ADOT CAR No.: IGA -     -I

AG Contract No.: P001  000xxx

Project Location/Name:

Type of Work:

Federal-aid No.:

ADOT Project No.:

TIP/STIP No.:

CFDA No.: 20.205 - Highway Planning and Construction

Budget Source Item No.:

**INTERGOVERNMENTAL AGREEMENT**

BETWEEN

THE STATE OF ARIZONA

AND

**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      , acting by and through its  and  (the “”). The State and the 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  is empowered by A.R.S. §       to enter into this Agreement and has by resolution, 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 .
3. The State will design, advertise, award and administer construction of      , (the “State’s Project”). At the request of the , the State will administer the design and construction of      , the “ Project”. The Project cost is estimated at $     , shown in Exhibit A. The will be responsible for actual costs, operations, and maintenance of the ’s Project. The State Project and the Project are collectively referred to as the Project.
4. After final acceptance of the Project, the State will abandon ownership, jurisdiction, and maintenance responsibilities of the area shown in Exhibit X to the , with the approval of the State Transportation Board. The agrees to waive the requirements of A.R.S. § 28-7209.

**THEREFORE**, the Recitals set forth above and the Exhibits attached hereto and made a part of, are incorporated into this Agreement and in consideration of the mutual terms expressed herein, it is agreed as follows:

**II. SCOPE OF WORK**

1. The Parties agree:

# To perform their responsibilities consistent with this Agreement; any change or modification to the Project will only occur with the mutual written consent of both Parties.

# The will contribute $XXXX.00 of programmed federal-aid toward the Project, the match of $xxxx.00 is included in the estimated Project costs of $XXXX.00.

# Any future modifications within the Project limits required for transportation purposes and resulting in the removal or alteration of the Project will have precedence over the Project and there will be no compensation owed to the .

2. The State will:

1. Execute this Agreement, and if the Project is approved by FHWA and funds for the Project are available, be the designated agent for the Project.
2. After this Agreement is executed, invoice the for the costs associated with the      . After the Project has been completed, the State will either invoice or reimburse the for the difference between estimated and actual costs of this portion of the Project.
3. 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 as appropriate.
4. Utilize standard equipment for the signal and lighting at      . Not be responsible for any costs associated with standard equipment or future upgrades and modifications to the equipment.
5. Provide up to       strands of fiber for communications in the       Freeway Management System (FMS) conduit to the for the ’s sole use.
6. After receipt of the ’s estimated share of the Project construction costs, 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).
7. Confirm per established procedures of the State’s District Permit Office, that the has a valid annual permit for routine/minor maintenance and emergency work provided by the within the State’s right of way. Routine maintenance and emergency work will be defined within the permit. Permits will be issued when appropriate insurance documents are provided as required by ADOT Risk Management.
8. Coordinate with the throughout the construction phase of the Project for the ’s inspection, testing oversight, and acceptance of the water and sewer lines as well as inspection of all Project and Project improvements that the will own, operate and maintain, as shown in Exhibit C.
9. After final acceptance of the Project, with approval by Resolution of the State Transportation Board, abandon and transfer ownership, jurisdiction, and maintenance responsibilities of the area as depicted in Exhibit X.
10. Notify the of substantial completion and final acceptance of the Project; coordinate with the and turn over full responsibility of the Project improvements.
11. Not be obligated to maintain those areas identified as the ’s responsibility in Exhibit X, should the fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

