

ADOT CAR No.: IGA 24-0009863-I
AG Contract No.: P0012024002068
Project Location/Name: Glendale Ave;
83rd Ave – 45th Ave Adaptive Signal
Type of Work: Adaptive Signal
Federal-aid No.: CMAQ-GLN-0(270)T
ADOT Project No.: T0546 01D/01X
TIP/STIP No.: GLN25-261D1/GLN25-
261C/GLN25-261C1
CFDA No.: 20.205 - Highway Planning and
Construction
Budget Source Item No.: 103935

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF GLENDALE

THIS AGREEMENT (“Agreement”) is entered into this date _____, pursuant to the Arizona Revised Statutes (“A.R.S.”) §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the “State” or “ADOT”) and the CITY OF GLENDALE, acting by and through its MAYOR and CITY COUNCIL (the “City”). The State and the City are each individually referred to as a “Party” and are collectively referred to as the “Parties.”

I. RECITALS

1. The State is empowered by A.R.S. § 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 A.R.S. § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached and made a part of, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.
3. The purpose of this Agreement is to establish each Party’s responsibilities. With the aid and consent of the State and the Federal Highway Administration (FHWA), the City will utilize the State’s Procurement Process and ADOT Procurement contract(s), to enter into a contract with an authorized supplier who will provide the equipment as outlined in the contract and approved plans to complete this project. The City will purchase 18 adaptive control devices and six radar detection systems to be installed at intersections along Glendale Avenue from 83rd Avenue to 45th Avenue, (the “Project” or “Equipment”). The City will receive and install the Equipment at its own cost. The Project cost, shown in Exhibit A, is estimated at \$451,200, which includes federal aid and the City’s match. The City will be reimbursed an amount not to exceed \$397,192 for eligible costs incurred as detailed below.

4. The interest of the State in this Project is the acquisition of federal funds for the use and benefit of the City and authorization of such federal funds for the Project pursuant to federal law and regulations. The State shall be the designated agent for the City for the Project, if the Project is approved by FHWA and funds for the Project are available.
5. The foregoing Recitals and Exhibit A shall be incorporated into this Agreement.

In consideration of the mutual terms expressed herein, the Parties agree as follows:

II. SCOPE OF WORK

1. The Parties agree:
 - a. The Project will be completed, accepted, and paid for in accordance with FHWA and State requirements.
 - b. The final Project amount may exceed the initial estimate(s) identified in Exhibit A, and in such case, the City is responsible for, and agrees to pay, any and all actual costs exceeding the initial estimate. If the final Project 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 and returned to Maricopa Association of Governments (MAG). The City acknowledges it remains responsible for actual costs and agrees to pay according to the terms of this Agreement.
2. The State will:
 - a. Execute this Agreement, and if the Project is approved by FHWA and funds for the Project are available, be the City's designated agent for the Project.
 - b. After this Agreement is executed, and prior to performing or authorizing any work, invoice the City for the initial Project Development Administration (PDA) costs, estimated at \$30,000. If PDA costs exceed the estimate during Project development, notify the City, obtain concurrence prior to continuing with the Project, and invoice as determined by ADOT and the City for additional costs to complete PDA for the Project. After the Project costs are finalized invoice or reimburse the City for the difference between actual costs and the amount the City has already paid for PDA.
 - c. Submit all required documentation pertaining to the Project to FHWA with the recommendation that the maximum federal funds programmed be approved for the procurement of the Project.
 - d. After receipt of the Local's PDA and funding is authorized, the State will send a Notice to Proceed letter ("NTP") and ADOT Procurement will coordinate with the City and solicit and enter into a contract(s) with authorized supplier(s) for the purchase of the Equipment. Instruct the vendor to deliver Equipment directly to the City for final acceptance and to bill the City directly. The City will then enter into such contract(s) with such authorized supplier(s) for the purchase of the Equipment.

