

INTERGOVERNMENTAL AGREEMENT BETWEEN PINAL COUNTY AND THE CITY OF CASA GRANDE TO DEFINE RESPONSIBILITIES AND FINANCIAL COMMITMENTS FOR INSTALLATION OF AN ASPHALT ROCK DUST PALLIATIVE (ARDP) ON PORTIONS OF ARICA ROAD AND ISOM ROAD

THIS INTERGOVERNMENTAL AGREEMENT (“this Agreement”) is made and entered into by and between Pinal County, a political subdivision of the State of Arizona, hereinafter referred to as “Pinal” and the City of Casa Grande, a municipal corporation of the State of Arizona, hereinafter referred to as “Casa Grande”.

I. RECITALS

- A. Pinal and Casa Grande are empowered by A.R.S. § 11-951 et seq. to enter into intergovernmental agreements for joint or cooperative action.
- B. Pursuant to A.R.S. § 11-251 § 28-6705C and § 28-6707, Pinal has authority to improve streets and highways within its jurisdiction, mitigate dust from unpaved roads and may cooperate with cities and towns in the construction of improvements to streets and highways lying within their jurisdiction.
- C. Pursuant to A.R.S. § 9-240 and § 9-276, Casa Grande has authority to improve streets and highways within its corporate limits.
- D. For the safety and welfare of the public, the parties hereto desire to improve various roads located within the jurisdictions of Pinal and Casa Grande as defined in Exhibit B, hereinafter referred to as “Project”.

II. SCOPE OF WORK

Arica Road from Trekell Road to Isom Road is on Pinal’s 2015 Five-Year Transportation Improvement & Maintenance Program for budget year 2018-2019. This Agreement proposes to have Pinal County Public Works crews apply an ARDP on 0.8 miles of Arica Road from Trekell Road to Isom Road and 0.8 miles of Isom Road from Arica Road to Peart Road. Also included is 0.5 miles of Arica Road from Lamb Road to the trailhead at the Hazeldine alignment. Under this Agreement the City of Casa Grande will pay Pinal County for its proportionate cost relative to the amount of roadway area within each jurisdiction. Currently the City and County each share half of the Right of Way (“ROW”) on Arica Road from Trekell to Isom Road and the City has all the ROW on Isom Road. The County has all the ROW on Arica from Lamb to Hazeldine. The overall project length covered by this Agreement is 2.1 miles. This project will reduce dust, reduce long term maintenance costs, and if the extension is approved provide a connection to existing pavement.

III. FUNDING

Construction on this project may be advanced to Fiscal Year 2016 / 2017 pending funding, labor, equipment and material availability. The total cost for the Project is estimated to be \$210,000 funded by County ½ cent Excise tax and contributions from City of Casa Grande. Pinal and the City of Casa Grande agree to share in the total cost of Project as follows:

- A. Pinal's estimated cost share is \$65,000 as payment for that portion of the Project within Pinal's jurisdiction. Pinal's cost share shall be funded by revenues from Pinal County Transportation Excise Tax.
- B. Casa Grande's estimated cost share is \$145,000 as payment for that portion of the Project within Casa Grande's jurisdiction. Casa Grande's estimated cost share of \$145,000 is due and payable to the Pinal County Treasurer after project is complete and within 45 days of receiving an invoice from Pinal.
- C. Additional costs beyond those which are set forth in this section that are associated with changes made to the scope of work shall be the responsibility of the party making the change. Otherwise, any additional costs associated with the Project beyond its total estimated cost shall be Pinal's responsibility except as otherwise provided for in the Agreement.

IV. RESPONSIBILITIES OF THE PARTIES

- A. Pinal shall:
 - 1. Provide the necessary manpower, equipment, and materials associated with the application of asphaltic materials including but not limited to penetration oil/aggregate chip and seal coat/aggregate chip for Project.
 - 2. Notify Arizona Blue Stake Center for location and identification of any underground utility transmission lines 3 working days prior to excavation on the Project.
 - 3. Provide the necessary traffic control in accordance with the requirements of the 2009 edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, Part 6, during the construction period for Project.

4. Upon completion of the Project, invoice Casa Grande for its share of cost for that portion of the Project within Casa Grande and as otherwise provided for in the Agreement.
5. Prepare and present an agenda item to the Pinal County Board of Supervisors transferring the right-of-way portion of Arica Road that currently lies within Pinal County to Casa Grande pursuant to A.R.S. § 9-471(N).

B. Casa Grande shall:

1. Provide the necessary manpower, equipment, and materials associated with the earthwork phase for the Project. Earthwork shall include but not be limited to obtaining borrow material from Pinal's Lee Pit by furnishing labor and equipment necessary to load and haul material to project site. Earthwork shall also include placing borrow material to grade established by survey provided by the City.
2. Notify Arizona Blue Stake Center for location and identification of any underground utility transmission lines 3 working days prior to excavation on the Project.
3. Provide the necessary traffic control in accordance with the requirements of the 2009 edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, Part 6, during the construction period for Project.
4. Upon completion of construction of Project, provide for at its own cost and as an item in its budget, proper maintenance including but not limited to signs and markings necessary for the purpose of regulating, warning, and guiding traffic, in accordance with requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways for the entire ROW area within the Project. The obligations of this paragraph shall survive the termination of this Agreement.
5. Pay Pinal the estimated cost of \$145,000, which is Casa Grande's total estimated cost share, within 45 days of receiving the invoice from Pinal. The invoice shall include any additional amounts above the estimated cost which are provided for in the Agreement and payable to Pinal by Casa Grande.
6. Prepare and present an agenda item to the Casa Grande City Council accepting the ROW portion of Arica Road that currently lies within Pinal County to Casa Grande pursuant to A.R.S. § 9-471(N) and will take over maintenance of entire roadway area.

