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**INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE CITY OF YUMA AND YUMA COUNTY  
FOR PRELIMINARY DESIGN AND ENVIRONMENTAL CLEARANCE OF  
40<sup>TH</sup> STREET: AVENUE 6E TO FORTUNA ROAD**

This Intergovernmental Agreement (“Agreement”) is entered into by and between the City of Yuma, Arizona, a municipal corporation of the State of Arizona (“City”) and Yuma County, a political body of the State of Arizona (“County”). County and City are sometimes hereafter referred to collectively as the “Parties.”

**RECITALS**

**WHEREAS**, A.R.S. § 11-251 and A.R.S. § 11-951 *et seq.* authorizes the County to enter into this Agreement, and A.R.S. § 11-951 *et seq.* and the City’s Charter authorizes the City to enter into this Agreement; and

**WHEREAS**, a public need exists for construction of a minor arterial roadway, defined as providing service for trips of moderate length and offer connectivity to the higher arterial classifications, between the Foothills community and the City on 40<sup>th</sup> Street, between Avenue 6E and Fortuna Road, an area mostly within the city limits of the City, as depicted in the map contained in Exhibit “A” attached hereto and incorporated as though fully set forth herein, (the “Project”) and A.R.S. § 28-6701 *et seq.* authorizes the County to maintain, control and manage public roads within the County but outside the City; and

**WHEREAS**, the Parties have agreed that the completion of the Project is necessary for public safety and welfare, and desire to cooperate in the completion of the Project; and

**WHEREAS**, it is to the mutual benefit of the City and the County to enter into this Agreement for the preliminary design and environmental clearance of the Project.

**NOW, THEREFORE**, in consideration of the terms and conditions contained herein, the Parties agree as follows:

1. **Purpose.** The purpose of this Agreement is to provide for the Design Concept Report (“DCR”), 30% preliminary design, geotechnical investigation report, and environmental clearance of the Project (collectively the “Project Design Costs”) for the benefit of the County and the City.
2. **Duration.** This Agreement shall become effective on the date it is fully executed by the City and the County and shall continue until the Project has been completed and accepted in writing by the City and the County.
3. **Design.** The Project shall be designed by the City and their consultant in accordance with Federal, State, City, and County requirements.
4. **Right-of-Way Acquisition.** The City and the County do not presently own adequate right-of-way to construct the Project. Acquisition of right-of-way and construction of the new roadway will be addressed in a future IGA.

5. Project Financing. The estimated Project Design Costs are \$549,857.00. Project Design Costs and other costs associated with the Project are to be borne 80% by the City and 20% by the County. The estimated Project Design Costs will be adjusted to actual costs following the completion of the Project.

6. Obligations of the Parties.

A. City Obligations.

1. The City shall initially provide \$436,451.00 for Project Design Costs.
2. The City shall provide a Project design plan to the County for review and approval before finalization.
3. Cause the City's consultant to invoice the county directly for the County's share of the design costs.

B. County Obligations

1. The County shall initially provide \$113,406.00 for Project Design Costs.
2. The County shall pay its share of the Project Design Costs directly to the City's design consultant in Fiscal Year 2025.
3. The County shall provide timely reviews and provide comments on the Project design plans and shall not unreasonably withhold approval of the plan.
4. Provide the City, its agents and/or contractors, at no cost, the right to enter County's right-of-way as required to conduct any and all preconstruction related activities for the Project, including without limitation to temporary construction easements or rights of entry.

7. Ownership and Maintenance. Upon completion of the Project, the City and the County will each be responsible for maintaining the portions of the Project within its jurisdiction. This maintenance obligation shall survive the termination of this Agreement.

8. Authorization. The governing bodies of the City and the County approved this Agreement and authorized and directed the undersigned to execute this Agreement.

9. Conflict of Interest. This Agreement is subject to the conflict-of-interest provisions of A.R.S. § 38-511, as amended, the provisions of which are incorporated herein.

10. Termination. This Agreement shall terminate upon the completion of the Project or upon written agreement between the Parties, whichever occurs first.

11. Compliance with Law. The County and the City will comply with all Federal, State, and Local Laws and Ordinances applicable to its performance under this Agreement.

