CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATIONS

CC: 7C
Amend No. _____

Date prepared: September 15, 2009 **Council Meeting Date: November 3, 2009**

TO: Carl Swenson, City Manager

THROUGH: Susan J. Daluddung, Deputy City Manager

FROM: Andrew Granger, P. E., Engineering Director

THROUGH: Dan Nissen, P. E., Assistant City Engineer

PREPARED BY: Ben Wilson, P. E., Civil Engineer

SUBJECT: Adoption of the Resolution approving the Intergovernmental Agreement with the Maricopa County Department of Transportation for the repair of the Peoria Avenue Bridge over New River (Budget No. EN00243)

RECOMMENDATION:

Discussion and possible action to adopt the Resolution approving the Intergovernmental Agreement (IGA) with the Maricopa County Department of Transportation (MCDOT) for the repair of the Peoria Avenue Bridge over New River (Structure Number 9427).

SUMMARY:

In 2005, the City of Peoria annexed the section of Peoria Avenue between approximately 95th Avenue and 99th Avenue, including the bridge over New River. Prior to the annexation staff notified the County of a settlement at the ends of the bridge. The Maricopa County Department of Transportation (MCDOT) agreed to work with the City to repair the bridge at a later date.

The 2009 Bridge Inspection Report indicates that the bridge has failed bearing pads at the abutments. The deck has dropped approximately .5" to .75" below the abutment side of the deck joint at both ends. The bridge is still considered to be structurally sound and will continue to support traffic. However, the report recommended that the bridge be repaired as soon as possible.

CITY CLERK USE ONLY:

- ☐ Consent Agenda
- ☐ Carry Over to Date:_____
- ☐ Approved
- ☐ Unfinished Business (Date heard previous:_____)
- ☐ New Business
- ☐ Public Hearing: No Action Taken

ORD. #_____ RES. #09-128
LCON#10309 LIC. #_____
Action Date:

REV. 08/08

10/7/09 db 1000AM

Staff worked with MCDOT to develop an IGA to jointly agree to a scope of work for the selection of a consultant to perform an analysis on the Peoria Avenue bridge and determine the extent of the repairs needed.

There are two main reasons to repair the failed bearing pads:

1. To improve rider comfort. There is a noticeable bump at the ends of the bridge as a vehicle travels across the deck joints.

2. The failed bearings may be placing additional stresses in the bridge if the girder's movement is being restricted. The concern is the long-term damage to the structure if the longitudinal expansion and contraction movement of the girders are restricted.

Under the terms of the IGA, MCDOT will be the lead agency for the project. MCDOT and the City will contract with an engineering consultant to investigate the extent of the damage and to provide recommendations how best to repair the structure. MCDOT will take the lead and MCDOT and the City will partner on the consultant selection and scope of work. MCDOT has agreed to pay for the work under this IGA up to $50,000. It is not expected to exceed this amount; therefore, the City's share in this IGA is $0.

The finished report will allow the City and MCDOT to make an informed decision as to how to proceed with repairing the bridge and the estimated cost. The findings from the report will be used in the consideration of a new IGA with MCDOT and the City to execute any repairs.

The IGA has been reviewed and approved by our City Attorney and staff. Attachment A shows a summary breakdown of the City and Maricopa County responsibilities included in the IGA.

FISCAL NOTE:

There is no cost to the City associated with this IGA.

ATTACHMENT:

1. Attachment A – IGA Agency Responsibilities
2. Bridge Photos
3. Resolution
4. IGA

Attachment A – IGA Agency Responsibilities

MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION

1. Act as the lead agency and appoint a consultant to perform a complete bridge evaluation.
2. Pay all costs associated with the bridge evaluation and scoping for repair work.
3. Consider a new Intergovernmental Agreement for the associated construction work and construction management upon completion of the inspection and scope of work.

