

**CITY CLERK
ORIGINAL**

ADOT CAR No : IGA /JPA 13-0000824-I
AG Contract No P001 2013 000957
Project SR 101L - Design, Construction &
Maintenance
Section Maryland Avenue, Northbound &
Southbound HOV Ramps
Federal-aid No.: 101-A(000)Z
ADOT Project No.: H8533 01D/01C
TIP/STIP No.: DOT13-154
Budget Source Item No.: 45913

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF GLENDALE

THIS AGREEMENT is entered into September 4, 2013 pursuant to Arizona Revised Statutes, §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State" or "ADOT") and the CITY OF GLENDALE, acting by and through its MAYOR and CITY COUNCIL ("The City"). The State and the City are collectively referred to as the "Parties"

I. RECITALS

1 The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State

2 The City is empowered by Arizona Revised Statutes § 48-572, to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City

3 The State has or will contract for the design and construction (using the "Design Build" process) of northbound and southbound direct connect High Occupancy Vehicle (HOV) on and off ramps, to and from State Route 101L (SR 101L) at Maryland Avenue, including traffic signals and lighting, herein referred to as (the "Project") The State has identified Regional Area Road Funds (RARF) and State Transportation Acceleration Needs (STAN) funds for the design and construction of the Project in fiscal year (FY) 2013 of the Regional Transportation Plan Freeway Program (RTPFP), at an estimated cost of **\$14,500,000.00** under Project Number 101 MA 005 H8533 01C / 01D as follows:

STAN Funding **\$8,000,000.00**
RARF Funding **\$6,500,000.00**

4 The purpose of this Agreement is to outline the maintenance responsibilities of the Parties upon completion of the Project, including but not limited to the operations, maintenance and electrical energy costs, relative to the traffic signals and lighting

5. The Parties hereto agree and acknowledge to the following conditions **a)** both Parties will perform their responsibilities consistent with this Agreement, and **b)** any changes to the Project's scope of work, will only occur upon the mutual agreement of the City and the State, by amendment to this Agreement

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1 The State will

a. Retain and contract with construction contractor (the "Contractor"), to prepare to State standards, the design plans, specifications, and other such documents (the "Project Documents") required for the bidding and construction of the Project using the Design Build 2-phase process, except where the City's standards for signals and lighting of the intersection are used.

b. Conduct design and construction progress meetings and provide the City the Project Documents prepared at intermediate stages for review and comment. Incorporate the City's comments as appropriate.

c. Incorporate City's standard signal and signal light detection details into the Project Documents

d. Solicit proposals and upon approval and acceptance by the State Transportation Board, award one or more contracts for design and construction of Project in accordance with Arizona Revised Statutes § 28-7365 (Design Build 2-phase process) Administer the construction and make all payments to the Contractor(s) Be responsible for any Contractor claims for extra compensation, attributable to the State

e. Upon completion of construction of the Project, notify the City and coordinate the final inspection and turn over the operation and maintenance of the traffic signals Accept the Project on behalf of the Parties that the Project has been constructed in accordance with the Project Documents and that the Project has been satisfactorily completed

f. Coordinate with the City for operational changes to the traffic signal during high volume or emergency conditions where the State would require the routing of traffic

g. Upon completion of construction of the Project, be responsible for the structural integrity and maintenance of the northbound and southbound SR 101L HOV on and off ramps and ramp lighting

h. Grant or confirm, per established procedures of the State's Phoenix Maintenance District Permit Office, that the City has a valid annual *citywide* Blanket Permit on file, for routine/normal maintenance and emergency maintenance work provided by the City within the State's rights-of-way Agree any new construction or installation shall require a separate permit through the State's Phoenix Maintenance District Permit Supervisor, as per the Phoenix Maintenance District's established procedures

2. The City will:

a. Upon receipt of the Project Documents, review and provide written comments to the State, as appropriate, within ten (10) business days of receipt of any stage of final design or the specified date requested by the Project Manager.

b. Attend progress meetings Confer with the State on any Project related contract modifications and provide written concurrence when applicable Be responsible for any Project related contractor claims caused by, or attributable solely to the City.

c. Provide to the State, the electrical facilities and associated equipment details for incorporation into the State's Project Documents.

d Upon completion of construction and notification by the State that the Project has been designed and constructed in accordance with the Project Documents, and attendance at the final inspection with the State, accept the operation, maintenance and emergency maintenance of the traffic signals and lighting on Maryland Avenue

e. Upon completion of construction of the Project, be responsible for all electrical energy costs to operate the traffic signals and/or intersection lighting relative to the Project

f Upon completion of construction of the Project, budget and provide for the proper operation and maintenance of the traffic signal improvements, intersection lighting, all supporting electrical equipment, and equipment specific to the City relative to the Project Supporting electrical equipment includes but is not limited to: all other electrical materials, components and/or other equipment necessary for the operation and maintenance of the electrical facilities described herein, such as light fixtures, poles, conduit, conductors, pull boxes, controllers and cabinets. In addition, be responsible for the monthly telephone charges for the interconnected circuits, when utilized

g. Coordinate with the State for State requested operational changes to the traffic signal during high volume or emergency conditions where the State would require the routing of traffic

h Coordinate with the State when the City makes changes to the traffic operations and routing of traffic for special events.

i Make its best effort to utilize Bethany Home Road and Glendale Avenue when routing truck traffic

j Notify the Blue Stake Center of the responsibility transfer, prior to the City assuming blue-stake responsibility The State will remain responsible for the accuracy of the plans provided by the State to the City for the transfer of blue-staking responsibility from the State to the City.

