

ADOT CAR No.: IGA 18-0006790-I
AG Contract No.: P0012018000577
Project Location/Name: Beardsley
Rd/Union Hills Dr
Type of Work: Construct
Federal-aid No.: ARRA-101-A(204)A
ADOT Project No.: H7170 01D/01C,
H7076 01D/01C
TIP/STIP No.: N/A
CFDA No.: 20.205 – Highway Planning
and Construction
Budget Source Item No.: N/A

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF PEORIA

THIS AGREEMENT is entered into this date _____, 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” or “ADOT”) and the CITY OF PEORIA, 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 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 State and the City entered into agreement IGA/JPA 07-103 on October 17, 2008 with the Maricopa Association of Governments and the City of Glendale to define design, construction and maintenance responsibilities of projects at State Route 101 Loop (SR 101L) from 75th Avenue to Union Hills Drive. This agreement defines maintenance responsibilities between the State and City. See exhibit A for maintenance responsibilities. It supersedes IGA/JPA 07-103 only with respect to maintenance responsibilities between the State and City. IGA/JPA 07-103 remains otherwise in full force and effect. Maintenance responsibilities between the State and City of Glendale are addressed in IGA 18-0006789-I.

THEREFORE, in consideration of the mutual terms expressed in this Agreement, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

a. Be responsible for:

- i. The electric power for street lighting along the SR 101L Frontage Road from the 75th Avenue traffic interchange to the Union Hills Drive traffic interchange;
- ii. The operation and maintenance, including blue staking if necessary, of the Frontage Road lighting from the 75th Avenue traffic interchange to the Union Hills Drive traffic interchange;
- iii. The structural integrity of the U-Turn structure portion of the Combined Project including entrance and exit ramps;
- iv. The major rehabilitation of the Frontage Road from the 75th Avenue Union Hills Drive traffic interchange;
- v. Maintenance of the area between the access control fence and the inside curb and gutter section of the Frontage Road, the State maintains the area from the back of gore of the westbound SR 101L Beardsley off-ramp to the back of gore of the southbound SR 101L on-ramp (as shown in Exhibit A);
- vi. Maintenance of southbound SR 101L Beardsley on-ramp from the Frontage Road back of gore to SR101L;
- vii. Maintenance of the westbound ST 101L Beardsley off-ramp from the SR 101L to the Frontage Road back of gore;
- viii. Maintenance of the overhead sign structures as well as all the signs that are mounted on the sign structures;
- ix. Maintenance of the concrete barrier as well as the end treatment in advance of the sign concrete barrier sections;
- x. Maintenance of SR 101L drainage structures adjacent to the Frontage Road and Beardsley Road including crossing structures.

b. Not be responsible for routine maintenance of the southbound Frontage Road west of SR 101L Beardsley Road off ramp gore to Beardsley Road on ramp gore.

c. Retain all rights associated with the approval of developments on the Frontage road

d. Be responsible for all permitting of all driveway, landscaping and utility within the Frontage road from 75th avenue to Union Hills.

2. The City will:

- a. After execution of this agreement, hereby not be obligated for routine maintenance of the westbound/southbound SR 101L Frontage Road between the back of gore point of the westbound 101L Beardsley off-ramp intersection with the westbound/southbound

Loop 101 Frontage Road and SR 101L Beardsley on-ramp back of gore intersection as shown on Exhibit A.

- b. Not be responsible for the maintenance of Beardsley Road from westbound/southbound Loop 101 Frontage Road intersection to the east/south abutment of the Beardsley Road bridge over New River.
- c. Continue to maintain and pay for all utility costs associated with the decorative lighting along Beardsley road from the Loop 101 Frontage Road intersection to the Roundabout at the 81st Avenue Intersection.

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.
2. The terms, conditions and provisions of this Agreement shall remain in full force and effect unless cancelled by either party after 30 days written notice. Any provisions for maintenance shall be perpetual, unless assumed by another competent entity.
3. The City shall indemnify, defend, and hold harmless the State, any of its departments, agencies, 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 City, 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 City'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 City which may be legally imputed to the State by virtue of the State's ownership or possession of land. The City's obligations under this paragraph shall survive the termination of this Agreement.
4. The State shall include Section 107.13 of the 2008 version of the Arizona Department of Transportation Standard Specifications for Road and Bridge Construction, incorporated to this Agreement by reference, in the State's contract with any and all contractors, of which the City shall be specifically named as a third-party beneficiary. This provision may not be amended without the approval of the City.
5. The City acknowledges and will comply with Title VI of the Civil Rights Act Of 1964.
6. This Agreement shall be governed by and construed in accordance with Arizona laws.
7. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

8. To the extent applicable under law, the provisions set forth in Arizona Revised Statutes §§ 35-214 and 35-215 shall apply to this Agreement.
9. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The Parties to this Agreement shall comply with Executive Order Number 2009-09 issued by the Governor of the State of Arizona and incorporated in this Agreement by reference regarding "Non-Discrimination".
10. 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.
11. In the event of any controversy, which may arise out of this Agreement, the Parties agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.
12. The Parties shall comply with the applicable requirements of Arizona Revised Statutes § 41-4401.
13. The Parties shall comply with the applicable requirements of Arizona Revised Statutes §35-393.01.
14. The Parties shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.
15. All notices or demands upon any Party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

For Agreement Administration:

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

City of Peoria
Attn: City Engineer
9875 N. 85th Avenue
Peoria, AZ 85345
623.773.7367
623.773.7211 (fax)

For Project Administration:

Arizona Department of Transportation
Central District
2140 West Hilton Ave
Phoenix, AZ 85009
602.712.6622

City of Peoria
Attn: City Engineer
9875 N. 85th Avenue
Peoria, AZ 85345
623.773.7367
623.773.7211 (fax)

16. In accordance with Arizona Revised Statutes § 11-952 (D) attached and incorporated in this Agreement is the written determination of each Party's legal counsel 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 PEORIA

STATE OF ARIZONA

Department of Transportation

By _____
CATHY CARLAT
Mayor

By _____
STEVE BOSCHEN, P.E.
Division Director

ATTEST:

By _____
City Clerk

ATTORNEY APPROVAL FORM FOR THE CITY OF PEORIA

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 PEORIA, 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 _____ day of _____, 2018.

City Attorney