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C-8879
04/24/2014

CITY OF GLENDALE, ARIZONA

**INTERGOVERNMENTAL AGREEMENT
C-64-14-113-M-00 BETWEEN MARICOPA COUNTY AND
THE CITY OF GLENDALE FOR THE BELL ROAD
ADAPTIVE TRAFFIC SIGNAL CONTROL
TECHNOLOGY DEPLOYMENT PROJECT
(Agreement C-8879)**

(PLEASE DO NOT REMOVE ~ THIS IS PART OF THE OFFICIAL DOCUMENT)

WHEN RECORDED RETURN TO:
Maricopa County Department of Transportation
Planning Division

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
2014-0308670 05/13/2014 08:29a
ELECTRONIC RECORDING
C_64_14_113M-10-1-1-- Palumbo

**INTERGOVERNMENTAL AGREEMENT
C-64-14-113-M-00**

**Between Maricopa County and the City of Glendale
for the Bell Road Adaptive Traffic Signal Control
Technology Deployment Project
(TT447)**

**Approved by the Maricopa County Board of Supervisors
On the 7th Day of May, 2014**

**DO NOT REMOVE
This is part of the official document**

MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION

**INTERGOVERNMENTAL AGREEMENT BETWEEN
MARICOPA COUNTY AND THE CITY OF GLENDALE
FOR THE BELL ROAD ADAPTIVE TRAFFIC SIGNAL CONTROL
TECHNOLOGY DEPLOYMENT PROJECT**

(TT447)

MAG #: MMA15-461

Fed Aid #: CM MMA-0(246)D

CFDA #: 20.205

TRACS #: SZ087 01C

(C-64-14- 113 -M-00)

This Intergovernmental Agreement (“**Agreement**”) is between the County of Maricopa, a political subdivision of the State of Arizona (**the “County”**), and the City of Glendale, a municipal corporation (**the “City”**). The County and the City are collectively referred to as the **Parties** or individually as a **Party**.

This Agreement shall become effective as of the date it is approved by the Maricopa County Board of Supervisors.

STATUTORY AUTHORIZATION

1. A.R.S. §§11-251 and 28-6701, *et seq.*, authorize the County to layout, maintain, control and manage public roads within its respective County, to acquire and condemn property necessary for such purposes, and to enter into this Agreement.
2. A.R.S. § 11-951, *et seq.*, provides that public agencies may enter into Intergovernmental Agreements for the provision of services or for joint or cooperative action.
3. A.R.S. §§ 9-240 and 9-276, *et seq.*, authorize the City to lay out and establish, regulate and improve streets within the City and to enter into this Agreement.

BACKGROUND

4. The County, acting through the Maricopa County Department of Transportation (MCDOT) and the City, are members of the regional traffic management and traveler information system known as AZTech™ (AZTech). Led by MCDOT, AZTech develops and supports traffic management projects along many of the Valley’s heavily traveled roadways.