V. GENERAL PROVISIONS

- A. The foregoing recitals are hereby incorporated into this Agreement by reference as if more fully stated herein.
- B. This Agreement shall become effective upon filing with the office of the Pinal County Recorder.
- C. To the fullest extent permitted by law, each party hereto shall indemnify, defend, save, and hold harmless the other party, its agents, representatives, officers, directors, officials, and employees from and against any and all claims, demands, proceedings, suits, actions, losses, and damages of every kind and description, and expenses, including but not limited to attorneys' fees, arbitration expenses, court costs, and the cost of appellate proceedings, which may be brought or made against or incurred by the indemnified party on account of bodily injury, sickness, disease, death, or injury to, impairment or destruction of property, including losses of use resulting there-from caused in whole or in part, relating to, arising out of, or resulting from the negligent acts, professional errors, fault, mistakes, or negligent omissions, whether active or passive, of the indemnifying party, the indemnifying party's employees, agents, representatives, its subcontractors and their employees, agents or representatives, and including any party for whose negligent acts, errors, mistakes, or negligent omissions the indemnifying party may be legally liable in connection with or incident to the performance of this Agreement and arising out of Workers' Compensation claims, unemployment disability compensation claims, or employees' liability claims of the indemnifying party's employees and its subcontractors' employees, and claims under similar such laws or obligations. To the fullest extent permitted by law, the indemnifying party shall be responsible for its own negligent acts, omissions, and mistakes, and those of its employees, agents, sub-consultants, and subcontractors. Every obligation of this indemnification paragraph shall survive the completion of the services hereunder and the termination of this Agreement.
- D. This Agreement may be cancelled for conflict of interest without further obligation or penalty in accordance with A.R.S. § 38-511.
- E. All notices or demands required under this agreement from either party to the other shall be in writing and shall be deemed to have been given when the notice is delivered in person or deposited in a U.S. Mailbox in a postage prepaid envelope addressed as follows:

Jim Thompson
City Manager
City of Casa Grande
628 N. Main Street
Casa Grande, AZ 85131

Greg Stanley
County Manager
Pinal County
P. O. Box 827
Florence, AZ 85232

- F. The failure to exercise any right, power or privilege under this Agreement shall not operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of that or any right, power or privilege. The acceptance by either party of sums less than may be due and owing to it at any time shall not be construed as an accord or satisfaction.
- G. Nothing in this Agreement shall be construed as either limiting or extending the lawful jurisdiction of either party hereto other than as expressly set forth herein.
- H. This Agreement contains the entire agreement between the parties, and no statements, promises or inducements made by either party, their agents, or employees that are not contained herein shall be valid or binding. This agreement may not be altered except in writing and signed by each party hereto.
- I. Failure or unreasonable delay by any party to this Agreement to perform any term or provision of this Agreement for a period of ninety (90) days (the “Cure Period”) after written notice thereof from the other party shall constitute a default under this Agreement. Said notice shall specify the nature of the alleged default and the manner in which said default may be satisfactorily cured, if possible.
- J. If a party to this Agreement is in material default under any provision of this Agreement that has not been cured (or is not capable of cure), the non-defaulting party shall be entitled, without prejudice to any other right or remedy that it may have under this Agreement, at law or in equity to terminate the agreement upon written notice to the other party.
- K. This Agreement shall remain in force and effect until completion of Project or termination as provided within this Agreement.
- L. Pinal and Casa Grande agree that all contracts awarded to contractors in connection with the work to be performed under this Agreement shall include a provision stating that the contractor understands and acknowledges that contractor must comply with the Americans and Disabilities Act, The Immigration Reform and Control Act of 1986, the Drug Free Workplace Act of 1989, A.R.S. §34-301; A.R.S. §34-302; and A.R.S. §41-4401 and that the contractor shall include this provision in any contract the contractor enters into with any and all of its subcontractors who provide services under any contract awarded to contractor by Pinal or Casa Grande for the work to be performed under this Agreement.
- M. Pinal and Casa Grande warrant that they are in compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of their employees and warrant they are in compliance with A.R.S. § 23-214A which requires e-verification of each employee’s legal employability after they are employed.

N. Pinal and Casa Grande agree that all contracts, if any, awarded to contractors and/or subcontractors in connection with the work to be performed under this Agreement shall include the following provisions:

1. A breach of warranty under paragraph 2 above, shall constitute a material breach of the contract and is subject to penalties up to and including termination of the contract.
2. Pursuant to the provisions of A.R.S. § 41-4401, the contractor or subcontractor, whichever is applicable, warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees and A.R.S. § 23-214 which requires verification of each employee's legal employability, after they are employed, using the e-verify program. Contractor and/or subcontractor shall obtain statements from their employees and subcontractors certifying compliance and shall furnish the statements to Pinal County. Pinal County at its sole discretion, conduct random verifications of employment records of the Contractor and any Subcontractors to ensure compliance. The Contractor agrees to assist in performing any such random verifications. These certifications shall remain in effect through the term of the contract. The contractor and subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act, for all employees performing work under the contract.

IN WITNESS WHEREOF, the parties executed this Agreement the day and year first written above.

CITY OF CASA GRANDE, a municipal corporation of the State of Arizona

PINAL COUNTY, a political subdivision of the State of Arizona

By _____
City Manager

By _____
Chairwoman, Board of Supervisors

ATTEST:

ATTEST:

City Clerk

Clerk, Board of Supervisors

Approved as to form and within the powers and authority granted Casa Grande under the laws of the State of Arizona

Approved as to form and within the powers and authority granted Pinal under the laws of the State of Arizona

City Attorney

Deputy County Attorney