- e. Within 30 days after receipt, review, and approval of invoice(s) and documentation of payment for Equipment, reimburse the City for eligible costs incurred not to exceed 80% of the federal-aid amount programmed for the Project, less the City's applicable pro-rata match, as depicted in Exhibit A. After completion of final inspection, and within 30 days of receipt, review, and approval of the final invoice and documentation from the City, reimburse the City with the remaining federal-aid approved and programmed, as depicted in Exhibit A, for this Project not to exceed \$397,192.
 - f. After notification of receipt of Equipment and prior to installation, verify that each item purchased meets Equipment specifications, document Equipment serial numbers, and require the Local Agency provide documentation stating where each serial number will be installed.
 - g. After notification of Project completion from the City, perform final inspection, verify installation of Equipment was performed and completed in compliance with State and FHWA requirements.
 - h. Reserve the right to de-obligate federal funds should the Project go six months or more without being charged to.
 - i. Not be obligated to complete or maintain the Project, should the City fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.
3. The City will:
- a. Designate the State as the City's authorized agent for the Project.
 - b. Within 30 days of receipt of an invoice from the State, pay the initial PDA costs, estimated at \$30,000. Agree to be responsible for actual PDA costs, if during the development of design, PDA costs exceed the initial estimate. Be responsible and pay for the difference between the estimated and actual PDA of the Project within 30 days of receipt of an invoice.
 - c. Coordinate with the State during the procurement process, providing Equipment specifications to best ensure the requirements of the Project are met.
 - d. Utilize the State's Procurement Process and the ADOT Procurement contract(s) developed and entered into for this Project. Issue a purchase order to the authorized supplier and install the Equipment acquired under this Agreement.
 - e. Have 365 calendar days from award of contract to order the Equipment.
 - f. Notify the State when the Equipment is received, State will inspect the Equipment prior to installation, document Equipment serial numbers, and provide documentation to the State showing where each serial number will be installed. Documentation must be provided to the State prior to the State's final inspection of the Project.
 - g. Make all payments directly to the vendor, and be responsible for all costs incurred for the purchase of the Equipment subject to reimbursement by the State as provided herein.

- h. Within 30 days after payment for the Equipment, submit an invoice, on ADOT's Progress Payment Report Form, Exhibit B, attached and made a part of this Agreement, including all back-up documentation, to the State for review and approval, of eligible costs incurred by the City for the purchase of the Equipment, less the City's applicable pro-rata match, not to exceed 80% of \$397,192, the total amount of federal-aid programmed for the Project and as depicted in Exhibit A. Any costs incurred prior to the date of the official NTP will not be eligible for reimbursement.
- i. Be responsible for the cost of installation and any costs exceeding the maximum federal funds available for the Project. 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.
- j. Install the Equipment acquired under this Agreement within one year of receipt of Equipment and maintain all Project improvements provided for the life of the Equipment. Keep complete records of all Equipment installed per this Project in a manner consistent with State and FHWA requirements.
- k. Notify the State when all Equipment has been installed and is ready for inspection; coordinate final inspection of the Project with the State. After completion of final inspection, invoice the State, on the Progress Payment Report Form, Exhibit B, for the remaining federal funds programmed as depicted in Exhibit A for this Project for a total not to exceed \$397,192.
- l. As applicable, the Local Agency shall certify that it has adequate resources to discharge the Local Agency's real property related responsibilities and ensures that its Title 23-funded projects are carried out using the FHWA approved and certified ADOT Right of Way Procedures Manual and that it will comply with current FHWA requirements whether or not the requirements are included in the FHWA approved ADOT Right of Way Procedures Manual (23 CFR 710.201). Additionally the Local Agency shall certify that all real estate related activities requiring licensure are performed by licensed individuals as defined by the Arizona Department of Real Estate (A.R.S. §§ 32-2121 & 32-2122).
- m. Automatically grant to the State, by execution of this Agreement, its agents and/or contractors, without cost, the temporary right to enter the Local Agency's rights of way, as required, to conduct any and all construction and preconstruction related activities for the Project, on, to and over said Local Agency's rights of way. This temporary right will expire with completion of the Project.

