

CITY CLERK ORIGINAL

C-9953
04/28/2015

PROFESSIONAL SERVICES AGREEMENT Travel Time Data Collectors and Count Stations

This Professional Services Agreement ("Agreement") is entered into and effective between CITY OF GLENDALE, an Arizona municipal corporation ("City") and Lee Engineering, a Limited Liability Company, authorized to do business in the State of Arizona, ("Consultant") as of the 28 day of APRIL, 2015 ("Effective Date").

RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in **Exhibit A**, Project (the "Project");
- B. City desires to retain the professional services of Consultant to perform certain specific duties and produce the specific work as set forth in the attached **Exhibit B**, Project Scope of Work ("Scope");
- C. Consultant desires to provide City with professional services ("Services") consistent with best consulting or architectural practices and the standards set forth in this Agreement, in order to complete the Project; and
- D. City and Consultant desire to memorialize their agreement with this document.

AGREEMENT

The parties hereby agree as follows:

1. Key Personnel; Other Consultants and Subcontractors.

- 1.1 Professional Services. Consultant will provide all Services necessary to assure the Project is completed timely and efficiently consistent within Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other consultants or contractors, retained by City.
- 1.2 Project Team.
 - a. Project Manager.
 - (1) Consultant will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, complete the project and handle all aspects of the Project such that the work produced by Consultant is consistent with applicable standards as detailed in this Agreement; and
 - (2) The City must approve the designated Project Manager.
 - b. Project Team.
 - (1) The Project Manager and all other employees assigned to the Project by Consultant will comprise the "Project Team."
 - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Consultant.
 - c. Discharge, Reassign, Replacement.
 - (1) Consultant acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in **Exhibit A**.
 - (2) Consultant will not discharge, reassign, replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City

without City's prior written consent unless that person leaves the employment of Consultant, in which event the substitute must first be approved in writing by City.

- (3) Consultant will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties, or if the acts or omissions of that person are detrimental to the development of the Project.

d. Subcontractors.

- (1) Consultant may engage specific technical contractors (each a "Subcontractor") to furnish certain service functions.
- (2) Consultant will remain fully responsible for Subcontractor's services.
- (3) Subcontractors must be approved by the City.
- (4) Consultant will certify by letter that all contracts with Subcontractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. **Schedule.** The Services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

3. **Consultant's Work.**

3.1 Standard. Consultant must perform Services in accordance with the standards of due diligence, care, and quality prevailing among consultants having substantial experience with the successful furnishing of Services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 Licensing. Consultant warrants that:

- a. Consultant and its Subconsultants or Subcontractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of Services ("Approvals"); and
- b. Neither Consultant nor any Subconsultant or Subcontractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
 - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments, or to examine Consultant's contracting ability.
 - (2) Consultant must notify City immediately if any Approvals or Debarment changes during the Agreement's duration. The failure of the Consultant to notify City as required will constitute a material default under the Agreement.

3.3 Compliance. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.

Contractor must not discriminate against any employee or applicant for employment on the basis race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

3.4 Coordination; Interaction.

- a. For projects that the City believes requires the coordination of various professional services, Consultant will work in close consultation with City to proactively interact with

any other professionals retained by City on the Project ("Coordinating Project Professionals").

- b. Consultant will meet to review the Project, Schedule and in-progress work with Coordinating Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
- c. For projects not involving Coordinating Project Professionals, Consultant will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

3.5 Work Product.

- a. Ownership. Upon receipt of payment for Services furnished, Consultant grants to City, and will cause its Subconsultants or Subcontractors to grant to the City, the exclusive ownership of and all copyrights, if any, to evaluations, reports, drawings, specifications, project manuals, surveys, estimates, reviews, minutes, all "architectural work" as defined in the United States Copyright Act, 17 U.S.C § 101, *et seq.*, and other intellectual work product as may be applicable ("Work Product").
 - (1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.
 - (2) Consultant warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests.
- b. Delivery. Consultant will deliver to City copies of the preliminary and completed Work Product promptly as they are prepared.
- c. City Use.
 - (1) City may reuse the Work Product at its sole discretion.
 - (2) In the event the Work Product is used for another project without further consultations with Consultant, the City agrees to indemnify and hold Consultant harmless from any claim arising out of the Work Product.
 - (3) In such case, City will also remove any seal and title block from the Work Product.