5. Bell Road and its extension as Frank Lloyd Wright Boulevard is identified as a key east-west arterial extending from State Route 303L (Loop 303) on the west to State Route 101L (Loop 101) on the east.
6. Adaptive Traffic Signal Control Technology (ASCT) has been identified as an important tool to provide improved traffic signal timing adjustments in response to varying traffic volumes and congestion.
7. In association with the AZTech program, the current project (The "Project") consists of the installation of adaptive traffic signal control technology at 52 signalized intersections in four distinct areas along Bell Road and Frank Lloyd Wright Boulevard as identified below:
 - 7.1 Area 1 – 7.0 miles – 21 intersections – Bell Road from Cotton Lane through Avenue of the Arts/114th Avenue, including Loop 303 & Grand Avenue
 - 7.2 Area 2 – 3.4 miles – 13 intersections – Bell Road from 99th Avenue through 73rd Avenue, including Loop 101
 - 7.3 Area 3 – 3.2 miles – 10 intersections – Frank Lloyd Wright from Scottsdale Road through Thompson Peak Parkway, including Loop 101
 - 7.4 Area 4 – 2.0 miles – 8 intersections – Bell Road from 35th Avenue through 19th Avenue, including Interstate - 17 (I-17)
8. Associated with the AZTech Program, this Project is part of an ongoing joint effort by the County and the City to provide for the efficient management of traffic on Bell Road and Frank Lloyd Wright Boulevard in Maricopa County.
9. The Project is funded from local and federal funds. The estimated construction cost is \$2,455,000 with federal funds of \$2,315,065 and a local match of \$139,935.
10. This Agreement is contingent upon the City's compliance with the Single Audit Act of 1984 and the availability of federal funds through the MAG Transportation Improvement Program (TIP):
 - 10.1 Federal Contract Number: CM-MMA-0(246)D
 - 10.2 Catalog of Federal Domestic Assistance (CFDA) Number: CFDA# 20.205
 - 10.3 Fiscal Years: FY 2015
 - 10.4 Total Project Cost: \$2,455,000
 - 10.5 Federal Obligation Award: \$2,315,065
 - 10.6 Funding Sources:
 - i. Congestion Mitigation and Air Quality Funds (CMAQ) – \$2,315,065 Federal Highway Administration (FHWA)
 - ii. Highway User Revenue Funds (HURF) and local revenues – \$139,935 – Local Match – distributed proportionally between the participating agencies: Arizona Department of

Transportation (ADOT), Peoria, Glendale, Phoenix, Surprise, Scottsdale and the County.

10.7 Project Contact Information:

- i. Name: Paul Porell, Project Manager
- ii. Agency: Maricopa County Department of Transportation
- iii. Phone: 602-506-7174
- iv. Email: PaulPorell@mail.maricopa.gov

PURPOSE OF THE AGREEMENT

11. The purposes of this Agreement are to identify the roles and responsibilities of the Parties with respect to the Project and define the cost sharing of the local match for the Project.

TERMS OF THE AGREEMENT

12. **Responsibilities of the County:**

- 12.1 The County shall be the lead agency on all construction and construction management, and shall provide certification of right-of-way with the timely assistance of the City.
- 12.2 The County shall request from the City any necessary right-of-way, utility and environmental clearance background information.
- 12.3 The County shall provide design and installation documents to the City for review in a timely manner.
- 12.4 The County shall apply for no-cost permits for Project work within the City boundaries.
- 12.5 The County shall receive and administer the project federal-aid funding for the duration of the Project.
- 12.6 The County shall contribute the local match for the construction costs for three signals along Bell Road between 99th Avenue and 73rd Avenue (Area 2), currently estimated at \$7,695. If the sum of the local match contributions provided by all of the agencies participating in the Project is insufficient to meet the total federally-mandated local match of 5.7 percent of the total construction cost of the Project, the County shall also contribute the balance of local match necessary to meet the mandated local match of 5.7 percent of the total construction cost, currently estimated at a balance of \$6,555.
- 12.7 Upon completion of construction and approval and acceptance by the City, the County shall invoice the City for the City's local match requirement of the construction costs of the Project for five signals along Bell Road between 99th Avenue and 73rd Avenue (Area 2), currently estimated at \$12,825.
- 12.8 The County shall provide the construction documents for the Project to

the City's representative when completed.

13. Responsibilities of the City:

- 13.1 The City shall provide the County any necessary right-of-way, utility and environmental clearance background information, within 30 days of formal request.
- 13.2 The City shall provide timely review of all design and installation documents provided by the County. The City shall provide comments to the County within 30 calendar days after receiving documents for review from the County.
- 13.3 The City shall issue the County no-cost permits for Project work within the City boundaries.
- 13.4 Within thirty (30) days of receiving the invoice from the County, the City shall contribute the local match requirement of the construction costs of the Project for five signals along Bell Road between 99th Avenue and 73rd Avenue (Area 2), currently estimated at \$12,825.
- 13.5 The City shall own, operate and maintain the equipment installed within the City's jurisdiction as part of this Project upon completion of the Project.