III. MISCELLANEOUS PROVISIONS

1. **Effective Date.** This Agreement shall become effective upon signing and dating of all Parties.
2. **Amendments.** Any change or modification to the Project will only occur with the mutual written consent of both Parties.
3. **Duration.** The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of the Project and all related deposits and/or reimbursements

are made. Any and all obligations of maintenance hereunder shall remain perpetual and shall survive any termination hereof and the assignment or assumption of this Agreement or the Project by another competent jurisdiction or entity.

4. Cancellation. This Agreement may be canceled at any time up to 30 days before the award of the Project contract, so long as the canceling Party provides at least 30 days' prior written notice to the other Party. It is understood and agreed that, in the event the Local Agency terminates this Agreement, the Local Agency shall be responsible for all costs incurred by the State up to the time of termination. It is further understood and agreed that in the event the Local Agency terminates this Agreement, the State shall in no way be obligated to complete or maintain the Project.
5. Indemnification. The Local Agency shall indemnify, defend, and hold harmless the State, any of its departments, agencies, boards, commissions, officers or employees (collectively referred to in this paragraph as the "State") from any and all claims, demands, suits, actions, proceedings, loss, cost and damages of every kind and description, including reasonable attorneys' fees and/or litigation expenses (collectively referred to in this paragraph as the "Claims"), which may be brought or made against or incurred by the State on account of loss of or damage to any property or for injuries to or death of any person, to the extent caused by, arising out of, or contributed to, by reasons of any alleged act, omission, professional error, fault, mistake, or negligence of the Local Agency, its employees, officers, directors, agents, representatives, or contractors, their employees, agents, or representatives in connection with or incident to the performance of this Agreement. The Local Agency's obligations under this paragraph shall not extend to any Claims to the extent caused by the negligence of the State, except the obligation does apply to any negligence of the Local Agency which may be legally imputed to the State by virtue of the State's ownership or possession of land. The Local Agency's obligations under this paragraph shall survive the termination of this Agreement.
6. Third-Party Indemnification. The State shall include Section 107.13 of the 2021 version of the Arizona Department of Transportation Standard Specifications for Road and Bridge Construction, incorporated into this Agreement by reference, in the State's contract with any and all contractors, of which the Local Agency shall be specifically named as a third-party beneficiary. This provision may not be amended without the approval of the Local Agency.
7. Programmed Federal Funds. The cost of the Project under this Agreement is to be covered by the federal funds programmed for this Project, up to the maximum available. The Local Agency acknowledges that actual Project costs may exceed the maximum available amount of federal funds, or that certain costs may not be accepted by FHWA as eligible for federal funds. Therefore, the Local Agency agrees to pay the difference between actual costs of the Project and the federal funds received.
8. Termination of Federal Funding. 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.

9. Indirect Costs. The cost of the Project under this Agreement includes indirect costs approved by FHWA, as applicable.
10. Federal Funding Accountability and Transparency Act. 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 Local Agency 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.
11. Governing Law. This Agreement shall be governed by and construed in accordance with Arizona laws.
12. Conflicts of Interest. This Agreement may be canceled in accordance with A.R.S. § 38-511.
13. Inspection and Audit. The Local Agency shall retain all books, accounts, reports, files and other records relating to this Agreement which shall be subject at all reasonable times to inspection and audit by the State for five years after completion of the Project. Such records shall be produced by the Local Agency, electronically or at the State office as set forth in this Agreement, at the request of ADOT.
14. Title VI. The Local Agency acknowledges and will comply with Title VI of the Civil Rights Act Of 1964.
15. Non-Discrimination. 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, as amended by Executive Order 2023-01, issued by the Governor of the State of Arizona and incorporated in this Agreement by reference regarding "Non-Discrimination."
16. 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.
17. Arbitration. In the event of any controversy, which may arise out of this Agreement, the Parties agree to abide by arbitration as is set forth for public works contracts if required by A.R.S. § 12-1518.
18. E-Verify. The Parties shall comply with the applicable requirements of A.R.S. § 41-4401.
19. Contractor Certifications. The Parties shall certify that all contractors comply with the applicable requirements of A.R.S. §§ 35-393.01 and 35-394.
20. Other Applicable Laws. The Parties shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.

