

CITY CLERK ORIGINAL

RENTAL AGREEMENT FOR UNIMPROVED OR VACANT LANDS AGREEMENT SUMMARY

**FINAL
DRAFT**

Lessor:	
STATE OF ARIZONA by and through its ARIZONA DEPARTMENT OF TRANSPORTATION	

Project:	101L MA 000 H0811 03R	Lessee:	THE CITY OF GLENDALE
Highway:	SR101L-AGUA FRIA FREEWAY	Location:	SEC GLENDALE & SR 101
Section:	Jct. I-10-Glendale		
Parcel:	7-4140, 7-4143, 7-4144		
Agreement:	CRA-4479		
Assessor No.:	102-01-010 K, L		

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ARIZONA DEPARTMENT OF TRANSPORTATION
INTERMODAL TRANSPORTATION/RIGHT OF WAY GROUP
PROPERTY MANAGEMENT SECTION

**RENTAL AGREEMENT
FOR UNIMPROVED OR VACANT PROPERTIES**

Project:	101L MA 000 H0811 03R	Agreement:	CRA-4479
Highway:	SR 101L-AGUA FRIA FREEWAY	Monthly Rental Payment:	\$750.00
Section:	Jct. I-10-Glendale		
Parcel:	7-4140, 7-4143, 7-4144		
Assessor No.:	102-01-010 K, L		

The State of Arizona, by and through the Arizona Department of Transportation, hereinafter referred to as Lessor, does hereby authorize The City of Glendale, an Arizona municipal corporation, herein referred to as Lessee, to rent and occupy the property at the southeast corner of Glendale Avenue and SR 101 comprising approximately 9.84 acres. See legal description and plat attached (*Exhibit A*).

THIS AGREEMENT IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. Term of the Agreement

The term of this Rental Agreement will be on a yearly basis, commencing the first of the month **April 1st, 2012** and end on **March 31st, 2013, unless otherwise notified, this rental agreement will be automatically extended each year.** Lessee agrees that should Lessor require the property for transportation purposes, Lessor may cancel this Agreement by sending written notification to the Lessee at least one hundred eighty (180) days prior to the intended effective date of cancellation.

2. Rental Rate

The rental rate for the lease period is \$750.00 per month plus a 0.5% rental tax in the amount of \$3.75, for a total of \$753.75 and shall be payable in advance on the first day of each month commencing April 1st, 2012 and on the first day of each month thereafter; provided however, that Lessee may elect to pay all or a portion of the rent in advance. This rental rate is subject to periodic review. **Note: The rental tax is established in accordance with the current applicable tax schedule, which is subject to change.** Rent is considered late after the seventh day of the month. If not paid by said date, a late fee equal to **five percent (5%) of the total outstanding balance** shall be assessed to the Lessee. Lessor will accept no partial payments of rent or late fees and late fees will continue to accrue until all outstanding balances are paid in full. Please reference your **Parcel Number 7-4140-A and your Agreement Number CRA 4479** on all correspondence and checks sent to Lessor.

In accepting the Lease, the Lessee agrees to timely pay all taxes and assessments of any kind which may be levied against the Premises. Lessee shall be in default hereunder if the facility is not kept clean and free of debris and the landscaping well maintained.

3. Cancellation Clause

This Agreement is subject to cancellation by the Governor pursuant to A.R.S. § 38-511.

4. Use of Subject Property

The Lessee has the right to use the Premises only for temporary parking of private passenger vehicles only, parking operation, and maintenance therein of the parking facility described in *Exhibit B* (the "Facility"), which is incorporated herein by this reference. The Lessee agrees that at no time will any structure be constructed or placed on said property without consent of the Lessor; failure to adhere to this restriction will invalidate this agreement and void this Lease immediately. The Lessee shall not use the Premises for any other purpose without the specific written prior permission of the Lessor. Any other use of the Premises shall constitute a material breach and default of this agreement. Lessor

makes no representations as to the status of the Premises, including title, easement, or other restrictions, or its fitness for a particular use. Lessee shall conduct all investigations necessary to determine if the Premises are fit for the intended use.