CITY OF PEORIA

1. Have the County act as the lead agency and have a role in approving a consultant and defining a scope of work.
2. Consider a new Intergovernmental Agreement for the associated construction work and construction management upon completion of the inspection and scope of work.

The bridge deck has dropped below the level of the approaches, creating a noticeable bump as it is driven over.

The bearing pads supporting the girders have failed. Long term damage may occur if the bridge can't properly expand or contract.

RESOLUTION NO. 09-128

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, ARIZONA, ADOPTING A RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT WITH THE MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION FOR THE REPAIR OF THE PEORIA AVENUE BRIDGE OVER NEW RIVER.

WHEREAS, the City of Peoria Mayor and City Council are authorized by Title 9, Chapter 2, Article 4, Section 9-276 (1) to lay out and establish or otherwise improve streets, alleys, avenues, sidewalks, etc. and by Title 11, Chapter 7, Section 11-951 *et seq.* to enter into Intergovernmental Agreements with other governing bodies for services or joint exercise of powers; and

WHEREAS, the City desires to enter into an Intergovernmental Agreement with the Maricopa County Department of Transportation for the repair of the Peoria Avenue Bridge over New River; and

WHEREAS, the City is willing to pay for the costs associated with the construction of the roadway widening improvements at 91st Avenue and Olive Avenue; and

WHEREAS, by the City entering into the Intergovernmental Agreement with the Maricopa County Department of Transportation the public interest will best be served.

THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of Peoria, Arizona approves and adopts this Resolution to enter into an Intergovernmental Agreement with the Maricopa County Department of Transportation for the repair of the Peoria Avenue Bridge over New River.

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 3rd day of November, 2009.

_____
Bob Barrett, Mayor

ATTEST:

_____
Mary Jo Waddell, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Kemp, City Attorney

INTERGOVERNMENTAL AGREEMENT

BETWEEN MARICOPA COUNTY AND THE CITY OF PEORIA

FOR IN-DEPTH INSPECTION AND SCOPE OF WORK FOR NEEDED REPAIRS

OF THE NEW RIVER BRIDGE OVER PEORIA AVENUE.

This Intergovernmental Agreement (**Agreement**) is between the County of Maricopa, a body politic, acting through the Maricopa County Department of Transportation (**County**), and the City of Peoria, a municipal corporation, (**City**). The County and City are collectively referred to as the **Parties** or individually as a **Party**.

STATUTORY AUTHORIZATION

1. The County is empowered by Arizona Revised Statute §11-251 and §§28-6701 to lay out, maintain, control and manage public roads within the County, and enter into this IGA.

2. Arizona Revised Statutes §11-951, et seq., provide that public agencies may enter into IGA's for the provision of services or for joint or cooperative action.

3. Arizona Revised Statute §9-276 (1) authorizes the City to regulate streets and public grounds within the City.

BACKGROUND

Project Description – This project agreement is to facilitate the inspection and to prepare a scope of work to determine what repairs are needed to improve the overall safety of the bridge structure at Peoria Avenue and the New River crossing.

4. ***Ownership***- the City of Peoria has ownership of the bridge.
5. ***Annexation*** – Peoria Structure Number 9427 (Peoria Avenue Bridge over New River) was annexed in accordance with Ordinance 05-37.
6. ***Schedule*** – work shall commence immediately within 15 days following a signed intergovernmental agreement.
7. ***Lead Agency*** – The lead agency for the inspection and scoping will be the MCDOT.
8. ***Design Standards*** – Project improvements will be made consistent with the County's applicable design and construction standards.
9. ***Project Costs*** – The total project costs for inspection and scoping shall not exceed $50,000.

LCON10309

PURPOSE OF THE AGREEMENT

10. The purpose of this IGA is to identify and define the responsibilities of the County and the City with respect to the inspection and scoping of the project.

