

AGREEMENT FOR PUBLIC ART FUNDING

THIS AGREEMENT (hereafter referred to as the “AGREEMENT”) is entered into by and between _____, a political subdivision of the State of Arizona, hereinafter called “Jurisdiction,” and the Pima Association of Governments, an Arizona non-profit corporation, hereinafter called "PAG.”

RECITALS

WHEREAS, Jurisdiction intends to administer a Transportation Art by Youth (TABY) Program to provide youth with employment, training and experience in creating forms of public art; and

WHEREAS, PAG intends to contribute Highway User Revenue Funds (HURF) to Jurisdiction’s Program (the “Program”) commencing with the summer of 2025 and continuing each calendar year thereafter throughout the term of this AGREEMENT.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE I

TERM AND MAXIMUM AMOUNT:

The term of this AGREEMENT begins on the date of signature by the PAG Executive Director and terminates on December 31, 2029, unless sooner terminated, or unless further extended, pursuant to the provisions of Article V of this AGREEMENT. In the fall of each calendar year, PAG will solicit participation in the Program by notifying all of the participating jurisdictions of the amount of HURF funds available for the next calendar year. Jurisdiction shall not undertake any PAG funded work on the Program until PAG issues a Notice To Proceed (NTP) to Jurisdiction.

The Parties acknowledge that, upon completion and acceptance of the work undertaken during each year of the Program, Jurisdiction may respond to PAG's solicitation by applying to continue Program participation during the succeeding year in accordance with PAG's TABY Program Policies in effect at the time of application. Annual preliminary approval and determination of eligibility of Jurisdiction’s proposed project(s) submitted under this Program shall rest with PAG. Final approval of Jurisdiction’s proposed project(s) rests with PAG’s Transportation Planning Committee (TPC). Upon final approval from the TPC, PAG will promptly issue an NTP.

The maximum contribution to Jurisdictions by PAG under this five-year AGREEMENT is limited to \$125,000.00. If the Jurisdiction has remaining funds from a previous PAG Program contract, it may not incorporate the balance of such funds into this AGREEMENT.

ARTICLE II

PURPOSE AND WORK STATEMENT:

Jurisdiction will submit each project for review the first quarter of each calendar year to the TPC.

ARTICLE III

Jurisdiction's Duties:

Jurisdiction shall provide the following services:

- Administer each project as recommended for approval by the TPC and in compliance with TABY policies each year.
- Provide written certification that approved project(s) will be constructed in the location and design as approved by the TPC.
- Attempt to recruit youth from economically disadvantaged areas.
- Consult with all stakeholders and other interested parties in determining the precise nature and location of each proposed project.
- Provide for review and approval of each completed project by key stakeholders and decision-makers.
- Assume all risk and responsibilities for each project, including cost and quality control measures for design and construction, and ownership and maintenance of the final project.
- Submit a final report to PAG detailing the results of the Program for the subject calendar year.
- Submit confirming, complete and accurate invoices for reimbursement of expenditures incurred under this Program; such invoices shall be submitted to PAG monthly. Final invoice to be submitted within ninety (90) calendar days upon completion of each project. Invoices submitted later than ninety (90) days following project completion will not be paid, unless PAG determines that extenuating

circumstances prevail.

- Youth must be enrolled in a recognized educational facility working toward their high school diploma or GED. Participants may not be older than 19 years of age and must meet the Arizona State and Federal Child Labor Law requirements.
- Applications shall include a budget breakdown that provides a separate line item for youth stipends. Note: PAG requires a minimum of 20% for youth stipends.
- Final invoice shall include a color photograph of each completed youth art project and a map illustrating its location.
- Each project should include a plaque on the completed project indicating funding support contributed by “Pima Association of Governments.” (Jurisdiction may provide its own or PAG will provide plaques upon request.)
- Ensure that each project is accomplished in accordance with all applicable requirements of any federal, state, county or local ordinances, statutes, charters, codes, rules, regulations, or any other governmental requirements, including, but not limited to, the rules and regulations of the Arizona Department of Transportation. Nothing in this Agreement shall be construed to violate the rules, regulations or requirements of the Arizona Department of Transportation.

ARTICLE IV

PAYMENT:

- A. Total payment for each year of this AGREEMENT shall be set by PAG. Jurisdiction may elect to augment funds provided by PAG with additional non-PAG funding at the sole discretion of Jurisdiction.
- B. PAG shall reimburse Jurisdiction within thirty (30) days of receipt of acceptable, properly completed invoices detailing project progress and expenditures as described under Article III.

ARTICLE V

TERMINATION / EXTENSION FOR CONVENIENCE:

Either party may, at any time and without cause, cancel this AGREEMENT by serving

upon the other party thirty (30) days advance written notice of such intent to cancel. In the event of such cancellation, PAG's only obligation to Jurisdiction shall be payment for expenses incurred prior to cancellation. If mutually agreed by PAG and Jurisdiction, the term and maximum amount of this AGREEMENT may be modified by written agreement signed by both Parties.