Lessee shall have the right to provide or have provided to the Premises necessary public utility service (electric, gas, water, and sewer) and such necessary wires, cables, pipes, conduits, lines, ducts and such other equipment as either Lessee or Lessor may consider appropriate, the installation and use cost of which public utility services shall be borne by the party requiring same. In the event provision of such services to Lessee requires use of a portion of the contiguous or adjacent right-of-way of the Lessor other than the Premises, such use shall only be made upon prior written approval of the Lessor, which shall not be unreasonably withheld or delayed. Lessee shall make provisions for all water and runoff from said property be retained on site or within the retention basin located on the immediately adjoining property and that in no case be permitted to flow onto ADOT's Right of Way or drainage system. Should Lessee receive permission from Lessor to install drywells for the purpose of drainage retention, Lessee will provide plans for review to ADOT and shall monitor the dry-well and provide yearly reports to Lessor for review. Upon termination of the lease the Lessee will remove the drywells and provide the Lessor with a final report.

The Facility shall be operated in accordance with prevailing standards and criteria established by the applicable governing agencies and without creating or causing to be created, nuisances or hazards to the public health or safety or interfering with the rights or business activities of other tenants. Lessee further agrees not to commit, or permit the commission of, any act or thing on the Premises which is a violation of any local ordinance or of any law of the State of Arizona or the United States. Lessee shall access the leased Premises from access points as directed by the Lessor's District personnel. Normally, Lessee shall not be given access to the leased Premises from the highway or interfere with the operations of the highway facility without the express permission from Lessor. Lessee shall provide appropriate traffic control approved by Lessor's District personnel.

5. Compliance with Environmental Laws

Lessee shall, at Lessee's own expense, comply with all present and hereinafter enacted environmental laws and any amendments thereto, affecting Lessee's operation on the leased premises. Lessee shall immediately notify Lessor should it receive any correspondence or communication from any governmental entity regarding the application of environmental laws to the premises or Lessee's operation on the premises. Any environmental assessments, studies, or audits known by Lessor, may be disclosed to third parties as a result of public disclosure laws, and will be disclosed to other state and federal agencies that are concerned with the enforcement of environmental laws and regulations.

6. Improvements Constructed on Property by Lessee

"Any and all improvements located on the subject property belong to Lessor. Any exceptions to this must be listed and made a part of this Agreement under the paragraph entitled "Personal Property and Improvements of Lessee." If Lessee desires to construct additional improvements, make alterations to, and/or demolish or remove any existing improvements, Lessee shall first submit a request in writing to Lessor, and shall include a copy of the construction plans for the proposed changes. Lessee agrees not to commence remodeling, modifying, repairing, altering or changing the structure in any way, including the installation or removal of equipment or devices that disturb any portion of the structural systems without first obtaining written authorization from Lessor. Lessee shall ensure appropriate dust mitigation procedures during the construction of the new improvements. After Lessee's approval from Lessor of improvements, Lessee shall ensure appropriate dust mitigation procedures during the construction of the new improvements. Lessor may test and, if necessary, abate for environmentally hazardous materials or conditions prior to issuing any authorization for Lessee to proceed with requested remodeling, modifying, repairing, altering, changes or installation of equipment or devices. Lessor shall notify Lessee of any known or suspected asbestos materials identified by testing and found within the leased premises. Lessor shall be responsible for any costs associated with the abatement of asbestos materials that might be disturbed as a result of approved tenant finish requests.

