

ADOT CAR No.: IGA 24-0010907-I
AG Contract No.: P0012025000106
Project Location/Name: 40th Street;
Avenue 6E to Fortuna Road
Type of Work: DCR
Federal-aid No.: NA
ADOT Project No.: T0634 01L
TIP/STIP No.: YU-24-10D1
CFDA No.: 20.205 - Highway Planning and
Construction
Budget Source Item No.: 104629

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF YUMA

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 CITY OF YUMA, an Arizona municipal corporation, acting by and through its MAYOR and CITY COUNCIL (the “City” 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. § 48-572 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 a Design Concept Report (DCR) to evaluate the construction of a roadway approximately 5 miles in length, starting at Avenue 6E and extending east to Fortuna Road to include 2 travel lanes each direction with a center turn lane, (the “Project”). The Local Agency will administer the Project at their own cost. ADOT will perform environmental review and oversight of the Project and the Local Agency will be responsible for the costs of review by ADOT, estimated at \$30,000, shown on Exhibit A, which is 100% Local Agency funds. The Local Agency anticipates applying for grant funding through ADOT’s Multimodal Project Discretionary Grant for additional phases, which will be addressed by separate agreement, if applicable.
4. 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. To perform their responsibilities consistent with this Agreement; any change or modification to this Agreement will only occur with the mutual written consent of both Parties.
 - b. The Local Agency will be responsible for any and all Project costs.
2. The State will:
 - a. After this Agreement is executed, and prior to performing or authorizing any work, invoice the Local Agency for ADOT's review costs, estimated at \$30,000. If costs exceed the estimate during the review of the Project, notify the Local Agency, obtain concurrence prior to continuing with the review of the Project, and invoice as determined by ADOT and the Local Agency for additional costs to complete review for the Project. 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 review.
 - b. After receipt of the review costs, on behalf of the Local Agency, review and approve documents pertaining to the Project and ADOT's environmental review, including but not limited to: environmental documents, analysis and documentation of environmental determinations, geologic materials testing and analysis, right of way plans, review of reports, design plans, maps, specifications and cost estimates, public involvement documents, and other related tasks essential to the development of the Project. Provide comments to the Local Agency as appropriate.
3. The Local Agency will:
 - a. Within 30 days of receipt of an invoice from the State, pay ADOT's review costs, estimated at \$30,000. Agree to be responsible for actual review costs, if during the review of the Project, ADOT's review costs exceed the initial estimate. Be responsible and pay for the difference between the estimated and actual review costs within 30 days of receipt of an invoice.
 - b. Prepare and provide all documents required for the Project, and documents required by FHWA to qualify projects for and to receive federal funds; be responsible for preparation of environmental documents; analysis, documentation and determinations; geological materials testing and analysis; right of way related activities; preparation of reports design plans, maps, specifications and cost estimates and other related tasks essential to the Project. Incorporate comments from the State, as appropriate.

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 Agreement 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.
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 canceling 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 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. **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.
7. **Governing Law.** This Agreement shall be governed by and construed in accordance with Arizona laws.
8. **Conflicts of Interest.** This Agreement may be cancelled in accordance with A.R.S. § 38-511.

9. 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.
10. Title VI. The Local Agency acknowledges and will comply with Title VI of the Civil Rights Act Of 1964.
11. 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.”
12. 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.
13. 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.
14. E-Verify. The Parties shall comply with the applicable requirements of A.R.S. § 41-4401.
15. Contractor Certifications. The Parties shall certify that all contractors comply with the applicable requirements of A.R.S. §§ 35-393.01 and 35-394.
16. Other Applicable Laws. The Parties shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.
17. 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

City of Yuma
Attn: Alex Tipton
155 W. 14th Street
Yuma, AZ 85364
928.373.4510
Alex.tipton@yumaaz.gov

For Project Administration:

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

City of Yuma
Attn: Alex Tipton
155 W. 14th Street
Yuma, AZ 85364
928.373.4510
Alex.tipton@yumaaz.gov

For Financial Administration:

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

City of Yuma
Attn: Alex Tipton
155 W. 14th Street
Yuma, AZ 85364
928.373.4510
Alex.tipton@yumaaz.gov

18. 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.
19. 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.
20. 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.

CITY OF YUMA

By _____ Date _____
JOHN D. SIMONTON
City Administrator

ATTEST:

By _____ Date _____
LYNDA L. BUSHONG
City Clerk

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its Department of Transportation, and the City of Yuma, an agreement among public agencies which, has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and A.R.S. § 48-572 and declare this Agreement to be in proper form and within the powers and authority granted to the City 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 _____
RICHARD W. FILES
City Attorney

ARIZONA DEPARTMENT OF TRANSPORTATION

By _____ Date _____
AUDRA MERRICK, PE
Infrastructure Delivery and Operations Division
Division Director

This Agreement between public agencies, the State of Arizona and City of Yuma, 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

T0634 01L

The Project costs are estimated as follows:

Scoping/Preliminary Design:

Local Agency's costs @ 100%	<u>\$ 30,000</u>
Estimated TOTAL Project Cost	\$ 30,000