4. **Compensation for the Project.**

- 4.1 Compensation. Consultant's compensation for the Project, including those furnished by its Subconsultants or Subcontractors will not exceed \$141,827 as specifically detailed in **Exhibit D** ("Compensation").
- 4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated Scope as outlined in the Project is significantly modified.
 - a. Adjustments to Compensation require a written amendment to this Agreement and may require City Council approval.
 - b. Additional services which are outside the Scope of the Project contained in this Agreement may not be performed by the Consultant without prior written authorization from the City.
 - c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.
- 4.3 Allowances. An "Allowance" may be identified in **Exhibit D** only for work that is required by the Scope and the value of which cannot reasonably be quantified at the time of this Agreement.

- a. As stated in Sec. 4.1 above, the Compensation must incorporate all Allowance amounts identified in **Exhibit D** and any unused allowance at the completion of the Project will remain with City.
- b. Consultant may not add any mark-up for work identified as an Allowance and which is to be performed by a Subconsultant.
- c. Consultant will not use any portion of an Allowance without prior written authorization from the City.
- d. Examples of Allowance items include, but are not limited to, subsurface pothole investigations, survey, geotechnical investigations, public participation, radio path studies and material testing.

4.4 Expenses. City will reimburse Consultant for certain out-of-pocket expenses necessarily incurred by Consultant in connection with this Agreement, without mark-up (the "Reimbursable Expenses"), including, but not limited to, document reproduction, materials for book preparation, postage, courier and overnight delivery costs incurred with Federal Express or similar carriers, travel and car mileage, subject to the following:

- a. Mileage, airfare, lodging and other travel expenses will be reimbursable only to the extent these would, if incurred, be reimbursed to City of Glendale personnel under its policies and procedures for business travel expense reimbursement made available to Consultant for review prior to the Agreement's execution, and which policies and procedures will be furnished to Consultant;
- b. The Reimbursable Expenses in this section are approved in advance by City in writing; and
- c. The total of all Reimbursable Expenses paid to Consultant in connection with this Agreement will not exceed the "not to exceed" amount identified for Reimbursable Services in the Compensation.

5. **Billings and Payment.**

5.1 Applications.

- a. Consultant will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
- b. The period covered by each Payment Application will be one calendar month ending on the last day of the month.

5.2 Payment.

- a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- b. Payment may be subject to or conditioned upon City's receipt of:
 - (1) Completed work generated by Consultant and its Subconsultants and Subcontractors; and
 - (2) Unconditional waivers and releases on final payment from all Subconsultants and Subcontractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

5.3 Review and Withholding. City's Project Manager will timely review and certify Payment Applications.

- a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.

- b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

6. Termination.

6.1 For Convenience. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 15 days following the date of delivery.

- a. Consultant will be equitably compensated for Services furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Consultant will also be similarly compensated for any approved effort expended, and approved costs incurred, that are directly associated with Project closeout and delivery of the required items to the City.

6.2 For Cause. City may terminate this Agreement for cause if Consultant fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- a. Consultant will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Consultant for Services furnished, City will pay the amount due to Consultant, less City's damages, in accordance with the provision of Sec. 5.
- b. If City's direct damages exceed amounts otherwise due to Consultant, Consultant must pay the difference to City immediately upon demand; however, Consultant will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. **Conflict.** Consultant acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

8. **Insurance.** For the duration of the term of this Agreement, Contractor shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such insurance shall cover Contractor, its agent(s), representative(s), employee(s) and any subcontractors.

8.1 **Minimum Scope and Limit of Insurance.** Coverage must be at least as broad as:

- a. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01, including products and completed operations, with limits of no less than **\$1,000,000** per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- b. Automobile Liability: Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than **\$1,000,000** per accident for bodily injury and property damage.
- c. Worker's Compensation: Insurance as required by the State of Arizona, with Statutory Limits, and Employers' Liability insurance with a limit of no less than **\$1,000,000** per accident for bodily injury or disease.

