



PINAL COUNTY

WIDE OPEN OPPORTUNITY

AGENDA ITEM October 12, 2022 ADMINISTRATION BUILDING A FLORENCE, ARIZONA

REQUESTED BY: Celeste Garza/Andrew Smith

Funds #: 295

Dept. #: 311

Dept. Name: Public Works

Director: Andrew Smith

BRIEF DESCRIPTION OF AGENDA ITEM AND REQUESTED BOARD ACTION:

Discussion/approval/disapproval of an Intergovernmental Agreement between Pinal County and the City of Mesa regarding Gas Sleeve Installation - Gantzel Road and Queen Creek Wash. Supervisory District 2 (GA22-014) (Celeste Garza/Andrew Smith)

BRIEF DESCRIPTION OF THE FISCAL CONSIDERATIONS AND/OR EXPECTED FISCAL IMPACT OF THIS AGENDA ITEM:

The Gantzel Road Box Culvert project is fully funded through TAC Funding, no fiscal impacts are expected with this item.

BRIEF DESCRIPTION OF THE EXPECTED PERFORMANCE IMPACT OF THIS AGENDA ITEM:

This segment of Gantzel Road is already maintained by Pinal County Public Works, no performance impacts are expected with this item.

MOTION:

Approved as presented

History

Time

Who

Approval

ATTACHMENTS:

Click to download

IGA

PM

When recorded return to:
City of Mesa
Real Estate Services
P.O. Box 1466
Mesa, AZ 85211-1466

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
PINAL COUNTY AND THE CITY OF MESA
REGARDING GAS SLEEVE INSTALLATION – GANTZEL ROAD AND QUEEN
CREEK WASH**

This Intergovernmental Agreement (“Agreement”) is entered into this _____ day of _____, 2022, (the “Effective Date”) by and between Pinal County, a political subdivision of the State of Arizona, (“Pinal County”) and the City of Mesa, an Arizona municipal corporation (“Mesa”). Pinal County and Mesa are sometimes collectively referred to as the “Parties” and each is referred to as a “Party.”

STATUTORY AUTHORIZATION

1. Arizona Revised Statutes (“A.R.S.”) §§ 11-951 et seq., provide that public agencies may enter into Intergovernmental Agreements for joint or cooperative action. Mesa is authorized by A.R.S. §§ 9-240 and 9-276 to provide the services required under this Agreement. Pinal County is authorized by A.R.S. §§ 11-251 and 28-6701 to provide the services required under this Agreement.

BACKGROUND

2. Mesa recently developed an alignment study for a new gas line to extend from the intersection of Meridian and Pima Roads to the intersection of Gantzel and Combs Roads. The preferred alignment required Mesa to install the line along Pima Road from Meridian to Ironwood and then south on Ironwood/Gantzel to Combs Road. The future gas line will be installed in the next three years. Construction of the gas line on Gantzel Road will involve a difficult crossing of the Queen Creek Wash. Mesa proposed, based in part on Pinal County’s planned bridge improvement project No 62952198 “Gantzel Road at Queen Creek Existing Concrete Box Extension” (the “Bridge Improvements”) that Pinal County install a gas sleeve under the new box culvert extension to be known as the “Gas Sleeve”. A depiction of the Gas Sleeve is attached as Exhibit “A”.
3. Pinal County in fact constructed the Bridge Improvements and installed the Gas Sleeve, with assistance from Mesa. The concurrent construction of both the Gas Sleeve and the Bridge Improvements served the best interests of the public because doing so will resulted

in significant cost savings and reduced the overall disruption to the surrounding communities.

4. In order to construct the Gas Sleeve without causing undue delay to the completion of the Bridge Improvements, Pinal County provided bidding, construction management and contract administration services, all in compliance with Title 34 of the Arizona Revised Statutes. Additionally, Pinal County paid all associated fees and costs for the construction of the Gas Sleeve. Administration services to included, but were not limited to, satisfying all Plan requirements, coordinating with Mesa for the acquisition of easements and other property rights, and obtaining required permits. The total cost to Pinal County to construct the Gas Sleeve was \$60,160.00 (the "Reimbursement Total").

PURPOSE OF THE AGREEMENT

5. The purpose of this Agreement is to identify and define the responsibilities of Pinal County and Mesa for the payment of the Reimbursement Total, as well as future ownership of the Gas Sleeve.

TERMS OF THE AGREEMENT

6. Pinal County shall:

- 6.1 Maintain and produce for inspection by Mesa all records necessary to confirm the amount of the Reimbursable Total.
- 6.2 Invoice Mesa for the Reimbursable Total within 60 days of the execution of this Agreement.
- 6.3 Following final acceptance, transfer to Mesa all the utility facilities constructed as part of the Gas Sleeve, and thereafter permit all related facilities to remain within the roadway to allow for future installation of a new gas line through the Gas Sleeve.
- 6.4 Convey to Mesa all easements necessary for the continued use of the area occupied by the Gas Sleeve,

7. Mesa shall:

- 7.1 Remit payment for the Reimbursable Total no later than 30 days following receipt and confirmation of an invoice from Pinal County.
- 7.2 Take ownership of the Gas Sleeve.