TERMS OF THE AGREEMENT

11. The County agrees to:

    11.1 Act as the lead agency and appoint a consultant to perform a complete bridge evaluation.

    11.2 Pay all costs associated with the bridge evaluation and scoping for repair work.

    11.3 Consider a new Intergovernmental Agreement for the associated construction work and construction management upon completion of the inspection and scope of work.

12. The City agrees to:

    12.1 Have the County act as the lead agency and appoint a consultant

    12.2 Consider a new Intergovernmental Agreement for the associated construction work and construction management upon completion of the inspection and scope of work.

GENERAL TERMS AND CONDITIONS

13. The Partners hereby agree that to the extent permitted by law, each Partner will indemnify and save the other Partners harmless, including any of the Partners' departments, agencies, officers, employees, elected officials or agents, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance or nonperformance by the indemnifying Partner of any of the provisions of this Agreement. Each Partner hereby indemnifies the other against all liability, losses and damages of any nature for or on account of any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance or nonperformance of this Agreement, except such injury or damage as shall have been occasioned by the negligence of that other Partner. The damages which are the subject of this indemnity shall include but not be limited to the damages incurred by any Partner, its departments, agencies, officers, employees, elected officials or agents. In the event of an action, the damages which are the subject of this indemnity shall include costs, expenses of litigation and reasonable attorney's fees.

14. This Agreement shall become effective as of the date it is approved by the Maricopa County Board of Supervisors and shall be filed with the Maricopa County Recorder pursuant to A.R.S. §11-952, and remain in full force and effect

until all stipulations previously indicated have been satisfied except that it may be amended upon written Agreement by all Partners. Any Partner may terminate this Agreement upon furnishing the other Partners with a written notice at least thirty (30) days prior to the effective termination date.

15. This Agreement shall be subject to the provisions of A.R.S. §38-511.

16. The Partners warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge that:

    16.1 Any contractor or subcontractor who is contracted by a Partner to perform work on the Project shall warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A):

    16.2 That any breach of the warranty, shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract;

    16.3 The Partners retain the legal right to inspect the papers of any contractor or subcontractor employee who works on the Project to ensure that the contractor or subcontractor is complying with the warranty above and that the contractor agrees to make all papers and employment records of said employee available during normal working hours in order to facilitate such an inspection;

    16.4 Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Partners to this Agreement.

17. The Partners warrant that they do not have scrutinized business operations in Sudan or Iran, as prohibited by ARS sections 35-391.06 and 35-393.06, and further acknowledge that any contractor or subcontractor who is contracted by a party to perform work on the Project shall warrant that they do not have scrutinized business operations in Sudan or Iran.

18. This Agreement shall not be construed to imply authority to perform any tasks, or accept any responsibility, not expressly set forth herein.

19. This Agreement shall be strictly constructed against the creation of a duty or responsibility unless the intention to do so is clearly and unambiguously set forth herein.

20. This Agreement shall not be modified or extended except by written instrument adopted in accordance with the requirements for adopting a new agreement.

21. This Agreement does not grant authority to control the subject roadway, except to the extent necessary to perform the tasks expressly undertaken pursuant to this Agreement.

22. This Agreement has been arrived at by negotiation and shall not be construed against any Partner or against the Partner who prepared the last draft.

End of Agreement - Signature Pages Follow

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

MARICOPA COUNTY	**CITY OF PEORIA**
Recommended By:	Recommended By:
_____	_____
John B. Hauskins, P.E. Date Transportation Director	City Manager Date
Approved and Accepted By:	Approved and Accepted By:
_____	_____
Max Wilson Date Chairman, Board of Supervisors	Mayor Date
Attest By:	Attest By:
_____	_____
Clerk of the Board Date	City Clerk Date

APPROVAL OF COUNTY ATTORNEY AND CITY ATTORNEY

I hereby state that I have reviewed the proposed Intergovernmental Agreement, between Maricopa County, and the City of Peoria, 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.

_____	_____
Deputy County Attorney Date	City Attorney Date