8.2 **Other Insurance Provisions.** The insurance policies required by the Section above must contain, or be endorsed to contain the following insurance provisions:

- a. **The City, its officers, officials, employees and volunteers are to be covered as additional insureds** of the CGL and automobile policies for any liability arising from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such liability may arise, but is not limited to, liability for materials, parts

or equipment furnished in connection with any tasks, or work performed by Contractor or on its behalf and for liability arising from automobiles owned, leased, hired or borrowed on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's existing insurance policies, provided such endorsement is at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37, if later revisions are used.

b. For any claims related to this Project, the **Contractor's insurance coverage shall be primary insurance** with respect to the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.

c. Each insurance policy required by this Section shall provide that coverage shall not be canceled, except after providing notice to the City.

8.3 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless the Contractor has obtained prior approval from the City stating that a non-conforming insurer is acceptable to the City.

8.4 Waiver of Subrogation. **Contractor hereby agrees to waive its rights of subrogation which any insurer may acquire** from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agent(s) and subcontractor(s).

8.5 Verification of Coverage. Within 15 days of the Effective Date of this Agreement, Contractor shall furnish the City with original certificates and amendatory endorsements, or copies of any applicable insurance language making the coverage required by this Agreement effective. All certificates and endorsements must be received and approved by the City before work commences. Failure to obtain, submit or secure the City's approval of the required insurance policies, certificates or endorsements prior to the City's agreement that work may commence shall not waive the Contractor's obligations to obtain and verify insurance coverage as otherwise provided in this Section. The City reserves the right to require complete, certified copies of all required insurance policies, including any endorsements or amendments, required by this Agreement at any time during the Term stated herein.

Contractor's failure to obtain, submit or secure the City's approval of the required insurance policies, certificates or endorsements shall not be considered a Force Majeure or defense for any failure by the Contractor to comply with the terms and conditions of the Agreement, including any schedule for performance or completion of the Project.

8.6 Subcontractors. Contractor shall require and shall verify that all subcontractors maintain insurance meeting all requirements of this Agreement.

8.7 Special Risk or Circumstances. The City reserves the right to modify these insurance requirements, including any limits of coverage, based on the nature of the risk, prior experience, insurer, coverage or other circumstances unique to the Contractor, the Project or the insurer.

9. Immigration Law Compliance.

9.1 Consultant, and on behalf of any Subconsultant or Subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.

9.2 Any breach of warranty under this section is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.

- 9.3 City retains the legal right to inspect the papers of any Consultant, Subconsultant, or Subcontractor employee who performs work under this Agreement to ensure that the Consultant, Subconsultant or any Subcontractor is compliant with the warranty under this section.
- 9.4 City may conduct random inspections, and upon request of City, Consultant will provide copies of papers and records of Consultant demonstrating continued compliance with the warranty under this section. Consultant agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.
- 9.5 Consultant agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Consultant and expressly accrue those obligations directly to the benefit of the City. Consultant also agrees to require any Subconsultant or Subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 9.6 Consultant's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 9.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

10. Notices.

- 10.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:
- a. The Notice is in writing; and
 - b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested).
 - c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
 - (1) Received on a business day before 5:00 p.m. at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service; or
 - (2) As of the next business day after receipt, if received after 5:00 p.m.
 - d. The burden of proof of the place and time of delivery is upon the Party giving the Notice.
 - e. Digitalized signatures and copies of signatures will have the same effect as original signatures.
- 10.2 Representatives.
- a. Consultant. Consultant's representative (the "Consultant's Representative") authorized to act on Consultant's behalf with respect to the Project, and his or her address for Notice delivery is:

Dave Bruggeman
3610 North 44th Street, Suite 100
Phoenix, Arizona 85018

- b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale
c/o Trevor Ebersole
6210 W. Myrtle Ave., Suite 112
Glendale, Arizona 85301

With required copy to:

City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

City Attorney
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

- c. Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by the City Manager and the City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Consultant identifying the designee(s) and their respective addresses for notices.