8. General Provisions:

- 8.1 This Agreement contains the entire understanding between the Parties with respect to the subjects addressed and supersedes all prior negotiations and agreements.
- 8.2 This Agreement may be amended only by an instrument in writing signed by authorized representatives of the Parties.
- 8.3 The Parties are governmental agencies which rely upon the appropriation of funds by their respective governing bodies to satisfy their obligations. If a party reasonably determines that it does not have funds to meet its obligations under this Agreement, such party shall have the right to terminate this Agreement without penalty on the last day of the fiscal period for which funds were legally available. In the event of such a termination, such terminating party agrees to provide written notice of its intent to terminate 30 days prior to the termination date.
- 8.4 Nothing in this Agreement shall create a relationship of agency, partnership, or employer/employee between Mesa and Pinal County, and it is the intent and desire of the parties that the relationship be and be construed as that of independent contracting parties and not as agents, partners, joint venturers, joint employers or a relationship of employer or employee.
- 8.5 This Agreement is solely for the benefit of the parties hereto and, except as aforesaid, no provision of this Agreement shall be deemed to convert any remedy, claim or right upon any third party, including any Assigned Employee or former employee of City or any participant or beneficiary in any benefit plan, program or arrangement.
- 8.6 If any provision of this Agreement shall be held invalid, illegal or unenforceable, the validity, legality or enforceability of the other provisions of this Agreement shall not be affected thereby, and there shall be deemed substituted for the provision at issue a valid, legal and enforceable provision as similar as possible to the provision at issue.
- 8.7 All notices, requests, instructions or other documents to be given hereunder to either party shall be in writing and shall be deemed to have been duly given when delivered in person or upon confirmation of receipt when transmitted by facsimile or electronic mail or on receipt after dispatch by registered or certified mail, postage prepaid, addressed as follows:

If to City:

Scot Sherwood
Project Manager
City of Mesa
P.O. 1466

Mesa, AZ 85201
Fax: 480 644 3392
Scot.Sherwood@mesaaz.gov

With a copy to:

Mesa City Attorney's Office
City of Mesa
20 E. Main Street
Mesa, AZ 85201
Fax: 480 644 2498
Jack.Vincent@mesaaz.gov

If to Pinal County:

County Manager
Pinal County
31 N. Pinal St, Building A
P.O. Box 827
Florence, AZ 85132

With a copy to:

Director
Pinal County Department of Public Works
P.O. Box 727
Florence, AZ 85132

9. Indemnity

- 9.1 Pinal County hereby agrees that, to the extent permitted by law, Pinal County shall defend, indemnify, and hold harmless Mesa, its departments, agencies, officers, employees, elected officials or agents, from and against all losses and expenses (including court costs, expenses for litigation, and reasonable attorney fees), damages, claims, or other liabilities of any kind ("Liability") resulting from or arising out of this Agreement and/or Pinal County's performance hereunder (including, without limitation, Liability on account of any injury, sickness, disease, or death of any person or damage, destruction, or loss of any property), provided such Liability is due to the negligent or willful acts or omissions of Pinal County, its officers, employees, elected officials, agents, or anyone under Pinal County's direction and control.
- 9.2 Mesa hereby agrees that, to the extent permitted by law, Mesa shall defend, indemnify, and hold harmless Pinal County, its departments, agencies, officers, employees, elected officials or agents, from and against all losses and expenses (including, without limitation, court costs, expenses for litigation, and reasonable attorney fees), damages, claims, or other liabilities of any kind ("Liability")

resulting from or arising out of this Agreement and/or Mesa's performance hereunder (including, without limitation, Liability on account of any injury, sickness, disease, or death of any person or damage, destruction, or loss of any property), provided such Liability is due to the negligent or willful acts or omissions of Mesa, its officers, employees, elected officials, agents, or anyone under Mesa's direction and control.

10. Any easement Pinal County conveys to Mesa for the use of the area occupied by the Gas Sleeve shall provide that, in the event of future alteration, repair or replacement of Pinal County structures or facilities that would require the relocation of the Gas Sleeve, such relocation shall be at the sole cost and expense of Mesa.
11. The term of this Agreement shall commence on the Effective Date and shall automatically terminate upon the issuance of a Letter of Acceptance for the Gas Sleeve from Mesa; provided, however, termination of this Agreement shall not affect or shorten any warranty obligations related to completed work, nor shall it terminate the permissions and obligations specified in Sections 6.3 and 6.4.
12. Attached to this Agreement are copies of appropriate action by ordinance, resolution or otherwise authorizing the respective Parties to enter into this Agreement.
13. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

IN WITNESS WHEREOF, the Parties hereto, have executed this Agreement as of the day and year set forth below.


"County"


PINAL COUNTY, a political subdivision of the State of Arizona

By: 
Chair of the Board of Supervisors

Dated: 10/12/2022



ATTEST: 
Clerk/Deputy Clerk of the Board of Supervisors

APPROVED AS TO FORM:

Deputy County Attorney

STATE OF ARIZONA)
) ss.
COUNTY OF PINAL)

The foregoing Agreement was acknowledged before me this _____ day of _____, 2022, by _____ and _____, Chair and Clerk/Deputy Clerk, respectively of the Pinal County Board of Supervisors, for Pinal County, a political subdivision of the State of Arizona, who being authorized to do so, executed the foregoing instrument on behalf of said entity for the purposes stated therein.

Notary Public

My Commission Expires: _____

CITY OF MESA

Approved and Accepted By:

Christopher J Brady Date
City Manager

Attest:

City Clerk Date

APPROVAL OF MESA CITY ATTORNEY

I hereby state that I have reviewed the proposed Intergovernmental Agreement, between Pinal County and the City of Mesa, and declare the Agreement to be in proper form and within the powers and authority granted to their respective governing bodies under the laws of the State of Arizona.

Jim Smith
City Attorney

Date: _____