GENERAL TERMS AND CONDITIONS

- 14. By entering into this Agreement, the Parties agree that to the extent permitted by law, each Party will defend, indemnify and save the other Parties harmless, including any of the Parties' 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 Party of any of the provisions of this Agreement. By entering into this Agreement, each Party indemnifies the other against all liability (including but not limited to vicarious 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 that is occasioned by the negligence of that other Party. The damages which are the subject of this indemnity shall include but not be limited to the damages incurred by any Party, 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.
- 15. This Agreement shall become effective as of the date it is approved by the Maricopa County Board of Supervisors 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 Parties. Any Party may terminate this Agreement upon furnishing the other Party with a written notice at least thirty

(30) days prior to the effective termination date.

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

17. The Parties warrant that they are in compliance with A.R.S. Section 41-4401 and further acknowledge that:

17.1 Any contractor or subcontractor who is contracted by a Party 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 the E-Verify program under A.R.S. Section 23-214(A), and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer.

17.2 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.

17.3 The Parties 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 to require that the contractor make all papers and employment records of said employee available during normal working hours in order to facilitate such an inspection.

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

18. Each Party to this Agreement warrants that neither it nor any contractor or vendor under contract with the Party to provide goods or services toward the accomplishment of the objectives of this Agreement is suspended or debarred by any federal agency which has provided funding that will be used in the Project described in this Agreement.

19. Each of the following shall constitute a material breach of this Agreement and an event of default ("Default") hereunder: A Party's failure to observe or perform any of the material covenants, conditions or provisions of this Agreement to be observed or performed by that Party ("Defaulting Party"), where such failure continues for a period of thirty (30) days after the Defaulting Party receives written notice of such failure from the non-defaulting party provided, however, that such failure shall not be a Default if the Defaulting Party has commenced to cure the Default within such thirty (30) day period and thereafter is diligently pursuing such cure to completion, but the total aggregate cure period shall not exceed ninety (90) days unless the Parties agree in writing that additional time is reasonably necessary under the circumstances to cure the default. In the event a Defaulting Party fails to perform any of its material obligations under this Agreement and is in Default, the non-defaulting party, at its option, may terminate this Agreement. Further, upon the occurrence of any Default and at any time thereafter, the non-defaulting party may, but shall not be required to, exercise any remedies now or hereafter available to it at law or in equity.

20. All notices required under this agreement to be given in writing shall be sent to:

Maricopa County Department of Transportation
Transportation Director
2901 West Durango Street
Phoenix, AZ 85009

City of Glendale
City Manager (or designee)
5850 West Glendale Avenue
Glendale, AZ 85301

All notices required or permitted by this Agreement or applicable law shall be in writing and may be delivered in person (by hand or courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, and shall be deemed sufficiently given if served in a manner specified in this paragraph. Either Party may by written notice to the other specify a different address for notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail, the notice shall be deemed given 72 hours after the notice is addressed as required in this paragraph and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the notice to the Postal Service or courier.

21. This Agreement does not imply authority to perform any tasks, or accept any responsibility, not expressly stated in this Agreement.
22. This Agreement does not create a duty or responsibility unless the intention to do so is clearly and unambiguously stated in this Agreement.
23. 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.
24. Any funding provided for in this Agreement, other than in the current fiscal year, is contingent upon being budgeted and appropriated by the Maricopa County Board of Supervisors and the Glendale City Council in such fiscal year. This Agreement may be terminated by any Party at the end of any fiscal year due to non-appropriation of funds.
25. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assignees. Neither Party shall assign its interest in this Agreement without the prior written consent of the other Party.
26. This Agreement and all Exhibits attached to this Agreement set forth all of the covenants, promises, agreements, conditions and understandings between the Parties to this Agreement, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between the Parties other

than as set forth in this Agreement, and those agreements which are executed contemporaneously with this Agreement. This Agreement shall be construed as a whole and in accordance with its fair meaning and without regard to any presumption or other rule requiring construction against the party drafting this Agreement. This Agreement cannot be modified or changed except by a written instrument executed by all of the Parties hereto. Each party has reviewed this Agreement and has had the opportunity to have it reviewed by legal counsel.