- d. Changes. Consultant or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

- 11. Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

12. Entire Agreement; Survival; Counterparts; Signatures.

12.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Consultant and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- c. Inconsistencies between the solicitation, any addenda attached to the solicitation, the response or any excerpts attached as **Exhibit A**, and this Agreement, will be resolved by the terms and conditions stated in this Agreement.

12.2 Interpretation.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

12.3 Survival. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every

other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

12.4 **Amendment.** No amendment to this Agreement will be binding unless in writing and executed by the parties. Electronic signature blocks do not constitute execution for purposes of this Agreement. Any amendment may be subject to City Council approval.

12.5 **Remedies.** All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

12.6 **Severability.** If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform with applicable law.

12.7 **Counterparts.** This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

13. **Term.** The term of this Agreement commences upon the Effective Date and continues for a two year initial period. The City may, at its option and with the approval of the Consultant, extend the term of this Agreement an additional two year, renewable on an annual basis. Consultant will be notified in writing by the City of its intent to extend the Agreement period at least 30 calendar days prior to the expiration of the original or any renewal Agreement period. Price adjustments will only be reviewed during the Agreement renewal period. There are no automatic renewals of this Agreement.

14. **Dispute Resolution.** Each claim, controversy and dispute (each a "Dispute") between Consultant and City will be resolved in accordance with **Exhibit E**. The final determination will be made by the City.

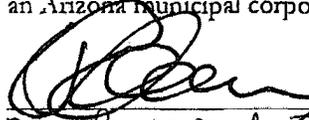
15. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project
Exhibit B	Scope of Work
Exhibit C	Schedule
Exhibit D	Compensation
Exhibit E	Dispute Resolution

(Signatures appear on the following page.)

The parties enter into this Agreement effective as of the date shown above.

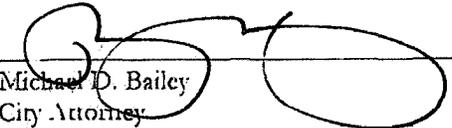
City of Glendale,
an Arizona municipal corporation


By: RICHARD A. BOWERS
Its: ACTING CITY MANAGER

ATTEST:


Pamela Hanna (SEAL)
City Clerk

APPROVED AS TO FORM:


Michael D. Bailey
City Attorney

LEE ENGINEERING
a Limited Liability Company


By: Dave Bruggeman, PE, PTOE
Its: Principal

EXHIBIT A
Professional Services Agreement

PROJECT

(Cover Page)

Exhibit A

To provide project scoping and final engineering design services for ITS improvements related to the deployment of traffic counters and data collection stations in the City Glendale.

EXHIBIT B
Professional Services Agreement

SCOPE OF WORK

(Cover Page)

**City of Glendale
Glendale Data Collection
ADOT TRACS No. SZ143 01C/01D
Federal Aid Project No. GLN-0(249)T**

SCOPE OF WORK

Project Description:

This project is located in Maricopa County in the City of Glendale, Arizona. The project consists of the installation of 24 count stations and at least 56 travel time data collectors at key intersections and locations throughout the City of Glendale. The placement of the travel time data devices will all be within close proximity, on or inside of the existing traffic signal controller cabinets at the intersections listed below. This will enable these devices to be powered from the traffic signal cabinets and integrated with Glendale's existing traffic signal interconnect network communications system.

The project will include a software, database and GUI to manage, query, and present the data on the City's central server which will include automated dissemination of real-time travel time and/or speed to the City's dynamic message signs using the city's central signal system software (KITS) or Camera Chameleon software. The project will include production of real-time and historical travel time and speed mapping for incident and congestion identification. A dashboard indicating real-time corridor travel time and average daily traffic will be fed from the count stations and travel time data collectors.

The objective of the project is the deployment of traffic counters and travel time data collection stations to provide up to date status of the transportation system so that staff can respond with appropriate management strategies and resources can be allocated efficiently to address areas of concern or changing traffic patterns. Travel time information will also be shared with the public to allow them to make informed decisions.

