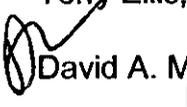


**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

CC: AC
Amend No. _____

Date Prepared: May 28, 2008

Council Meeting Date: June 17, 2008

TO: Terry Ellis, City Manager
FROM:  David A. Moody, P. E., Engineering Director
PREPARED BY: Dan Nissen, P. E., Assistant City Engineer
SUBJECT: Approval of the Intergovernmental Agreement (IGA) between Pima County, Maricopa County, Pinal County, the City of Tucson and the City of Peoria to conduct the Arizona Benchmarking Study. (Engineering Project M-0903)

RECOMMENDATION:

That Mayor and Council approve the Intergovernmental Agreement (IGA) between Pima County, Maricopa County, Pinal County, the City of Tucson and the City of Peoria to conduct the Arizona Benchmarking Study. The City of Peoria's share of the IGA is \$20,000.

Payment will be from the following accounts:

\$10,000 from Engineering Department Capital Division FY08 Operating Budget Other Professional Services Account No. 1000-0812-520099

\$10,000 from Engineering Department Capital Division FY09 Operating Budget Other Professional Services Account No. 1000-0812-520099

SUMMARY:

In 2005, 2006 and 2007, Pima County entered into an agreement with Vanir Construction Management Inc. ("Consultant"), to conduct the Arizona Benchmarking Study ("Study") of capital improvement projects. The purpose of the Study is to research and collect data on project delivery costs and best management practices related to project delivery of capital improvement programs (e.g., roads, streets, bridges, etc.) and consolidate the results into a written report.

CITY CLERK USE ONLY:

Consent Agenda
 Carry Over to Date: _____
 Approved
 Unfinished Business (Date heard previous: _____)
 New Business

ORD. # _____ RES. # _____
LCON# 13608 LIC. # _____
Action Date: _____

Council Communication
Benchmarking Intergovernmental Agreement
M-0903
June 17, 2008
Page: 2

Maricopa County, Pima County, Pinal County, the City of Tucson, and the City of Peoria ("Partnering Agencies") wish to continue the multi-agency study and contribute funds to and share all results of the Study. The purpose of this Agreement is to formalize the arrangement among the parties to contract for the Study and share any data produced by it.

This Agreement shall be effective on the date it is recorded with the Secretary of State, pursuant to A.R.S. § 11-952.G., and shall remain in effect for a period of five (5) years from the date of recordation, unless sooner terminated or extended pursuant to the terms of this Agreement by formal amendment executed by the parties.

Pima County will award, execute, and administer the agreement with Consultant. The Consultant will charge Pima County for the costs of the Study, estimated to be \$100,000.00. Maricopa County, Pinal County, the City of Tucson, and the City of Peoria shall pay approximately \$20,000.00 each to Pima County upon invoice, or no later than December 31, 2008.

**INTERGOVERNMENTAL AGREEMENT
AMONG
PIMA COUNTY, MARICOPA COUNTY, PINAL COUNTY, THE CITY OF PEORIA,
AND
THE CITY OF TUCSON
Cost-Sharing Agreement for the Arizona Benchmarking Study**

This agreement ("Agreement") is entered into by and among the Pima County, a body politic and political subdivision of the State of Arizona, Maricopa County, a body politic and political subdivision of the State of Arizona, Pinal County, a body politic and political subdivision of the State of Arizona, the City of Tucson, a municipal corporation, and the City of Peoria, a municipal corporation, pursuant to A.R.S. § 11-952.