12. Attorney Fees and Costs. If an action or proceeding is brought for failure to observe any of the terms or provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney fees and costs as determined by the court.

13. Severability. If any provision of this Agreement is determined to be void or unenforceable, such determination shall not affect the remainder of this Agreement, which shall continue to be enforceable.



14. Integration. This Agreement contains the entire agreement between the Parties, and no oral or written statements, promises, or inducements made by the City or the County, or its agents not contained or specifically referred to in this Agreement is valid or binding. All modifications to this Agreement must be in writing, signed and executed by the Parties.

15. No Partnership. Nothing in this Agreement constitutes a partnership or Joint Venture between the Parties, and neither the City nor the County is the principal agent of the other.

16. Hold Harmless/Indemnification Clause. Each party (as “indemnitor”) agrees to indemnify, defend and hold harmless the other party (as “indemnitee”) from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney’s fees) (hereinafter collectively referred to as “claims”) arising out of the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers, but only to the extent that such claims result in vicarious/derivative liability to the indemnitee.

17. Notices. All notices or demands upon the City or County to this Agreement shall be in writing and all shall be delivered in person or sent by certified mail addressed as follows:

City of Yuma  
Engineer  
155 W. 14<sup>th</sup> Street  
Yuma, Arizona 85364

Yuma County Dept. of Engineering      City  
County Engineer  
2351 W. 26<sup>th</sup> Street  
Yuma, Arizona 85364

18. Employment Eligibility. The City and the County warrants and shall require its subcontractors to warrant that it is in compliance with all federal immigration laws, regulations that relate to its employees, and A.R.S. § 23-214 relating to the verification of employment eligibility. A breach of this warranty shall be deemed a material breach of the Agreement and is subject to penalties up to and including termination of this Agreement. The Parties shall have the right to inspect the citizenship documents of any City or County employer subcontractor employee who works under this Agreement, to ensure that the other Party or its subcontractors are complying with the warranty.

19. Third-Party Beneficiaries. The terms of this Agreement are intended only to define the respective rights and obligations of the Parties. Nothing expressed herein shall create any rights or duties in favor of any potential third-party beneficiary or other person, agency, or organization. Nothing expressed herein shall affect the legal liability of either the City or County to this Agreement by imposing any standard of care different from the standard of care imposed by law.

20. Assignment. This Agreement is not assignable without the mutual written consent of both Parties.

21. Applicable Law; Venue. Any action to enforce any provision of this Agreement or to obtain any remedy with respect to this Agreement shall be brought exclusively in the Superior Court, Yuma County, Arizona (or, as may be appropriate, in the United States District Court for the District of Arizona, if, and only if, the Superior Court lacks jurisdiction over such action). The Parties expressly and irrevocably consent to the exclusive jurisdiction and venue of such courts and expressly waive the right to transfer or remove such action.

22. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original as against the City or County signing such counterpart, but which shall constitute one and the same instrument.

23. Insurance. Each Party acknowledges and agrees that the other Party is self-insured.

IN WITNESS WHEREOF, this Agreement has been executed on the dates and year herein below.

DATE: \_\_\_\_\_, 2024

CITY OF YUMA

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John D. Simonton

City Administrator

ATTEST:

\_\_\_\_\_

Lynda Bushong

City Clerk

DATE: June 3, 2024

YUMA COUNTY



Martin Porchas, Chairman

Board of Supervisors


ATTEST:



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Ian McGaughey

Yuma County Administrator



Desiree Gunderman

Yuma County Clerk of the Board

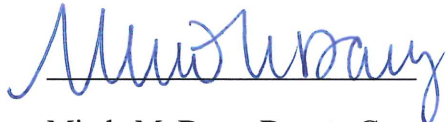
Pursuant to A.R.S. § 11-952, the foregoing Agreement has been submitted to the undersigned City Attorney for the City of Yuma, Arizona. The undersigned has determined this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona and City Charter to the City of Yuma.

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Richard W. Files, City Attorney

Pursuant to A.R.S. § 11-952, the foregoing Agreement has been submitted to the undersigned County Attorney for Yuma County, Arizona. The undersigned has determined this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to Yuma County.

Jon R. Smith, Yuma County Attorney



Minda M. Davy, Deputy County Attorney



# Exhibit A