The proposed count stations and travel time readers locations are as follows:

Count Stations:

47th Avenue and Peoria Avenue	67th Avenue and Paradise Lane
51st Avenue and Butler Drive	67th Avenue and Mountain Ridge High School
55th Avenue and Glendale Avenue	71st Avenue and Camelback Road
55th Avenue and Thunderbird Road	71st Avenue and Glendale Avenue
55th Avenue and Bell Road	75th Avenue and St John Road
59th Avenue and Maryland Avenue	77th Avenue and Bell Road
59th Avenue and Vogel Avenue	79th Avenue and Bethany Home Road
59th Avenue and Acoma Road	83rd Avenue and Missouri Avenue
59th Avenue and Utopia Road	91st Avenue and Maryland Avenue
63rd Avenue and Olive Avenue	95th Avenue and Glendale Avenue
63rd Avenue and Union Hills Drive	99th Avenue and Missouri Avenue
67th Avenue and Frier Drive	115th Avenue and Glendale Avenue

Travel Time Readers:

51st Avenue and Camelback Road	75th Avenue and Camelback Road
51st Avenue and Bethany Home Road	75th Avenue and Bethany Home Road
51st Avenue and Glendale Avenue	75th Avenue and Glendale Avenue
51st Avenue and Northern Avenue	75th Avenue and Bell Road
51st Avenue and Olive Avenue	75th Avenue and Union Hills Drive
53rd Avenue and Bell Road	75th Avenue and Deer Valley Road
59th Avenue and Camelback Road	79th Avenue and Bell Road
59th Avenue and Bethany Home Road	8280 West Union Hills Drive
59th Avenue and Glendale Avenue	83rd Avenue and Camelback Road
59th Avenue and Northern Avenue	83rd Avenue and Bethany Home Road
59th Avenue and Olive Avenue	83rd Avenue and Glendale Avenue
59th Avenue and Bell Road	83rd Avenue and Bell Road
59th Avenue and Union Hills Drive	91st Avenue and Camelback Road
59th Avenue and Behrend Drive	91st Avenue and Bethany Home Road
59th Avenue and Fry's Drive	91st Avenue and Maryland Avenue
59th Avenue and Deer Valley Road	91st Avenue and Glendale Avenue
67th Avenue and Camelback Road	93rd Avenue and Coyotes Boulevard
67th Avenue and Bethany Home Road	95th Avenue and Bethany Home Road
67th Avenue and Glendale Avenue	95th Avenue and Maryland Avenue
67th Avenue and Northern Avenue	95th Avenue and Coyotes Boulevard
67th Avenue and Olive Avenue	95th Avenue and Glendale Avenue
67th Avenue and Bell Road	99th Avenue and Camelback Road
67th Avenue and Union Hills Drive	99th Avenue and Bethany Home Road
67th Avenue and Behrend Drive	99th Avenue and Maryland Avenue
67th Avenue and Arrowhead Loop Road	99th Avenue and Glendale Avenue
67th Avenue and Deer Valley Road	El Mirage Road and Glendale Avenue
67th Avenue and Pinnacle Peak Road	Dysart Road and Glendale Avenue
73rd Avenue and Bell Road	Litchfield Road and Glendale Avenue

Lee Engineering will work closely with the City staff during the scoping and final design phases of this project to meet project deadlines. The City will utilize the services of Lee Engineering for initial design concepts, systems engineering analysis per FHWA requirements, design, specifications, cost estimating and post design services.

A. General Project Administration Services:

1. Coordinating with the project Team during the design of the project.
2. Conducting project meetings as necessary to maintain the project budget and schedule, chairing periodic regular meetings and any additional meetings as required or requested by the City; setting agendas and preparing and distributing meeting minutes. Meetings under basic services may include:
 - a) Meetings with the City's project team.
 - b) Meetings with any city-identified oversight committees.
 - c) Meetings required for obtaining review approvals and permits.
 - d) Meetings with Utility companies.
 - e) Meetings with ADOT (includes kick-off and project meetings) with Local Public Agency (LPA) project management (Rob Knighten), Contracts & Specifications (C&S), and Utilities & Railroads Section (U&RR).

