



Arizona Department of Transportation
Intermodal Transportation Division
206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Janice K. Brewer
Governor

Floyd Roehrich Jr.
State Engineer

April 23, 2009

John S. Halikowski
Interim Director

RECEIVED

APR 27 2009

GILA COUNTY
PUBLIC WORKS

Gila County
Attn: Steve Sanders
Gila County Public Works
1400 East Ash Street
Globe, AZ 85501

RE: ADOT File No.: IGA/JPA 08-132I
AG Contract No.: P0012009000876
Project No.: HPP-GG1-0(204) A
Project: Tonto Creek Bridge
Section: and
TRACS No.: SS 71803D
Budget Source Item No.: N/A

Dear Mr. Sanders

Enclosed please find one fully conformed executed original Agreement for the above-mentioned Intergovernmental Agreement.

Should you have any questions, please do not hesitate to call at (602) 712-7785.

Sincerely,

Cindy Childers
Joint Project Coordinator
Engineering Consultant Section

cc: Project Manager

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INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
GILA COUNTY

THIS AGREEMENT is entered into this date April 21, 2009, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the GILA COUNTY acting by and through its BOARD OF SUPERVISORS (the "County"). The State and the County are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 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 Arizona Revised Statutes § 11-251 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.

3. Congress has authorized appropriations for the Design of bridge and approaches over Tonto Creek near Punkin Center, including necessary survey and right-of-way, studies, environmental permitting studies, preliminary engineering and design concept reports.

4. Such project lies within the boundary of the County and has been selected by the County; the survey of the project will be completed; and the plans, estimates and specifications will be prepared and, as required, submitted to the State and Federal Highway Administration (FHWA) for its review and approval.

5. The County, in order to obtain Federal funds for the design of the project, is willing to provide County funds to match Federal funds in the ratio required as described herein or as finally fixed and determined by the County and FHWA.

6. The interest of the State in this project is the acquisition of Federal funds for the use and benefit of the County, and to authorize such Federal funds for the project pursuant to Federal law and regulations. The State shall be the designated agent for the County.

No. 30757
Filed with the Secretary of State
Date Filed: April 21 2009
Ken Blum
Secretary of State
By: Marie Pessier

7. The work contemplated under this Agreement is for the necessary survey and rights-of-way studies, environmental permitting studies, preliminary engineering and design concept reports needed for the design for a bridge and approaches over Tonto Creek near Punkin Center, hereinafter referred to as the "Project". If funding is sufficient for the construction improvement plans and specifications for a bridge and approaches over Tonto Creek near Punkin Center, then that work will be completed as part of the project. The estimated costs for the preliminary engineering are as follows:

TRACS No. SS71803D

Estimated Design Costs	\$3,138,918.00
Federal Aid Funds (HPP FY 2005-2009) (94.3% @ \$3,181,336)(capped)	\$2,960,000.00
County Funds (5.7% @ \$3,181,336)	\$ 178,918.00

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

a. Submit a program to the Federal Highway Administration (FHWA) containing the above-mentioned Project with the recommendation that it be approved for design funding. The Project will be performed, completed, accepted and paid for in accordance with the requirements of the Project Plans.

b. Enter into a Project Agreement with FHWA on behalf of the County covering the work encompassed in this Agreement and the State will request the maximum Federal Funds available. Should costs exceed the maximum Federal funds available, it is understood and agreed that the County will be responsible for any overage not covered by any additional Federal funding which may be approved in the future.

c. As required by the FHWA provide design review of the project plans, studies and related documents, and when appropriate provide comments which will be incorporated into the design documents.

d. Reimburse the County with Federal funds for design work and professional services addressed under this Agreement at 94.3% of the project cost capped at **\$2,960,000.00**.

e. Should unforeseen conditions or circumstances increase the cost of said work such that a change in the extent or scope of the work called for in this Agreement become necessary, the State shall not be obligated to incur expenditures in the project.

