C-9279
10/14/2014

CITY CLERK
ORIGINAL

ADOT File No IGA/JPA 14-0004237-I
AG Contract No · P001 2014 00150
Project Installation of count stations and Travel time data collectors at key Intersections/develop database and GUI to manage, query and present data
Section Various City Locations
Federal-aid No.: GLN-0(249)T
ADOT Project No.: SZ143 01D/01C
TIP/STIP No.: GLN16-402
CFDA No.: 20.205 - Highway Planning and Construction
Budget Source Item No.: N/A

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF GLENDALE

THIS AGREEMENT is entered into this date November 19th 2014 pursuant to the 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") 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 "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 work proposed under this Agreement consists of installation of twenty-four (24) count stations and fifty-six (56) travel time data collectors at key intersections to develop a database and GUI to manage, query, and present data throughout various City locations, hereinafter referred to as the "Project". The City will provide the design and the State will review the design, advertise, bid, award and administer the construction/installation of the Project The plans, estimates and specifications for the Project will be prepared and, as required, submitted to the State and Federal Highway Administration (FHWA) for its approval

4 The City, in order to obtain federal funds for the construction/ installation of the Project, is willing to provide City funds to match federal funds in the ratio required or as finally fixed and determined by the City and FHWA, including actual construction engineering and administration costs (CE)

5 The interest of the State in this Project is the acquisition of federal funds for the use and benefit of the City and to authorize such federal funds for the Project pursuant to federal law and regulations The State shall be the designated agent for the City

6 The Parties shall perform their responsibilities consistent with this Agreement and any change or modification to the Project will only occur with the mutual written consent of both Parties

7. The federal funds will be used for the construction/installation of the Project, including the construction engineering and administration cost (CE) The estimated Project costs are as follows

SZ143 01D (ADOT Project Management & Design Review (PMDR) Cost, non-federal-aid):

PMDR costs*	**$ 30,000.00**
SZ143 01C (construction)	
Federal-aid funds @ 94 3%	**$ 555,470.00**
City's match @ 5 7%	**$ 33,576.00**
Total Estimated City Funds	**$ 63,576.00**
Total Federal Funds	**$ 555,470.00**
TOTAL Estimated Project Construction Costs**	**$ 619,046.00**

* (Included in the City's estimated funds)
** (Includes 15% CE and 5% Project contingencies)

The Parties acknowledge that the final Project costs may exceed the initial estimate(s) shown above, and in such case, the City is responsible for, and agrees to pay, any and all eventual, actual costs exceeding the initial estimate If the final bid amount is less than the initial estimate, the difference between the final bid amount and the initial estimate will be de-obligated or otherwise released from the Project The City acknowledges it remains responsible for, and agrees to pay according to the terms of this Agreement, any and all eventual, actual costs exceeding the final bid amount

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

II. SCOPE OF WORK

1 The State will

a Upon execution of this Agreement, be the designated agent for the City, if the Project is approved by FHWA and funds for the Project are available

b Upon execution of this Agreement, and prior to performing or authorizing any work, invoice the City for the initial PMDR costs, currently estimated at **$30,000.00** If, during the development of the design, additional funding from the City is required, the State will invoice the City in increments of $5,000 00 to cover projected PMDR costs Once the Project costs have been finalized, the State will either invoice or reimburse the City for the difference between estimated and actual design review costs

c Upon receipt of the initial PMDR costs, review the design plans, specifications and other such documents and provide services required for the construction bidding and construction administration of the Project and provide comments to the City, as appropriate

d Upon completion of design and prior to bid advertisement, invoice the City for the City's share of the Project construction costs, currently estimated at **$33,576.00.** Once the Project costs have been finalized, the State will either invoice or reimburse the City for the difference between estimated and actual Project construction/installation costs

e Upon receipt of the City estimated share of the Project construction/ installation costs, submit all documentation required to FHWA with the recommendation that funding be approved for construction/installation Request the maximum programmed federal funds for the construction of this Project Should costs exceed the maximum federal funds available, it is understood and agreed that the City will be responsible for any overage