RECITALS

- A. In 2005, Pima County entered into an agreement with Vanir Construction Management, Inc. ("Consultant"), to conduct the Arizona Benchmarking Study ("Study") of capital improvement projects.
- B. The purpose of the Study is to research and collect data on project delivery costs and best management practices related to project delivery of capital improvement programs (e.g., roads, streets, bridges, etc.) and consolidate the results into a written report.
- C. During years 2006 and 2007, Pima County conducted the Study and entered into a contract with the Consultant to perform the Study.
- D. In 2008, Consultant services are required to continue the Arizona Benchmarking Study.
- E. Maricopa County, Pima County, Pinal County, the City of Tucson, and the City of Peoria ("Partnering Agencies") wish to continue the multi-agency study and contribute funds to and share all results of the Study.
- F. The Consultant has agreed to perform the required services for a fee and costs that are acceptable to the Partnering Agencies.
- G. The purpose of this Agreement is to formalize the arrangement among the parties to contract for the Study and share any data produced by it.

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Agreement

1. **Purpose.** The purpose of this Agreement is to set forth the responsibilities of the parties, provide for the contribution of funds for the Study, and share any data produced by it.
2. **The Project.** The purpose of the Study is to research and collect data on project delivery costs and best management practices, and consolidate the results into a written report. The written report will be delivered to all parties. A scope of the Study is shown in the attached "Exhibit A."
3. **Term; Termination; Extensions.** This Agreement shall be effective on the date it is recorded with the Secretary of State, pursuant to A.R.S. § 11-952.G., and shall remain in effect for a period of five (5) years from the date of recordation, unless sooner terminated or extended pursuant to the terms of this Agreement by formal amendment executed by the parties.
4. **Reimbursements.** Pima County will award, execute, and administer the agreement with Consultant. The Consultant will charge Pima County for the costs of the Study, estimated to be \$100,000.00. Maricopa County, Pinal County, the City of Tucson, and the City of Peoria shall pay approximately \$20,000.00 each to Pima County upon invoice, or no later than December 31, 2008.
5. **Results of Study.** Any results or data produced by the Study are the joint property of Pima County, Maricopa County, Pinal County, the City of Tucson, and the City of Peoria. The Consultant shall distribute copies of the report to each party.
6. **Compliance With Laws.** The parties shall comply with all applicable federal, state and local laws, rules, regulations, standards and executive orders, without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Agreement and any disputes hereunder. Any action relating to this Agreement shall be brought in an Arizona court.
 - a. *Anti-Discrimination.* The provisions of A.R.S. § 41-1463 and Executive Order Number 99-4 issued by the Governor of the State of Arizona are incorporated by this reference as a part of this Agreement.
 - b. *Americans with Disabilities Act.* 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.
7. **Waiver.** Waiver by any party of any breach of any term, covenant or condition herein contained shall not be deemed a waiver of any other term, covenant or condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

8. **Non-appropriation.** It is acknowledged that, notwithstanding any other provision contained herein, this Agreement may be terminated if any party fails to appropriate sufficient monies for the purpose of maintaining this Agreement. In the event of such cancellation, Pima County, Maricopa County, Pinal County, the City of Tucson, and the City of Peoria shall have no further obligation to the other party other than for payment for services rendered prior to such termination.
9. **Indemnification.** Each party (as Indemnitor) agrees to indemnify, defend and hold harmless the other party (as Indemnitee) from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.
10. **Books and Records.** Each party shall keep and maintain proper and complete books, records and accounts, which shall be open for inspection and audit by duly authorized representatives of any other party at all reasonable times.
11. **Financial Information.** All parties shall have like rights as afforded the State of Arizona pursuant to the provisions of A.R.S. § 35-214, which is incorporated herein by this reference, regarding the records and financial information related to this Agreement and the Study.
12. **Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511.
13. **Counterparts.** This Agreement and subsequent amendments may be executed in counterpart and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, but all of which together shall constitute one instrument.
14. **Notification.** All notices or demands upon any party to this Agreement shall be in writing, unless other forms are designated elsewhere, and shall be delivered in person or sent by mail addressed as follows:

Pima County
 Attention: Nanette Slusser
 Assistant County Administrator
 130 West Congress, 10th Floor
 Tucson, Arizona 85701

Maricopa County
 Attention: Richard A. Wallace, P.E.
 County Engineer
 2901 W. Durango St.
 Phoenix, Arizona 85009

Pinal County
 Attention: Gregory Stanley
 County Engineer
 31 N. Pinal Street, Building A
 Florence, Arizona 85232

City of Tucson
 Attention: Karen Masbruch
 Assistant City Manager
 P.O. Box 27210
 Tucson, Arizona 85726-7210

City of Peoria
 Attention: David Moody
 City Engineer
 8850 N. 79th Avenue
 Peoria, Arizona 85345

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In Witness Whereof, Pima County has caused this Agreement to be executed by the Chairman of its Board of Supervisors, upon resolution of the Board, and attested by the Clerk of the Board.