On or before termination of this Agreement, Lessee at Lessee's expense shall remove any and all additional improvements placed on said parcel by Lessee. If removal of said additional improvements defaces the subject property, or disturbs any known or suspected asbestos-containing material, Lessee at Lessee's expense shall be responsible for replacing or repairing any damage caused by such removal and shall also be responsible for any and all actions necessary to avoid the potential exposure of previously contained or encapsulated asbestos material, prior to termination of this Agreement. Should Lessee desire to abandon the additional improvements and Lessor does not object to said abandonment, the additional improvements shall become the sole and separate property of Lessor at no cost to Lessor."

7. Zoning and Permits Required

Lessee shall obtain proper zoning clearance and/or building permits from all governmental agencies having jurisdiction over subject property prior to the start of activities as detailed in the paragraph entitled "Improvements Constructed on Property by Lessee." Copies of the documents shall be provided to Lessor by Lessee, and shall include copies of construction plans as approved by the appropriate governmental agencies having jurisdiction. Lessee further agrees that said zoning clearance and/or building permits shall be obtained by Lessee at no cost to Lessor.

ADOT District personnel must be notified prior to performing any Facility work on the Premises. Lessee shall have maintenance plans approved by the Lessor and make them a part of this Lease, which approval shall not be unreasonably withheld or delayed. ADOT Permits will be issued for each job site upon application by Lessee and approval by Lessor's District personnel.

The Lessee shall provide construction plans and specifications for each Site or Site type to the Lessor for approval, which approval shall not be unreasonably withheld or delayed. The Lessee shall submit "as-built" plans for the Facility to ADOT within six (6) months of its completion.

ADOT may rely exclusively on the as-built plans to locate the Facility in conducting any excavation in the Premises for transportation purposes. The Lessor and Federal Highways Administration specifically reserve the right to enter the Premises, except for Lessee's equipment shelters and cabinets, at any and all reasonable times for survey or preliminary engineering studies.

8. Maintenance of Subject Property

Lessee agrees to maintain leased property in a neat, clean and orderly condition at all times during occupancy, and not permit debris to accumulate at any time; not to commit, suffer, or permit any waste of said property or any acts to be committed in violation of any laws or ordinances. Lessee at its cost will provide all maintenance and landscaping services.

9. Mechanics Liens

Lessee shall keep the property free from any liens arising from work performed, materials furnished or obligations incurred by Lessee and shall indemnify, hold harmless and defend Lessor from any liens and encumbrances arising from any work performed or materials furnished by or at the direction of Lessee. Upon completion of any approved construction activity, copies of signed lien waivers shall be supplied to Lessor by Lessee.

10. Untenantable Property Due to Damage

In the event the improvements are partially damaged or totally destroyed by fire, flood, accident or acts of God, Lessor shall have the option to repair/restore said improvements or terminate this Agreement by delivering written notice of immediate termination to Lessee. If this Agreement is terminated, Lessee shall be entitled to a proration of the unused rent. If a portion of the property is rendered untenantable, Lessor may elect to reduce the rental rate proportionately until the property has been restored.

11. Right of Entry by Lessor

Lessee acknowledges that Lessor's needs and requirements may necessitate survey or preliminary engineering studies. Therefore, Lessor specifically reserves the right of entry to the occupied premises at any and all reasonable times. Lessor hereby agrees to give Lessee at least seven (7) days notice to enter the property for this purpose. In the event such entry causes damage to tenant improvements or crops, no monetary reimbursements will be forthcoming.

12. Inspections and Testing by Lessor

Lessor reserves the right to inspect the premises periodically to determine the general condition and upkeep of the property. It is also agreed that Lessor or its contractors, shall have the right at any time during regular business hours to come on the premises to visually inspect for hazardous waste, and other pollutants; and may test for such hazardous waste, or other pollutants, at any time it reasonably believes hazardous waste or pollutants are on the premises. Lessor will give Lessee not less than two (2) days notice of such inspections. Lessee will not unreasonably withhold permission for such inspections. In the event Lessor determines to test, it or its contractor may come on the premises during regular business hours, but shall have the right to do its testing during or after regular business hours. The testing procedures shall not unreasonably interfere with Lessee's operation. The results of visual inspection on testing are will be disclosed in accordance with the paragraph entitled "Compliance with Environmental Laws."