f Upon FHWA authorization and with the aid of the City, proceed to advertise for, receive and open bids, subject to the concurrence of the City to whom the award is made, and enter into a contract(s) with a firm(s) for the construction of the Project

g Be granted, without cost requirements, the right to enter City right-of-way as required to conduct any and all construction and pre-construction related activities for said Project, including without limitation, temporary construction easements or temporary rights of entry on to and over said rights-of-way of the City

h Notify the City that the Project has been completed and is considered acceptable, coordinating with the City as appropriate to turn over full responsibility of the Project improvements De-obligate or otherwise release any remaining federal funds from the construction phase of the Project within ninety (90) days of final acceptance

i Not be obligated to maintain said Project, should the City fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement

2 The City will

a Upon execution of this Agreement, designate the State as authorized agent for the City

b Upon execution of this Agreement, prior to the State performing or authorizing any work and within thirty (30) days of receipt of an invoice from the State, pay the initial PMDR costs, currently estimated at **$30,000.00** If, during the development of the design, additional funding to cover PMDR costs is required, pay the invoiced amount to the State within thirty (30) days of receipt Be responsible for any difference between the estimated and actual design review and construction costs

c Prepare and provide the design plans, specifications and other such documents and services required for bidding and construction of the Project and incorporate comments from the State as appropriate

d Enter into an agreement with the design consultant which states that the design consultant shall provide professional post-design services as required and requested throughout and upon completion of the construction phase of the Project

e Upon completion of design, within thirty (30) days of receipt of an invoice from the State and prior to bid advertisement, remit to the State, the City's Project installation costs, currently estimated at **$33,576.00.** Once the Project costs have been finalized, the State will either invoice or reimburse the City for the difference between estimated and actual costs

f Be responsible for all costs incurred in performing and accomplishing the work as set forth under this Agreement, not covered by federal funding Should costs be deemed ineligible or exceed the maximum federal funds available, it is understood and agreed that the City is responsible for these costs, payment for these costs shall be made within thirty (30) days of receipt of an invoice from the State

g Be obligated to incur any expenditure should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent of scope of the work requested by the City Such changes require the prior approval of the State and FHWA Be responsible for any contractor claims for additional compensation caused by Project delays, payment for these costs shall be made within thirty (30) days of receipt of an invoice from the State

h Certify that all necessary rights-of-way have been or will be acquired prior to advertisement for bid and also certify that all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the Project area, shall be removed from the proposed right-of-way, or will be removed prior to the start of construction, in accordance with The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, 49 CFR 24 102 Basic Acquisition Policies, 49 CFR 24 4 Assurances, Monitoring and Corrective Action, parts (a) & (b) and ADOT ROW Manual 8 02 Responsibilities, 8 03 Prime Functions, 9 07 Monitoring Process and 9 08 Certification of Compliance Coordinate with the appropriate State's Right-of-Way personnel during any right-of-way process performed by the City, if applicable

i Not permit or allow any encroachments upon or private use of the right-of-way, except those authorized by permit In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use

j Grant the State, its agents and/or contractors, without cost, the right to enter City rights-of-way, as required, to conduct any and all construction and preconstruction related activities, including without limitation, temporary construction easements or temporary rights of entry to accomplish among other things, soil and foundation investigations

k Upon completion of the construction phase of the Project, provide an electronic version of the as-built plans to Arizona Department of Transportation Statewide/Urban Project Management Group Section

l Upon notification of Project completion, from the State, agree to accept, maintain and assume full responsibility of the Project in writing

III. MISCELLANEOUS PROVISIONS

1 The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said Project, including related deposits and/or reimbursements Any provisions for maintenance/electrical power shall be perpetual by the City This Agreement may be cancelled at any time prior to advertisement of the project construction contract, upon thirty (30) days written notice to the other Party It is understood and agreed that, in the event the City terminates this Agreement, the City will be responsible for all costs incurred by the State up to the time of termination It is further understood and agreed that should the City terminate this Agreement, the State shall in no way be obligated to maintain said Project