3. Coordinating with private, public and City utilities (i.e., APS, SRP, CenturyLink, Southwest Gas, Cox Communications, City Information Technology Department, Water and Sewer Services Department, etc.) regarding standard technology and utility issues, and incorporating pertinent information in the plans.
4. Submitting and retrieving all required review documents to ADOT LPA and the various required departments within the City.
5. Preparing and maintaining a project schedule after meeting with the designated City project team. Determine appropriate submittal deadlines and to coordinate project submissions. Lee Engineering will be responsible for the master schedule through the design phase.
6. Obtaining all federal, state, county, local and utility approvals required for permitting purposes necessary for the completion of the project. As the project progresses, Lee Engineering will furnish to the City copies of all communications between Lee Engineering and/or its subconsultants and the respective agency or department, and all approvals and permits for the project.
7. Submitting a written monthly progress report and updated project schedule to the City project team during the design period of the project. Submitting monthly billings consistent with the project tasks, the project schedule and the fee proposal.
8. Submitting detailed preliminary construction cost estimates for City, and ADOT review and comment. The detailed preliminary cost estimates will include all costs associated with the construction of the project.

B. *Pre-Design and Design Services:*

1. Prepare pre-design documents. Prepare a Project Assessment (PA) to meet ADOT requirements. The PA will explore the latest technology alternatives and make recommendations for specific technology (non-intrusive count stations, mounted on and power from existing street lights, combination Bluetooth/Wi-Fi travel time data collectors, etc.), communications methods and suggest any adjustments to quantities based on current costs for selected technologies, project estimate and project budget. The final design shall not begin until the pre-design document is substantially complete and approved by the City and ADOT.
2. Prepare design documents. The design documents shall include design plans, specifications and Engineer's Estimate, and complete construction bid documents for the project per the City of Glendale ITS standards and

specifications for a working ITS system, presented in an ADOT plans format. This will require any and all items different from ADOT to be fully detailed and specified using ADOT nomenclature.

3. Prepare Systems Engineering Checklist per ADOT and FHWA requirements, based on a Systems Engineering Workshop, conducted by Lee Engineering with City.
4. Lee Engineering shall have total responsibility for the accuracy and completeness of all documents and related designs prepared for the project and shall check all such material accordingly. The plans, including traffic control plans, will be reviewed by the City for conformity with City procedures, design guidelines and the terms of the contract. The responsibility for accuracy and completeness of the designs remains solely that of Lee Engineering. Lee Engineering shall seal all of the engineering documents with the appropriate professional Arizona seal.
5. No new right-of-way is anticipated for the project, and adjustments in count station locations will be made to avoid the need for any new right-of-way. Lee Engineering's subconsultant, Premier Engineering, shall perform surface feature surveys and field investigations, determine the need for additional right of way and/or easements for installation of count stations and perform right-of-way research and confirmation, as detailed in the attached Scope of Work from Premier Engineering. Lee Engineering shall notify the City of right-of-way constraints at the 60% submittal. Upon review and approval of the consultant's identified right-of-way constraint, City and Lee Engineering shall identify a mutually acceptable mitigation or alternate location of count station.
6. All new facilities proposed for this project shall avoid conflicts with existing utilities to the extent identified from available utility-furnished documentation. No utility relocations are anticipated or planned for this project. No utility SUE or potholing will be performed as part of this design scope. Lee Engineering's subconsultant, AI Field Associates, shall perform utility coordination to avoid and mitigate utility conflicts, as detailed in the attached Scope of Work from AI Field Associates. AI Field Associates shall obtain necessary utility clearances and ensure incorporating pertinent information in the construction documents.
7. Lee Engineering's subconsultant, EcoPlan Associates, shall secure environmental clearances for the project per current expectations and guidelines provided by ADOT's Environmental Planning Group (EPG) Local Public Agency Section, as detailed in the attached Scope of Work from EcoPlan, developed in consultation with ADOT EPG.
8. The consultant shall prepare drawings using computer CADD programs and provide final versions to ADOT in Microstation format and to the City of

Glendale in AutoCAD format. Final bid specifications shall be prepared as dictated by ADOT Contracts & Specifications.