k Be responsible for responding to Blue Stake requests for all underground electrical equipment associated with the electrical facilities and associated electrical equipment maintained by the City and governed by this Agreement

l Conduct annual inspections of all Electrical Facilities for which the City maintains, relative to this Agreement

m Comply with the 2009 Manual on Uniform Traffic Control Devices (MUTCD) (or the latest edition as published by the Federal Highway Administration (FHWA)) and the current Arizona Supplement, as per Arizona Revised Statutes § 28-641, during all maintenance operations conducted by the City on State highway rights-of-way Traffic Control plans will be reviewed and/or approved by and through the Arizona Department of Transportation (ADOT), Phoenix Maintenance District Permits Office (address provided below).

n Be responsible for the replacement and/or repair of all damaged traffic signal and lighting equipment, including knockdowns The damaged equipment shall be replaced with like-kind equipment.

o Keep detailed maintenance records, which shall be made available to the State upon request

p Submit intersection traffic signal timing intervals to the State's Traffic Operation Section when requested

q Obtain, per established procedures of the State's Phoenix Maintenance District Permit Office, a valid annual citywide Blanket Permit for the routine/normal maintenance and emergency maintenance work provided by the City within the State's right-of-ways. Comply with all permit and Certificate of Insurance requirements. Agree, any new construction or installation shall require a separate permit as

per the Phoenix Maintenance District's established procedures, of which may be obtained through the Phoenix Maintenance District Office referenced herein

r. If at any time the City decides to cancel this Agreement, provide a ninety (90) day notice to the State and bear all costs related to the removal of the equipment specific to the City and all costs associated with replacing the equipment with current state standard equipment which shall be mutually agreed upon by both Parties prior to notification of cancellation

III. MISCELLANEOUS PROVISIONS

1 The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of the Project, provided however, any provisions herein for operation, maintenance and emergency maintenance of the traffic signals and lighting on Maryland Avenue and associated electrical power costs provided by the City shall be perpetual. This Agreement may be cancelled by either Party at any time prior to the advertisement of the Project, with thirty-day (30) written notice to the other Party or as stipulated in II 2 f above

2 The Parties to this Agreement agree that any damages or injuries to any person or property whatsoever arising from the design or construction of the City's Project elements identified in this Agreement shall be solely the liability and responsibility of the City. The City agrees to indemnify and hold harmless the State for any vicarious liability as a result of entering into this Agreement. The City further agrees to defend, indemnify and hold harmless the State, any of its departments, agencies, officers or employees, from any and all claims, loss, cost and/or damage incurred by any of the above and from any other liability whatsoever and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance or negligent performance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees. Costs incurred by the State, any of its departments, agencies, officers or employees, shall include in the event of any action, court costs, expenses of litigation or attorney's fees

3 Contractor and subcontractors contracted by the City shall procure and maintain insurance until all of their obligations have been discharged, including any warranty periods under their Contract with the City, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors

4 This Agreement shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

5 The cost of the Project under this Agreement includes applicable indirect costs approved by the Federal Highway Administration (FHWA)

6 This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511

7 To the extent applicable under law, the provisions set forth in Arizona Revised Statutes §§ 35-214 and 35-215 shall apply to this Agreement.

8. The Parties warrant compliance with the "Buy America" requirements as set forth in Section 106 15 of the ADOT Standard Specifications for Road and Bridge Construction

9 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. The Parties to this Agreement shall comply with Executive Order Number 09-09 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination"

10 Non-Availability of Funds. Every payment obligation of State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph

11. The Parties shall comply with the applicable requirements of Arizona Revised Statutes § 41-4401

12 Pursuant to Arizona Revised Statutes §§ 35-391 06 and 35-393 06, each Party certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in Arizona Revised Statutes §§ 35-391 and/or 35-393, as applicable. If any Party determines that another Party submitted a false certification, that Party may impose remedies as provided by law including terminating this Agreement

13 The Parties hereto shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.

14 In the event of any controversy which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518, as applicable

15 All notices or demands upon any Party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows.

Arizona Department of Transportation
 Joint Project Administration
 205 S 17th Avenue, Mail Drop 637E
 Phoenix, Arizona 85007-3212
 Fax 602-712-3132

City of Glendale
 City Manager's Office
 5850 West Glendale Avenue
 Glendale, AZ 85301
 Fax (623) 847-1399

For ADOT Finance - Contact
 Arizona Department of Transportation
 Attn Accounts Payable
 206 S 17th Avenue, MD 203B
 Phoenix, AZ 85007

City Finance - Contact
 City of Glendale
 Transportation Department
 5800 West Glenn Drive
 Glendale, AZ 85301
 Fax (623) 915-1029

16. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each Party's legal counsel and that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form

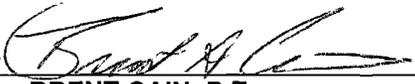
IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

CITY OF GLENDALE

By 

BRENDA S. FISCHER
City Manager

STATE OF ARIZONA
Department Of Transportation

By 

BRENT CAIN, P.E.
Deputy State Engineer, Urban Operations

ATTEST:

By 

PAMELA HANNA
City Clerk

ATTORNEY APPROVAL FORM FOR THE CITY OF GLENDALE

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF GLENDALE, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona

No opinion is expressed as to the authority of the State to enter into this Agreement

DATED this 15 day of Aug, 2013.


City Attorney



THOMAS C. HORNE
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
TRANSPORTATION SECTION

SUSAN E. DAVIS
ASSISTANT ATTORNEY
GENERAL
DIRECT LINE: 602-542-8855
E-MAIL: SUSAN.DAVIS@AZAG.GOV

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. P0012013000957 (IGA/JPA 13-824-I), an Agreement between public agencies, i.e., The State of Arizona and The City of Glendale, has been reviewed pursuant to A.R.S. §§ 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: September 4, 2013

THOMAS C. HORNE
Attorney General

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:rl.# 3531266
Attachment