2. The County will:

a. Upon execution of this Agreement designate the State as authorized agent for the County.

b. Be entirely responsible for all costs incurred in performing and accomplishing the work as set forth in this Agreement whether covered by Federal funding or not.

c. Provide any information they may have such as survey or rights-of-way data for the Project.

d. Agree that the cost of the analysis planning and design work covered by this Agreement is to be borne by FHWA and the County each in the proportion prescribed within this agreement unless mutually agreed upon with FHWA.

e. Invoice the State for Federal funds for design work and professional services addressed under this Agreement at 94.3% of the Project costs capped at **\$2,960,000.00**

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said project and related deposits or reimbursement, except any provisions for maintenance shall be perpetual, unless assumed by another competent entity. Further, this Agreement may be cancelled at any time prior to the award of the project design, preliminary engineering, contract, upon thirty days (30) written notice to the other party. It is understood and agreed that, in the event the County terminates this Agreement, the State shall in no way be obligated to maintain said Project.

2. The State assumes no financial obligation or liability under this Agreement, or for any resulting preliminary engineering construction Project. The County, in regard to the County's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and professional services claims. It is understood and agreed that the State's participation is confined solely to securing federal aid and related matters; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof shall be solely the liability of the County and that to the extent permitted by law, the County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all costs and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or non performance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, or its independent contractors, the County, any of its agents, officers and employees, or its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

3. The cost of construction and construction engineering work covered by this Agreement is to be borne by FHWA and the County, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this Agreement. Therefore, the County agrees to furnish and provide the difference between the total cost of the work provided for in this Agreement and the amount of Federal Aid received.

4. This Agreement shall be filed with the Arizona Secretary of State and shall not become effective until the date of said filing.

5. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

6. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

7. 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 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment 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.

9. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

10. 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:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 637E
Phoenix, Arizona 85007
(602) 712-7124
(602) 712-3132 Fax

Gila County
Attn: Steve Sanders
1400 East Ash Street
Globe, Arizona 85501
(928)402-8530
(928) 425-8104 Fax

11. The parties shall comply with Arizona Revised Statutes § 41-4401 to the extent applicable to the activities under this Agreement.

12. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein 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.

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

GILA COUNTY

STATE OF ARIZONA
Department of Transportation

By 
SHIRLEY L. DAWSON
Chairman of the Board

By 
RAKESH TRIPATHI
Transportation Planning Division Director

ATTEST:

By 
STEVEN L. BESICH
Clerk

ATTORNEY APPROVAL FORM FOR THE GILA COUNTY

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the GILA COUNTY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 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 17th day of March, 2009.

[Handwritten Signature]
for County Attorney

RESOLUTION

No. 09-03-10

RESOLUTION AUTHORIZING THE GILA COUNTY BOARD OF SUPERVISORS TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA, DEPARTMENT OF TRANSPORTATION, FOR ARIZONA DEPARTMENT OF TRANSPORTATION FILE NO. IGA/JPA 08-1321 FOR DESIGN OF A BRIDGE AND APPROACHES OVER TONTO CREEK NEAR PUNKIN CENTER, ARIZONA.

WHEREAS, the parties have entered into the above described IGA Intergovernmental Agreement, and,

WHEREAS, the Intergovernmental Agreement requires a resolution of Gila County to authorize execution of the agreement;

NOW, THEREFORE, BE IT RESOLVED that Gila County Board of Supervisors authorizes the chairman Shirley L. Dawson to execute the Intergovernmental Agreement for Arizona Department of Transportation File No. IGA/JPA 08-1321 for design of a bridge and approaches over Tonto Creek near Punkin Center, Arizona and authorizes her to take all actions to carry out all provisions of the agreement.

PASSED AND ADOPTED this 31st day of March, 2009.

GILA COUNTY BOARD OF SUPERVISORS:



Shirley L. Dawson, Chairman of the Board

ATTEST:



Steven L. Besich, Clerk of the Board

APPROVED AS TO FORM:



Bryan Chambers, Chief Deputy County Attorney

<p>TERRY GODDARD Attorney General</p>	<p> OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
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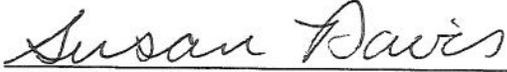
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. P0012009000876 (IGA/JPA 08-132-I), an Agreement between public agencies, i.e., The State of Arizona and Gila County, has been reviewed pursuant to A.R.S. § 11-952, as amended, 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.

DATED: April 15, 2009

TERRY GODDARD
Attorney General



SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:443059
Attachment