ARTICLE VI

CONFLICT OF INTEREST:

This AGREEMENT is subject to the provisions of A.R.S. 38-511 which provides as follows: "The State, its political subdivisions or any department of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the State, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the State, its political subdivisions or any of the departments or agencies of either is, at any time, while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract." The Parties expressly agree that PAG shall have these rights, though it is a private non-profit corporation administering public funds.

ARTICLE VII

ASSIGNABILITY:

Jurisdiction shall not assign any interest in this AGREEMENT and shall not transfer any interest in the same without prior written consent of PAG thereto; provided, however, that claims for money due or to become due to Jurisdiction from PAG under this AGREEMENT may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to PAG.

ARTICLE VIII

OFFICIALS NOT TO BENEFIT:

No elected or appointed officials, members or officers, nor any commissioners, committee members nor any employees of the parties, nor their family members, shall be permitted to receive any remuneration or emolument from this AGREEMENT.

ARTICLE IX

NONDISCRIMINATION:

Neither Party shall discriminate against any employee or client of either Party or any other individual in any way because of that person's age, race, creed, color, religion, sexual orientation, genetic information, disability, familial status, political affiliation or national origin in the course of carrying out the duties pursuant to this Agreement. Both Parties shall comply with applicable provisions of Executive Order 75-5, as amended by Executive Orders 2009-09 and 2023-01 of the Governor of Arizona, which are incorporated into this Agreement by reference as if set forth in full herein, as well as the Genetic Information Nondiscrimination Act of 2008.

ARTICLE X

AMERICANS WITH DISABILITIES ACT:

Both Parties shall comply with 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.

ARTICLE XI

NON – WAIVER:

The failure of either party to insist in any one or more instances upon the full and complete compliance with any of the terms and provisions of this AGREEMENT, to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future.

ARTICLE XII

INDEMNIFICATION:

Inasmuch as PAG's role is limited to project funding, Jurisdiction agrees, to the fullest extent permitted by Arizona law, to indemnify, defend, and hold harmless PAG and its Regional Council, employees and officers, from, for, and against, any and all claims, demands, damages, liabilities or penalties, brought by or on behalf of any persons or entities, caused by or alleged to be caused by the Lead Agency's, or any of its officials', agents', employees' or volunteers', negligent or intentional or otherwise wrongful activities or omissions in performance of its obligations under this Agreement or use of PAG's resources, as described herein, regardless of how such claims are worded or styled, and regardless of the specific cause of action or type of

claim asserted. This subsection shall survive termination of this Agreement.

ARTICLE XIII

SEVERABILITY:

Each provision of this AGREEMENT stands alone, and any provision of this AGREEMENT found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this AGREEMENT.

ARTICLE XIV

Funding for this AGREEMENT is being provided by the Arizona Department of Transportation. PAG has no funds of its own to pay for the work being done under this AGREEMENT, and therefore is not obligated to pay Jurisdiction until PAG receives funding from the ADOT. Costs incurred by Jurisdiction as the result of any changes by the Jurisdiction outside the general Scope of this AGREEMENT will not be allowed for reimbursement under this AGREEMENT unless these changes and related costs have been approved by PAG in writing prior to incurring the costs.

ARTICLE XV

If Jurisdiction is self-insured as a governmental entity, the Parties acknowledge that Jurisdiction's program of self-insurance meets the following minimum requirements of this AGREEMENT. Otherwise, Jurisdiction shall obtain insurance as described below and keep such coverage in force throughout the life of the AGREEMENT. All policies must contain an endorsement providing that written notice be given to PAG at least ten (10) calendar days prior to termination or cancellation in coverage in any policy. Except for professional liability insurance, the liability insurance policy(s) shall include PAG as an additional insured with respect to liability arising out of the Contract. Jurisdiction must agree that the insurance will be primary, and that any insurance carried by PAG will be excess and non-contributing.

Coverage Afforded

<u>Coverage Afforded</u>	<u>Limits of Liability</u>
Workers' Compensation/ Employees Liability	Statutory/\$100,000
Professional Liability	\$500,000

(Errors and Omissions)	
General Liability	\$1,000,000

ARTICLE XVI

ENTIRE AGREEMENT:

This AGREEMENT constitutes the entire AGREEMENT between the parties and shall not be modified, altered, amended, or changed except by mutual consent as indicated by signatures of the PAG Executive Director and authorized officials of Jurisdiction.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date signed by the PAG Executive Director.

[Jurisdiction Name]

[Official's Name]

Date: _____

ATTEST:

[Official's Name]

APPROVED AS TO CONTENT:

[Official's Name]

APPROVED AS TO FORM:

[Attorney's Name]

PIMA ASSOCIATION OF GOVERNMENTS

Farhad Moghimi

Date: _____

EXECUTIVE DIRECTOR,
and not personally.

APPROVED AS TO FORM:

Thomas Benavidez
PAG Legal Counsel

Date: _____