13. Liability of Lessor

This Agreement is made upon the express condition that Lessor does not protect or insure against loss of personal property or improvements owned by Lessee and Lessee waives the right to claim damages from Lessor for any damage resulting to said property in the event damaged or destroyed by fire or any other cause which is not the direct result of negligence of Lessor. Lessee further shall hold and save harmless Lessor, or any of its departments, agencies, boards, commissions, agents, or employees from all costs and damages to any person arising out of any injuries or losses caused by Lessee, its agents or employees, licensees, invitees, trespassers, or any third parties' willful or negligent act during occupancy of the subject property.

14. 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.

In addition, the Lessee shall cause its sub-lessee(s) and their contractors and subcontractors, if any, to indemnify, defend, save and hold harmless the State of Arizona, any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and their respective directors, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Lessee's contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

15. **Insurance**

Insurance Requirements for Governmental Parties to an IGA:

None.

Insurance Requirements for Any Sub-Lessee's, Contractors, or Sub-contractors used by a Party to the Intergovernmental Agreement and or Lease Agreement:

(Note: this applies only to Sub-Lessee's, Contractors, or Sub-contractors used by a governmental entity, not to the governmental entity itself.) The insurance requirements herein are minimum requirements and in no way limit the indemnity covenants contained in the Intergovernmental or Lease Agreement. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the governmental entity or Sub-Lessee's, Contractors, or Sub-contractors from liabilities that might arise out of the performance of the work under this Contract by the, Sub-Lessee's, Contractors, or Sub-contractors, their agents, representatives, or employees and the governmental entity are free to purchase additional insurance.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Sub-Lessee's, Contractors, or Sub-contractors shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.

• General Aggregate	\$5,000,000
• Products – Completed Operations Aggregate	\$1,000,000
• Personal and Advertising Injury	\$1,000,000
• Blanket Contractual Liability – Written and Oral	\$1,000,000
• Damage to Rented Premises	\$ 50,000
• Each Occurrence	\$5,000,000

- a. The policy shall be endorsed to include the following additional insured language: ***“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insured's with respect to liability arising out of the activities performed by or on behalf of the Sub-Lessee's, Contractors, or Sub-contractors”***. Such additional insured shall be covered to the full limits of liability purchased by the Sub-Lessee's, Contractors, or Sub-contractors even if those limits of liability are in excess of those required by this Contract.

(Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)

- b. Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. **Business Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: ***"The State of Arizona, its departments, agencies, boards, commissions, and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Sub-Lessee's, Contractors, or Sub-contractors, involving automobiles owned, leased, hired or borrowed by the Sub-Lessee's, Contractors, or Sub-contractors"***. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
- b. Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Sub-Lessee's, Contractors, or Sub-contractors.

(Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)

3. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$1,000,000

- a. Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to: Lessee, but shall apply separately to EACH sub-lessee, contractor, or subcontractor exempt under A.R.S. 23-901, AND when such sub-lessee, contractor, or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies are to contain, or be endorsed to contain, the following provisions:

1. The Contractor's policies shall stipulate that the insurance afforded the contractor shall be primary insurance and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by Arizona Revised Statutes Section 41-621 (C).
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.

C. NOTICE OF CANCELLATION: With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to: **Arizona Department of Transportation, Right of Way Group, 205 S. 17th Avenue, MD 612E Rm 370, Phoenix, AZ 85007** and shall be sent by certified mail, return receipt requested.