2 The State assumes no financial obligation or liability under this Agreement, or for any resulting construction Project The City, in regard to the City's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims It is understood and agreed that the State's participation is confined solely to securing federal aid on behalf of

the City and the fulfillment of any other responsibilities of the State as specifically set forth herein, that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof shall be solely the liability of the City and that to the extent permitted by law, the City hereby agrees to save and hold harmless, defend and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all liability, costs and/or damage incurred by any of the above arising or resulting from this Agreement, and from any other liability, damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or non-performance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, or its independent contractors, the City, any of its agents, officers and employees, or its independent contractors Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees

3 The cost of construction and construction engineering work under this Agreement is to be covered by the federal funds set aside for this Project, up to the maximum available The City acknowledges that the eventual actual costs may exceed the maximum available amount of federal funds, or that certain costs may not be accepted by the federal government as eligible for federal funds Therefore, the City agrees to pay the difference between actual costs of the Project and the federal funds received

4 Should the federal funding related to this Project be terminated or reduced by the federal government, or Congress rescinds, fails to renew, or otherwise reduces apportionments or obligation authority, the State shall in no way be obligated for funding or liable for any past, current or future expenses under this Agreement

5 The cost of the Project under this Agreement includes indirect costs approved by FHWA, as applicable

6 The Parties warrant compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act") Additionally, in a timely manner, the City will provide information that is requested by the State to enable the State to comply with the requirements of the Act, as may be applicable

7 The City acknowledges compliance with federal laws and regulations and may be subject to the Office of Management and Budget (OMB), Single Audit, Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations) Entities that expend $500,000 00 or more (prior to 12/26/14) and $750,000 00 or more (on or after 12/26/14) of federal assistance (federal funds, federal grants, or federal awards) are required to comply by having an independent audit Either an electronic or hardcopy of the Single Audit is to be sent to Arizona Department of Transportation Financial Management Services within the required deadline of nine (9) months of the sub recipient fiscal year end.

ADOT – FMS
Attn Cost Accounting Administrator
206 S 17th Ave Mail Drop 204B
Phoenix, AZ 85007
SingleAudit@azdot.gov

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

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

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

11 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 2009-09 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination"

12 Non-Availability of Funds Every obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the fulfillment of such obligations 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 as a result of termination under this paragraph

13 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

14 The Parties shall comply with the applicable requirements of Arizona Revised Statute § 41-4401

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

16 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 (602) 712-7124 (602) 712-3132 Fax	**City of Glendale** Attn Trevor Ebersole 5850 West Glendale Avenue Glendale, Arizona 85301 Phone (623) 930-2904 Fax (623) 915-1029

17 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

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

CITY OF GLENDALE

By _____
BRENDA S. FISCHER, ICMA-CM
City Manager

ATTEST

By _____
PAMELA HANNA
City Clerk

STATE OF ARIZONA
Department of Transportation

By _____
DALLAS HAMMIT, P.E.
Acting State Engineer

July 11th 2014-ly

RESOLUTION NO. 4864 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE INSTALLATION OF TWENTY-FOUR COUNT STATIONS AND FIFTY-SIX TRAVEL TIME DATA COLLECTORS AT KEY INTERSECTIONS IN GLENDALE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That it is deemed in the best interest of the City of Glendale and the citizens thereof that the Intergovernmental Agreement between the City of Glendale and the Arizona Department of Transportation (**IGA/JPA No. 14-0004237-I**) (**Project No. SZ143 01D/01C**) for the installation of twenty-four (24) count stations and fifty-six (56) travel time data collectors at key intersections for the purpose of developing a database and GUI to manage, query, and present data throughout various City locations be entered into, which agreement is now on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That the City Manager and City Clerk are hereby authorized and directed to execute the Intergovernmental Agreement on behalf of the City of Glendale, a copy of which is on now on file in the office of the City Clerk of the City of Glendale.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 14th day of October, 2014.

MAYOR

ATTEST:

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney

REVIEWED BY:

City Manager

IGA/JPA 14-0004237-I

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 15th day of October, 2014

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 P0012014001540 **(ADOT IGA/JPA 14-0004237-I)**, an Agreement between public agencies, 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. November 19, 2014

THOMAS C HORNE
Attorney General

Susan Davis

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED rl #4228337
Attachment