9. Design drawings shall comply with all applicable Federal, state, and local laws and codes in effect at the time the drawings, plans and specifications are approved by ADOT LPA the City of Glendale. Plans will be 22" x 34", utilizing ADOT border.
10. Upon completion of the design drawings, specifications and contract documents, Lee Engineering shall provide PDF sets of all construction documents for review and approval by the appropriate ADOT LPA and City stakeholders and/or other applicable authorities. Upon approval of the final construction documents, Lee Engineering shall deliver to ADOT LPA (or ADOT C&S) the final reproducible drawings on vellum, the final computer drawings in AutoCAD, and the original copy of the final specifications. These documents shall be sealed and signed by the appropriate responsible party.
11. Coordinating the applicable permit process and assist in filing the required documents to secure approval of all governmental authorities having jurisdiction over the design of the project. All original filing and approval fees shall be paid by the City of Glendale. Lee Engineering shall ensure that any plans prepared by the utility companies are incorporated into the final plan set, if applicable. Lee Engineering shall submit to the City of Glendale and/or ADOT URR a copy of all correspondence between Lee Engineering and/or Al Field Associates and utility companies, including utility review submittals, conflict and clearance documentation.
12. The Pre-Design and Design Service Phases will be considered complete when the City of Glendale and ADOT LPA have approved the final submitted plans and specifications, and agrees that the plans are permit-ready. Lee Engineering will provide 3 hard copy (11" x 17") and one PDF version of each stage submittal to the City of Glendale, and 1 hard copy (11" x 17") one PDF version to ADOT LPA of each stage submittal. It is assumed that ADOT will reproduce. Pay the cost of and distribute bid documents to bidders.

C. Bid Phase Services:

1. Attend and prepare meeting minutes for the Pre-Bid conference, related meetings, and prepare all necessary Addenda related to documents originated by Lee Engineering or its subconsultants.
2. Respond to questions regarding the plans and specifications. Lee Engineering shall receive, review and make recommendations regarding requests for substitutions, and incorporate these substitution requests into Addenda, as required.

3. If requested by the City, review, evaluate and provide input regarding the bids and bidders' qualifications, and prepare written recommendations.
4. The Bid Phase will be considered complete when ADOT has accepted the project construction bids.

D. Post Design Services:

1. Attend the Partnering and Pre-Construction meetings to represent the design perspective and intent, and respond to issues posed by the contractor and Resident Engineer.
2. Provide the review of Shop drawings and render recommendations and comments.
3. Evaluate and provide responses to Requests for Information (RFI's) during construction.
4. Provide Equipment Submittal reviews and render recommendations and comments.
5. Attend weekly construction meetings as requested by the Resident Engineer. It is assumed that Lee Engineering will be required to attend up to 6 weekly construction meetings.
6. Prepare As-Builts plans, based on approved plan redlines provided by the ADOT Resident Engineer to Lee Engineering, in accordance with ADOT Statewide Project Management Services requirements, using PDF plans.
7. The Post Design Services Phase will be considered complete when ADOT Statewide Project Management Services has accepted the As-Built plans. Lee Engineering shall provide PDF version of As-Built plans to the City of Glendale upon approved acceptance by ADOT Statewide Project Management Services.

Schedule:

Below is an estimate on the timeline for development of the project. A detailed schedule will be prepared after the kick-off meeting.

Project Kick-Off	January 1, 2015
30% Plans and PA Submittal	Mid February, 2015
Systems Engineering Workshop	Mid March, 2015
60% PS&E Submittal, Env. Clearance	Late November, 2015
95% Submittal, Util & R/W Clearances	Late January, 2016
100% to C&S for Bid	Mid April, 2016

EXHIBIT C
Professional Services Agreement

SCHEDULE

(Cover Page)

Exhibit C

Schedule to be determined at project initiation.

