a contract with a company to acquire or dispose of services, supplies, information technology or construction unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of Israel." Unless and until the District Court's injunction in *Jordahl* is stayed or lifted, the Anti-Israel Boycott Provision (A.R.S. § 35-393.01(A)) is unenforceable and the State will take no action to enforce it.

For Agreement Administration:

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

Pima County
Attn: Jim Cunningham
201 N. Stone, 4th Floor
Tucson, AZ 85701
520.724.2663

For Project Administration:

Arizona Department of Transportation
Project Management Group
205 S. 17th Avenue, Mail Drop 614E
Phoenix, AZ 85007
602.712.7545

Pima County
Attn: Jim Cunningham
1313 S. Mission Rd.
Tucson, AZ 85713
520.724.2814

For Financial Administration:

Arizona Department of Transportation
Project Management Group
205 S. 17th Avenue, Mail Drop 614E
Phoenix, AZ 85007
602.712.7545

Pima County
Attn: Jim Cunningham
201 N. Stone, 4th Floor
Tucson, AZ 85713
520.724.2814

21. In accordance with A.R.S. § 11-952 (D) attached and incorporated in this Agreement is the written determination of each Party's legal counsel and that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.
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IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

PIMA COUNTY

STATE OF ARIZONA

Department of Transportation

By _____

Chairman, Board of Supervisors

By _____

STEVE BOSCHEN, PE

Division Director

ATTEST:

By _____

Clerk of the Board

ATTORNEY APPROVAL FORM FOR PIMA COUNTY

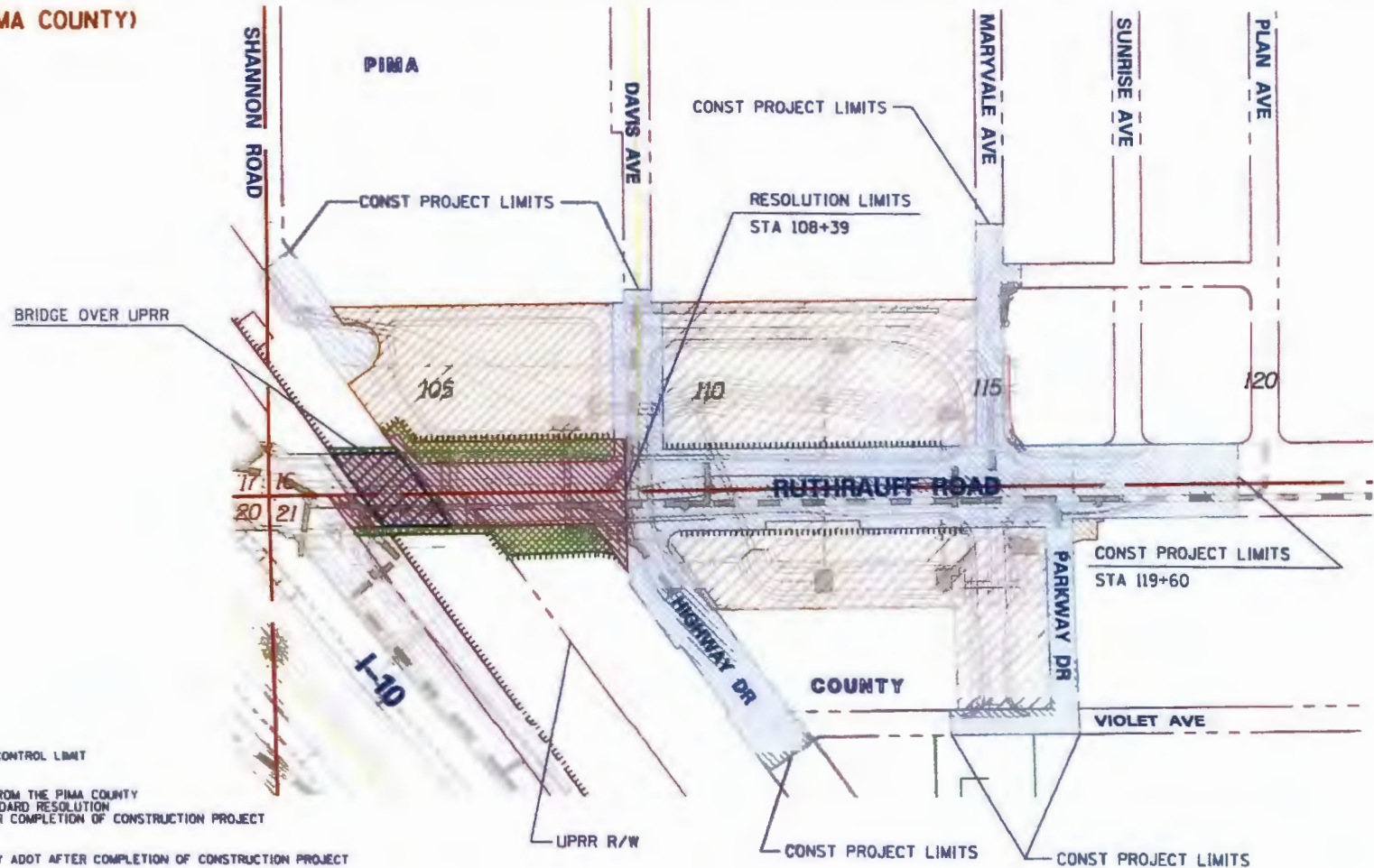
I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and PIMA COUNTY, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare 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.


DATED this 13th day of March, 2019.


Dep. County Attorney
KELL OLSON

IGA EXHIBIT "A" (PIMA COUNTY)



----- = CURRENTLY DEFINED ACCESS CONTROL LIMIT

 = R/W AREA TO BE ACQUIRED FROM THE PIMA COUNTY BY STATE TRANSPORTATION BOARD RESOLUTION AND RETAINED BY ADOT AFTER COMPLETION OF CONSTRUCTION PROJECT

 = R/W AREA TO BE RETAINED BY ADOT AFTER COMPLETION OF CONSTRUCTION PROJECT

 = NEW R/W TO BE ACQUIRED IN FEE BY ADOT AND THEN ABANDONED TO THE PIMA COUNTY AFTER COMPLETION OF CONSTRUCTION.

 = EXISTING PIMA COUNTY R/W TO BE UTILIZED BY ADOT DURING CONSTRUCTION.

NOTE: FOR ADDITIONAL INFORMATION REFER TO R/W PLANS FOR THIS PROJECT (D-10-T-424).

ADOT Right Of Way THIS EXHIBIT PLAN IS FOR ADOT INTERNAL USE ONLY	IGA NO.	18-0006885	HIGHWAY NAME	CASA GRANDE - TUCSON
	DRAWING NO.	EXHIBIT "A"	PROJECT NO.	010 PM 252 H8480
ROUTE NO.	LOCATION	DATE	FEDERAL AID NO.	SHEET NO.
I-10	RUTHRAUFF ROAD T.I.	March 08, 2019	010-D(213)A	1