**Pima County, Arizona
Board of Supervisors**

Richard Elías, Chairman

Date: _____

Attest:

Lori Godoshian, Clerk of the Board

Date: _____

Intergovernmental Agreement Determination

The foregoing Agreement among Pima County, Maricopa County, Pinal County, the City of Tucson, and the City of Peoria has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, who have signed in counterpart and have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Agreement represented by the undersigned.

Pima County

Deputy County Attorney

Date: _____

In Witness Whereof, Maricopa County has caused this Agreement to be executed by the Chairman of its Board of Supervisors, upon resolution of the Board, and attested by the Clerk of the Board.

**Maricopa County, Arizona
Board of Supervisors**

Don Stapley, Chairman

Date: _____

Attest:

Fran McCarroll, Clerk of the Board

Date: _____

Intergovernmental Agreement Determination

The foregoing Agreement among Pima County, Maricopa County, Pinal County, the City of Tucson, and the City of Peoria has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, who have signed in counterpart and have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Agreement represented by the undersigned.

Maricopa County

Deputy County Council

Date: _____

In Witness Whereof, Pinal County has caused this Agreement to be executed by the Chairman of its Board of Supervisors, upon resolution of the Board, and attested by the Clerk of the Board.

**Pinal County, Arizona
Board of Supervisors**

David Snider, Chairman

Date: _____

Attest:

Sheri Cluff, Clerk of the Board

Date: _____

Intergovernmental Agreement Determination

The foregoing Agreement among Pima County, Maricopa County, Pinal County, the City of Tucson, and the City of Peoria has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, who have signed in counterpart and have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Agreement represented by the undersigned.

Pinal County

Deputy County Council

Date: _____

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In Witness Whereof , the City of Tucson has caused this Agreement to be executed by the Mayor of its Council, upon resolution of the Council, and attested by the City Clerk.

**City of Tucson, Arizona
City Council**

Robert E. Walkup, Mayor

Date: _____

Attest:

Roger Randolph, Acting City Clerk

Date: _____

Intergovernmental Agreement Determination

The foregoing Agreement among Pima County, Maricopa County, Pinal County, the City of Tucson, and the City of Peoria has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, who have signed in counterpart and have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Agreement represented by the undersigned.

City of Tucson

City Attorney

Date: _____

In Witness Whereof, the City of Peoria has caused this Agreement to be executed by the Mayor of its Council, upon resolution of the Council, and attested by the City Clerk.

**City of Peoria, Arizona
City Council**

Bob Barrett, Mayor

Date: _____

Attest:

City Clerk

Date: _____

Intergovernmental Agreement Determination

The foregoing Agreement among Pima County, Maricopa County, Pinal County, the City of Tucson, and the City of Peoria has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, who have signed in counterpart and have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Agreement represented by the undersigned.

City of Peoria

City Attorney

Date: _____



Construction Management, Inc.

1501 W. Fountainhead Pkwy./Suite 393
Tempe, AZ 85282
TEL 480-921-0333
FAX 480-921-0327
www.vanir.com

April 16, 2008

Nanette Slusser, Assistant County Administrator
Public Works Policy
130 W. Congress, 10th Floor
Tucson, Arizona 85701

**Re: Arizona Benchmarking Study 2008 and 2009
Proposal to Provide Professional Services**

Dear Ms. Slusser:

In accordance with the scope of work for previous Benchmarking Study years and adjustments agreed upon with Jim Moule' on April 4, 2008, please find our revised scope of work and fee proposal.