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

For Agreement Administration:

Arizona Department of Transportation
Joint Project Agreement Group
205 S. 17th Avenue, Mail Drop 637E
Phoenix, AZ 85007
JPABranch@azdot.gov

City of Glendale
Attn: Aliudeen Khan-Abraham
6210 W. Myrtle Avenue
Glendale, AZ 85301
623.930.2042
aabrahim@glendaleaz.com

For Project Administration:

Arizona Department of Transportation
Project Management Group
205 S. 17th Avenue, Mail Drop 614E
Phoenix, AZ 85007
PMG@azdot.gov

City of Glendale
Attn: Tony Abbo
6210 W. Myrtle Avenue
Glendale, AZ 85301
623.930.2951
aabrahim@glendaleaz.com

For Financial Administration:

Arizona Department of Transportation
Project Management Group
205 S. 17th Avenue, Mail Drop 614E
Phoenix, AZ 85007
PMG@azdot.gov

City of Glendale
Attn: Aliudeen Khan-Abraham
6210 W. Myrtle Avenue
Glendale, AZ 85301
623.930.2042
aabrahim@glendaleaz.com

22. Revisions to Contacts. Any revisions to the names and addresses above may be updated administratively by either Party with written notice to the other Party.
23. Legal Counsel Approval. In accordance with A.R.S. § 11-952 (D), the written determination of each Party's legal counsel providing that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form is set forth below.
24. Electronic Signatures. This Agreement may be signed in an electronic format including DocuSign.

Remainder of this page is intentionally left blank.

(Signatures begin on the next page)

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective upon the signing and dating of all Parties.

CITY OF GLENDALE

By _____ Date _____
JERRY P. WEIERS
Mayor

ATTEST:

By _____ Date _____
JULIE K. BOWER
City Clerk

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 A.R.S. §§ 11-951 through 11-954 and A.R.S. § 48-572 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.
Approved as to Form:

By _____ Date _____
City Attorney

ARIZONA DEPARTMENT OF TRANSPORTATION

By _____ Date _____
STEVE BOSCHEN, PE
Division Director, Infrastructure Delivery and Operations Division

By _____ Date _____
GREG BYRES, PE
Deputy Director for Transportation/State Engineer

This Agreement between public agencies, the State of Arizona and City of Glendale, has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and A.R.S. § 28-401, 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.

By _____ Date _____
Assistant Attorney General

EXHIBIT A**Cost Estimate****T0546 01D/01X**

The estimated Project costs are as follows:

ADOT Project Development Administration (PDA) Cost, non-federal-aid:

City Funds @ 100%	\$ 30,000
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Procurement:

Reimbursable Federal-aid funds @ 94.3%	\$ 397,192
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City's match @ 5.7%*	<u>\$ 24,008</u>
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Subtotal - Procurement	\$ 421,200
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Estimated TOTAL Project Cost**	\$451,200
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Total Estimated City Funds	\$ 54,008
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Total Federal Funds	\$397,192
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*(The City will install the Equipment with its own forces, as a result ADOT will not invoice the City for the match or for their 100% City cost pertaining to the procurement and installation of Equipment)

** (Includes a minimum of 20% construction engineering (CE) and administration cost (this percentage is subject to change, any change will require concurrence from the City) and 5% Project contingencies)