27. The waiver by any Party of any right granted to it under this Agreement is not a waiver of any other right granted under this Agreement, nor may any waiver be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived.
28. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision shall be invalid or prohibited under the law, such provision shall be ineffective to the extent of such prohibition or invalidation but shall not invalidate the remainder of such provision or the remaining provisions.
29. Except as otherwise provided in this Agreement, all covenants, agreements, representations and warranties set forth in this Agreement or in any certificate or instrument executed or delivered pursuant to this Agreement shall survive the expiration or earlier termination of this Agreement for a period of one (1) year.
30. Nothing contained in this Agreement shall create any partnership, joint venture or other agreement between the Parties hereto. Except as expressly provided in this Agreement, no term or provision of this Agreement is intended or shall be for the benefit of any person or entity not a party to this Agreement, and no such other person or entity shall have any right or cause of action under this Agreement.
31. Time is of the essence concerning this Agreement. Unless otherwise specified in this Agreement, the term "day" as used in this Agreement means calendar day. If the date for performance of any obligation under this Agreement or the last day of any time period provided in this Agreement falls on a Saturday, Sunday or legal holiday, then the date for performance or time period shall expire at the close of business on the first day thereafter which is not a Saturday, Sunday or legal holiday.
32. Sections and other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
33. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument. Faxed, copied and scanned signatures are acceptable as original signatures.
34. The Parties agree to execute and/or deliver to each other such other instruments and documents as may be reasonably necessary to fulfill the covenants and obligations to be performed by such party pursuant to this

Agreement.

35. The Parties hereby agree that the venue for any claim arising out of or in any way related to this Agreement shall be Maricopa County, Arizona.
36. This Agreement shall be governed by the laws of the State of Arizona.
37. Unless otherwise lawfully terminated by the Parties, this Agreement expires upon completion and acceptance of the Project and fulfillment of all terms of the Agreement.

End of Agreement - Signature Page Follows

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

MARICOPA COUNTY

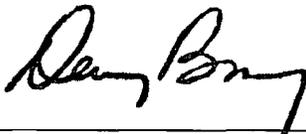
CITY OF GLENDALE

Recommended by:



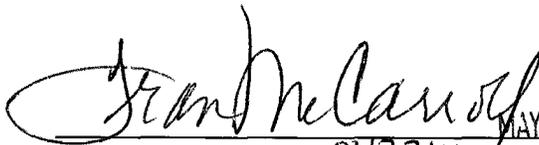
John B. Hauskins, P.E. Date
Transportation Director 4-3-2014

Approved and Accepted by:



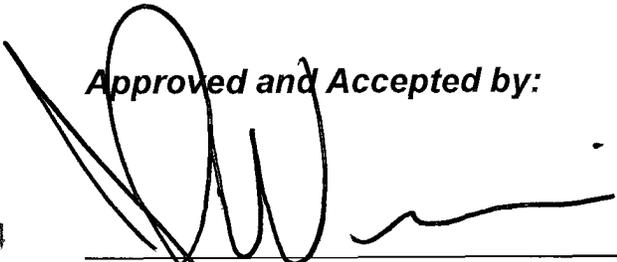
Denny Barney, Chairman Date
Board of Supervisors MAY 07 2014

Attest by:



Fran McCarroll Date
Clerk of the Board 042314 MAY 07 2014

Approved and Accepted by:



Jerry Weiers Date
Mayor

Attest by:



Pam Hanna Date
City Clerk 09/23/14

**APPROVAL OF DEPUTY COUNTY ATTORNEY
AND ATTORNEY FOR THE CITY OF GLENDALE**

I hereby state that I have reviewed the proposed Intergovernmental Agreement and declare the Agreement to be in proper form and within the powers and authority granted to the Parties by their respective governing bodies under the laws of the State of Arizona.



Deputy County Attorney Date
5/5/14



City Attorney Date