EXHIBIT D
Professional Services Agreement

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

The consultant will be paid on a time and materials basis according to the attached work hour estimate.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Consultant for full completion of all work required by the Project during the entire term of the Project must not exceed \$141,827.

DETAILED PROJECT COMPENSATION

See attached spreadsheet for cost estimate.

Glendale Data Collection
ADOT TRACS No. SZ143 01D
Federal Aid Project No. GLN-0(249)T

December 17, 2014

TASK	Jim Lee	Dave Bruggeman	Yung Koprowski	John Provesa	Admin Support	TOTAL
Project Administration:						
General Coordination			16		4	52
Progress, ADOT LPA & Stakeholder Mtgs	32					28
Coord with Outside Entities	24				4	20
Progress Reports, Invoices, Schedule	10		6			38
	12		12			24
	78		34			138
TASK TOTAL:						
Pre-Design and Design:						
Prepare/Finalize Project Assessment	18		60		18	102
Systems Engineering Workshop/Checklist	6		30		8	48
Plans, Specifications, Estimate (80/95/100%)	40		4		72	124
Right-of-Way Coordination	4				8	4
Utility Coordination	4					4
Environmental Coordination	4					4
Submittal & Comment Resolution (80/95/100%)	12				8	32
	88		94		42	318
TASK TOTAL:						
Bid Phase:						
Pre-Bid Mtg and Minutes	4		8		2	16
Bid Assistance, RFIs and Aids	6		2			14
	10		8		2	30
TASK TOTAL:						
Post Design:						
Permitting & Preconstruction	2				6	10
Contract Reviews	2				2	10
RFI Responses	2		2		16	20
Construction Meetings (City=6)	2				12	14
As-Built	2				27	31
	10		2		67	85
TASK TOTAL:						

TOTAL PROJECT HOUR ESTIMATE: 188
 RAW HOURLY RATE: \$75.00
 RAW LABOR TOTALS: \$13,950.00

Mileage 138 \$5,640.06
 EcoPlan Associates (DBE) Premier Engineering \$19,184.00
 AI Field Associates \$10,270.00

LABOR SUBTOTAL: \$ 30,453.08
 OVERHEAD @ 199.68%: \$ 48,627.48
 SUBTOTAL: \$ 79,080.56
 FEE @ 10%: \$ 7,908.06
 LABOR TOTAL: \$ 86,988.61

FCCM @ 0.30%: \$ 91.36

SUBTOTAL DIRECT EXPENSES: \$ 40,781.00

SUBTOTAL ALLOWANCES: \$ 13,966.04

TOTAL PROJECT COST: \$ 141,827.01

Assumptions:
 1. Overhead rate of 199.68% and Facilities Capital Cost of Money 0.30% is from ADOT- approved audit of 2013 financial.
 2. ACS is a certified DBE serving as a subconsultant to EcoPlan in base EcoPlan budget at \$3,745.10, contributing to DBE goal
 3. In the event a Cultural Survey is required, after FHWA review, the additional allowance amount identified by EcoPlan is \$7,782.3.
 4. Allowances are contingency amounts to be drawn upon ONLY if required and ONLY if approved in advance by the City of Glendale Project Manager

EXHIBIT E
Professional Services Agreement

DISPUTE RESOLUTION

1. Disputes.

- 1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 Application. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 Initiation. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 Informal Resolution. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
 - a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
 - b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
 - c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

- 2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the Dispute will be decided by binding arbitration in accordance with Construction Industry Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
 - a. The parties will exercise best efforts to select an arbitrator within five business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
 - b. The arbitrator selected must be an attorney with at least 15 years' experience with commercial construction legal matters in Maricopa County, Arizona, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within 10 days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.

- 2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.
- 2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.
- 2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
- 2.6 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party will pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.

3. **Services to Continue Pending Dispute.** Unless otherwise agreed to in writing, Consultant must continue to perform and maintain progress of required Services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Consultant in accordance with this Agreement.

4. **Exceptions.**

- 4.1 Third Party Claims. City and Consultant are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third party who is not obligated by contract to arbitrate disputes with City and Consultant.
- 4.2 Liens. City or Consultant may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.
- 4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.