3. The will:

1. Designate the State as the authorized agent for the Project.
2. Within 30 days of receipt of an invoice from the State, pay to the State $      for the costs associated with the      . After the Project has been completed, the State will either invoice or reimburse the for the difference between estimated and actual costs of this portion of the Project.
3. Review the design documents required for construction of the Project and provide comments to the State as appropriate. Work within the design timeframes set forth by the State to not delay the State’s Project.
4. Be responsible for all Project costs incurred in performing and accomplishing the work as set forth under this Agreement that are not covered by federal funding, shown in Exhibit A. It is understood and agreed that the is responsible for costs that are deemed ineligible and/or exceed the maximum federal funds available; payment for these costs shall be made within 30 days of receipt of an invoice from the State.
5. Certify that all necessary rights of way have been or will be acquired prior to advertisement for bids and certify that all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the Project area, have been removed from the proposed right of way, or will be removed prior to the start of construction, in accordance with The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended; 49 CFR 24.102 Basic Acquisition Policies; 49 CFR 24.4 Assurances, Monitoring and Corrective Action, parts (a) & (b) and ADOT Right of Way Procedures Manual: 8.02 Responsibilities, 8.03 Prime Functions, 9.06 Monitoring Process and 9.07 Certification of Compliance. Coordinate with the State’s Right of Way personnel during any right of way process performed by the , if applicable.
6. Not permit or allow any encroachments upon or private use of the public right of way, except those authorized by permit. Coordinate all authorized permits with ADOT prior to construction. In the event of any unauthorized encroachment or improper use, the shall take all necessary steps to remove or prevent any such encroachment or use.
7. Automatically grant to the State, by execution of this Agreement, its agents and/or contractors, without cost, the temporary right to enter rights of way, as required, to conduct any and all construction and preconstruction related activities for the Project, on, to and over said rights of way. This temporary right will expire with completion of the Project.
8. 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.
9. Be obligated to incur any expenditure should unforeseen conditions or circumstances increase Project costs. Should the request changes to the scope of work of the Project, be responsible for the cost of said requested changes, such changes will require State and FHWA approval. Be responsible for any contractor claims for additional compensation caused by Project delay attributable to the . Payment for these costs will be made to the State within 30 days of receipt of an invoice from the State.
10. Maintain at no cost an encroachment permit per established procedures of the State’s District Permit Office a valid annual blanket encroachment permit for the routine/minor maintenance and emergency work.  Provide appropriate insurance with each encroachment permit once, then annually for the maintenance and emergency work, to keep that permit valid. Notify the State’s District Permit Office of any emergency maintenance work affecting the State right of way. Submit an encroachment permit application for any new construction or installation.
11. In coordination with the State, inspect and oversee the testing as required per State and local Standards, at its sole expense, of the water and sewer lines during construction and prior to completion and acceptance of the Project.  Any delays caused by the during construction of the water and sewer lines will be the ’s responsibility. Be responsible for any and all future repairs, modifications, maintenance, damages to ADOT property resulting from a water/sewer line leak, or any other facilitation of use of these water and sewer lines.
12. In coordination with the State and throughout the construction phase of the Project, inspect all Project improvements that the will own, operate and maintain.
13. After final inspection and acceptance of the Project, assume ownership, operation, and maintenance responsibilities associated with the Project. Maintenance within the Project limits also include the crossroads, as shown in Exhibit X. Perform any non-structural repairs and routine/minor maintenance to standard at its sole expense. The areas and features of maintenance include, but are not limited to: pathways, sidewalks, curb and gutter, driveways, pedestrian access ramps, street surfaces, shoulders, median dividers of crossroads, pavers, and frontage roads, screen and sound walls, and surface drainage features feeding into the State’s drainage system including catch basins. Maintenance activities include but are not limited to: sweeping, crack sealing, removal of spills and debris, graffiti removal, repair of potholes, leveling and/or patching of asphalt concrete pavement with premix, pavement markings, seal coating of oxidized pavement, litter and trash removal, repair of the surface/base of damaged pavement presenting a safety hazard, cracking and/or buckling of sidewalk, homeless encampment cleanup, and landscape. The repairs or maintenance performed by the City shall not compromise the safety and structural stability of the State facilities.
14. Provide landscape maintenance of all features within the defined areas of the City’s responsibility, see Exhibit X, in accordance with accepted horticultural practices, keeping all areas free of weeds, undesirable grasses, and litter, applying irrigation water, furnishing and applying insecticide/herbicide sprays and dust to combat diseases and other pests, pruning, and replanting, as required to maintain the landscaping and the irrigation installed as part of the Project, including all testing, adjusting, repairing, and operation of the irrigation system, and shall furnish all electrical power and water to operate the irrigation system, at its sole expense.
15. Have sole access to       strands of fiber for the purpose of communications in the       FMS conduit; not lease said fiber to any other agency, private company or jurisdiction during the life of this Agreement.
16. Be responsible for the maintenance of ITS systems at       and maintenance of and electrical power for the traffic signals at      , maintenance includes but is not limited to, replacement and/or repair of all damaged traffic signal equipment, including knockdowns, and maintenance of the traffic signal equipment. Assume traffic signal timing and operations.
17. Be responsible for the maintenance and electrical power for the roadway and underdeck lighting along      , maintenance includes but is not limited to, replacement and/or repair of all damaged roadway lighting equipment, including knockdowns, and maintenance of street and underdeck lighting.
18. Waive the requirements of A.R.S. § 28-7209.
19. After final acceptance of the Project by the State and approval by Resolution of the State Transportation Board, accept ownership, jurisdiction, and maintenance responsibilities of the area depicted in Exhibit B.