D. ACCEPTABILITY OF INSURERS: Contractors Insurance shall be placed with companies duly licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The

State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

- E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer on its behalf.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to: **Arizona Department of Transportation, Right of Way Group, 205 S. 17th Avenue, MD 612E Room 370, Phoenix, AZ 85007.** The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

- F. **SUBCONTRACTORS:** Contractor's certificate(s) shall include all subcontractors as insured's under its policies or Contractor shall furnish to the State of Arizona separate certificates for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.
- G. **APPROVAL:** Any modification or variation from the *insurance requirements* in any Intergovernmental Agreement must have prior approval from ADOT Risk Management in consultation with the State of Arizona Department of Administration, Risk Management Division.
- H. **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university then none of the above shall apply.

16. **Environmental Waste Indemnification by Lessee**

Lessee shall indemnify and hold harmless Lessor, its employees, and agents from and against any and all loss, damage, and expense (including, but not limited to, reasonable investigation, legal fees, and expenses), including but not limited to, any claim or action for injury, liability, or damage to persons or property, and any and all claims or actions brought by any person, firm, governmental body, or other entity, alleging or resulting from or arising from or in connection with contamination of, or adverse effects on the environment, or violation of any environmental law or other statute, ordinance, rule, regulation, judgment, or order of any government or judicial entity, and from and against any damages, liabilities, costs, and penalties assessed as a result of any activity or operation on the property during the term of this Agreement. Lessee's obligations and liabilities under this paragraph shall continue so long as Lessor bears any liability or responsibility under the environmental laws for any action that occurred on the property. Lessee's failure to abide by the terms of this paragraph shall be restrainable by injunction.

17. **Utilities and Services**

Any and all utilities and other services required by Lessee shall be in the name of and paid by Lessee.

18. **Relocation Provisions**

In the event Lessor desires to sell said property, Lessee will make no claim to prevent such sale. However, said sale shall be subject to the terms and conditions of this Agreement then in effect and nothing in this Agreement shall prevent Lessee from purchasing the property as any other member of the public.

19. **Sale of Subject Property by Lessor**

Lessee agrees in the event Lessor desires to sell said property; Lessee will make no claim to prevent such sale. However, said sale shall be subject to the terms and conditions of this Agreement then in effect and nothing in this Agreement shall prevent Lessee from purchasing the property as any other member of the public.

20. **Transfer of Ownership by Lessor**

Any transfer of ownership of, or rights in, the subject property by the Lessor to any other governmental agency shall be conditional to this Agreement.

21. **Assignment of Agreement by Lessee**

Lessee shall not assign its interest herein, and shall not sublease the aforesaid premises or permit same to be used by any unauthorized person or firm.

22. **Nondiscrimination Regulations**

Lessee, for itself and its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, sex, familial status, disability, religion or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, sex, familial status, disability, religion or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate this Agreement and to re-enter and repossess said land and improvements thereon, and hold the same as if said Agreement had never been made or issued.

23. **Default by Lessee**

Should Lessee fail to maintain continuous liability insurance or self-insurance retention, this Agreement shall terminate immediately. Should Lessee default on any other term or condition of the Agreement, specifically failure to submit the rental payment as specified herein, the Agreement shall terminate in thirty (30) days. In the event of default by Lessee, Lessor shall have all remedies as provided by law. Unless otherwise provided by statute, Lessor or Lessee will pay to the prevailing party, court costs and attorneys' fees in a reasonable sum in any legal action brought forth.

24. **Termination for Hazardous Waste**

Should Lessor have reasonable grounds to believe hazardous waste, or other pollutants, are being manufactured, stored, or dumped on the premises, Lessor, may at its discretion, terminate this Agreement on fifteen (15) days notice. Termination does not relieve Lessee of its liability or responsibility to clean up, including appropriate consulting costs, the hazardous waste or pollutants. In the event of termination under this clause, Lessor shall not be required to return prepaid rents or security deposits but may hold them to apply against clean up costs incurred by Lessor. Rent due, or paid, shall be prorated as of the date of termination.