1. Meet with all existing participants (City of Phoenix, City of Tucson, City of Mesa, Maricopa County, Pima County, Pinal County, Maricopa County Community College District (MCCD), our newest participant the City of Peoria and any new agencies as required to properly orient them to the current objectives and methodology of the Arizona Benchmarking Study and to identify new objectives.
2. Set up and provide all logistical support for three Project Team meetings. Tentatively, these meetings will occur and have the objectives as follows:
 - a. January 2008 – Members share successes and challenges in program implementation (BMPs, staffing issues, market impacts, etc.), review AZ Benchmarking Study Report for 2007, review and approve/edit new BMPs, discuss goals and objectives for the 2008 Benchmarking Study, and discuss the impact of budget shortfalls on the CIP and how it will affect management practices.
 - b. June 2008 – Review status of process benchmarking / implementation of BMPs, review status of performance benchmarking, discuss online forum issues, discuss status of budget shortfalls, and discuss any changes that the members want to see in the annual report.
 - c. October 2008 – Discuss the annual report, discuss significant issues that emerged from the online forum, discuss quantity and quality of performance data and determine which of the data elements can be used for analysis, conclusions, and projections. Discuss the budget climate for 2009 and how members will deal with it.

Bellvue / Denver / Las Vegas / Los Angeles / Oakland / San Bernardino / San Diego /
Sacramento / San Francisco / San Jose / San Luis Obispo / Tempe / Tucson / Texas / Virginia

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3. Distribute, collect and analyze updated survey of Best Management Practices employed to deliver projects using the traditional design-bid-build methods.
4. Distribute, collect and analyze updated survey of Best Management Practices employed to deliver projects using the CM@Risk methods.
5. Collect and analyze Performance Data Questionnaires for projects delivered using the traditional design-bid-build methods.
6. Collect and analyze Performance Data Questionnaires for projects delivered using the CM@Risk methods.
7. Facilitate the online forum so the information is organized and archived for future retrieval.
8. Support Pima County in the coordination of meetings with the Project Team. This will include development of the agendas, handouts, and presentations.
9. Develop draft and final reports on the outcomes of the performance data analyses and the process implementation tracking. The report is to include the online forum issue discussions, current market conditions, and anticipated budget and cost issues for the 2009 period.
10. Assist the Project Team in the completion of special study items such as change orders on projects using the traditional design-bid-build method and GMP on projects using the CM@Risk method.
11. We have agreed upon some minor changes in the scope or work to keep the cost of this proposal to a minimum because of the tight budgets of the member agencies during this time of the reduced funds. They are as follows:
 - We have reduced the number of meetings from four to three per year.
 - Bill Lasher will only participate in two meetings per year.
 - We will reduce the size of the annual report while maintaining the quality of the contents.
 - We will reduce the number of copies of the final report to one copy per participating agency/department.



Nanette Slusser, Assistant County Administrator
April 16, 2008

Vanir plans on using the following personnel at the following hourly billing rates to perform this work:

Bob Wyllie, Vice President/Regional Manager	\$160/hr
Bill Lasher, AZ Benchmarking Study Consultant	\$160/hr
Jim Moule', Project Manager	\$140/hr
Ben Felt, Information Manager	\$107/hr
Clerical Assistance – Joan Hartl, Debbie Martin, Emy Burback	\$60/hr

The amount of effort required to accomplish the tasks listed above for the 2008 Benchmarking Study is currently estimated at \$100,000 which includes an allowance for mileage, meeting document reproduction, and other non-salary expenses which may be incurred. Editing, production, and printing of the final report are also included. Non-salary expenses will be billed at invoice cost.

Please provide written authorization for Vanir to continue work on this project. If you have any questions or concerns, please call Jim Moule' at 480-921-0333.

Sincerely,

Robert Wyllie
Vice President/Regional Manager
Vanir Construction Management

CC:

J. Moule'
B. Lasher