**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 all related deposits and/or reimbursements are made. Any provisions for maintenance shall be perpetual, unless assumed by another competent entity.
4. This Agreement may be cancelled at any time up to 30 days before the award of the Project’ contract, so long as the cancelling Party provides at least 30 days’ prior written notice to the other Party. It is understood and agreed that, in the event the terminates this Agreement, the 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 terminates this Agreement, the State shall in no way be obligated to complete or maintain the Project.
5. The 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 , 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 ’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 which may be legally imputed to the State by virtue of the State’s ownership or possession of land. The ’s obligations under this paragraph shall survive the termination of this Agreement.
6. The State shall include Section 107.13 of the 2021 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 shall be specifically named as a third-party beneficiary.
7. Should the federal funding related to the Projects 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 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 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. The shall retain all books, accounts, reports, files and other records relating to the Agreement for five years after completion of the Project. These documents shall be subject at all reasonable times to inspection and audit by the State. Such records shall be produced by the at the request of ADOT.
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 2009-09 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.
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 electronically, in person, or sent by mail, addressed as follows:

| **For Agreement Administration:**  Arizona Department of Transportation  Joint Project Agreement Section  205 S. 17th Avenue, Mail Drop 637E  Phoenix, AZ 85007  [JPABranch@azdot.gov](mailto:JPABranch@azdot.gov)  **For Project Administration:**  Arizona Department of Transportation  Project Management Group  205 S. 17th Avenue, Mail Drop 614E  Phoenix, AZ 85007  [PMG@azdot.gov](mailto:PMG@azdot.gov)  **For Financial Administration:**  Arizona Department of Transportation  Project Management Group  205 S. 17th Avenue, Mail Drop 614E  Phoenix, AZ 85007  [PMG@azdot.gov](mailto:PMG@azdot.gov) | Attn:  Address  City, AZ Zip Code  Phone #  Email    Attn:  Address  City, AZ Zip Code  Phone #  Email    Attn:  Address  City, AZ Zip Code  Phone #  Email |
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1. Any revisions to the names and addresses above may be updated administratively by either Party and shall be in writing.
2. 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 that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement the day and year first above written.

| By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Mayor | **STATE OF ARIZONA**  Department of Transportation  Infrastructure Delivery and Operations Division  By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **STEVE BOSCHEN, PE**  Division Director |
| --- | --- |
| ATTEST:  By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Clerk | Transportation Systems Management and Operations Division  By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **BRENT A. CAIN, PE**  Division Director |

**ATTORNEY APPROVAL FORM FOR THE**

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the      , 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 under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

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Attorney Date