25. **Return of Subject Property to Lessor**

Upon vacating the subject property, Lessee agrees to leave the premises in the same condition or better than existed on the first day of occupancy, allowing for ordinary and normal usage, and to reimburse Lessor for any damage done to said property caused by Lessee's occupation or tenancy, other than due to normal use. This tenancy is temporary by reason of the fact that Lessor has acquired the premises for transportation purposes, and Lessee is to vacate said premises at any time within

thirty (30) days after receipt of a notice as stated in paragraph entitled "Term of the Agreement". Nothing herein shall be deemed a waiver of Lessor's right to demand and obtain possession of said premises in accordance with the law in the event of a violation on part of Lessee of any of the terms or conditions hereof.

26. Addenda

Any addenda to this Agreement are by this reference made a part hereof as though fully set forth therein.

27. Addresses of Lessor and Lessee

Any notices to or demand upon either party hereto by the other pursuant to this Agreement shall be in writing and shall be delivered in person to the other party or forwarded by certified mail, postage prepaid, addressed as follows:

To Lessor at:

Arizona Department of Transportation
Intermodal Transportation Division
Right of Way Group/Property Management Section
205 South 17th Avenue, Mail Drop, #612E
Phoenix, Arizona 85007
Telephone (602) 712-6568

To Lessee at:

City Manager
City of Glendale
5850 W. Glendale Ave.
Glendale, AZ 85301-2599

With a copy to:

City Attorney
City of Glendale
5850 W. Glendale Ave.
Glendale, AZ 85301-2599

Or elsewhere, as either party may, from time-to-time designate by written notice to the other.

[Signatures appear on the following page]

Lessee

CITY OF GLENDALE, an Arizona municipal corporation

BY: *Harathi Skuh for* DATED: 5.22. 2012
City Manager

Approved as to form:

[Signature]
City Attorney

Attested:

Darce McCracken
City Clerk (Seal)

Lessor

ARIZONA DEPARTMENT OF TRANSPORTATION

BY: *[Signature]* DATED: 5/24/12 2012
Manager, Property Management Section

EXHIBIT "A"

That portion of West half of the West half (W½W½) of Section 9, Township 2 North, Range 1 East, Gila and Salt River Meridian, Maricopa County, Arizona, described as follows:

Commencing at Maricopa County Highway Department (MCHD) brass cap in hand hole marking the North quarter corner of said Section 9, being North 88°08'03" East 2642.07 feet from a MCHD brass cap in hand hole marking the Northwest corner of said Section 9;

thence along the North line of said Section 9, South 88°08'03" West 721.10 feet;

thence South 1°51'57" East 55.00 feet to the existing southerly right of way line of Glendale Avenue;

thence along said existing southerly right of way line, South 86°06'52" West 598.61 feet;

thence continuing along said existing southerly right of way line, South 62°32'34" West 4.76 feet to the POINT OF BEGINNING on the East line of the Northwest quarter of the Northwest quarter (NW¼NW¼) of said Section 9, being the existing easterly right of way line of State Route 101L (AGUA FRIA FREEWAY);

thence South 62°32'33" West 152.42 feet to a point of the existing easterly access control line of said State Route 101L;

thence along said existing easterly access control line, South 0°13'50" West 1987.24 feet;

thence continuing along said existing easterly access control line, South 3°20'41" East 2148.82 feet to a point on said existing easterly right of way line of State Route 101L;

thence along said existing easterly right of way line, North 0°17'48" East 1841.37 feet;

thence continuing along said existing easterly right of way line, North 88°59'45" East 7.07 feet;

(continued)

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thence continuing along said existing easterly right of way line, North 0°01'51" East 2361.20 feet to the POINT OF BEGINNING.

428,640 square feet, more or less.

GRANTOR RESERVES unto the public and various utility companies, easements for existing utilities, if any, within the above described property, in accordance with Arizona Revised Statute 28-7210.

RESERVING unto Grantor a 20 foot easement on the North and South side of Maryland Avenue Overpass for maintenance, with the right of ingress and egress for said purposes.

The parcel of land herein conveyed shall have no right or easement of access to or from Glendale Avenue.

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