

ADOT CAR No.: IGA 20-0007781-I
AG Contract No.: P001 00xxxx
Project Location/Name: McDowell Rd-SR
303 to Dysart Rd.
Type of Work: Vehicle Detection and Data
Improvements
Federal-aid No.: GDY-0(213)T
ADOT Project No.: T026101D/01C
TIP/STIP No.: GDY21-062
CFDA No.: 20.205 - Highway Planning and
Construction
Budget Source Item No.:

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF GOODYEAR

THIS 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 GOODYEAR, 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 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, between the City and the State, is to allow the State to acquire federal funds for the purchase of Equipment to upgrade video detection, traffic signal controllers and install vehicle travel time hardware at 11 intersections along McDowell Road from SR303 to Dysart Road, (the “Project” or “Equipment”). The Project costs are estimated at \$459,000.00, as shown in Exhibit A, attached and made a part of this Agreement, which includes federal aid and the City’s match. The State, through the State’s Procurement Process and ADOT Procurement contract(s), will utilize an authorized supplier to provide the Equipment as outlined in the contract and approved plans to complete this Project with the aid and consent of the State and Federal Highway Administration (FHWA). The City will receive the Equipment and install the Project at its own cost.

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.

THEREFORE, the Recitals set forth above are incorporated into this Agreement, in consideration of the mutual terms expressed in this Agreement, it is agreed as follows:

II. SCOPE OF WORK

1. The Parties agree:
 - a. The Project will be performed, completed, accepted and paid for in accordance with the requirements of the Project plans and specifications.
 - 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. The City acknowledges it remains responsible for, and agrees to pay according to the terms of this Agreement, any and all actual costs exceeding the final Project amount.
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 \$30,000.00 and the City's share of the Equipment costs, estimated at \$131,531.00. If PDA costs exceed the estimate during the review of design, notify the City, obtain concurrence prior to continuing with the review of design, and invoice as determined by ADOT and the City for additional costs to complete PDA for the Project. After the Project costs for the procurement of the Equipment are finalized, the State will either invoice or reimburse the City for the difference between estimated and actual Project costs.
 - 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 Equipment.
 - d. After receipt of the Local's PDA and match and with FHWA authorization, proceed to coordinate with the City regarding Equipment specifications to best ensure the requirements of the Project are met. Solicit and enter into a contract(s) with the authorized supplier(s) for the purchase of the Equipment. Instruct the vendor to deliver Equipment directly to the City for final acceptance. Should costs exceed the maximum

federal funds available it is understood and agreed that the City will be responsible for any overage.

- e. After notification of receipt of Equipment from the City, verify that each item purchased is marked with a unique decal for tracking purposes.
- f. After notification of Project completion from the City, perform final inspection, verify installation of all Equipment was performed and completed in compliance with State and FHWA requirements.
- g. 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.

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 and prior to procurement of the Equipment, pay the initial PDA costs, estimated at \$30,000.00 and the City's share of Equipment costs, estimated at \$131,531.00. Agree to be responsible for actual PDA costs, if during the review of design, PDA costs exceed the initial estimate. Be responsible for and pay the difference between the estimated and actual, PDA and Equipment costs 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. After Equipment is received, notify the State when the Equipment arrives, so the State can inspect the Equipment prior to installation, ensure that each item purchased is marked with a unique decal so the State can track the items that are delivered against the items that are installed. The decals must be in place before the State performs inspection on the delivered Equipment.
- e. 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; payment for these costs shall be made within 30 days of receipt of an invoice from the State.
- f. 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.
- g. Notify the State when all Equipment has been installed and is ready for inspection; coordinate final inspection of the Project with the State.
- h. Certify that the City has adequate resources to discharge the City'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 they 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)

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.
2. Any change or modification to the Project will only occur with the mutual written consent of both Parties.
3. 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 provisions for maintenance shall be perpetual, unless assumed by another competent entity.
4. This Agreement may be cancelled at any time up to 30 days before the award of the Project contract, so long as the cancelling Party provides at least 30 days' prior written notice to the other Party. It is understood and agreed that, in the event the City terminates this Agreement, the City 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 City terminates this Agreement, the State shall in no way be obligated to complete or maintain the Project.
5. 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.
6. The cost of Project work under this Agreement is to be covered by the federal funds programmed for this Project, up to the maximum available. The City 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 City agrees to pay the difference between actual costs of the Project and the federal funds received.
7. 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.

8. The cost of the Project under this Agreement includes indirect costs approved by FHWA, as applicable.
9. 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.
10. The City acknowledges and will comply with Title VI of the Civil Rights Act Of 1964.
11. The City acknowledges compliance with federal laws and regulations and may be subject to the CODE OF FEDERAL REGULATIONS, TITLE 2, PART 200 (also known as The Uniform Grant Guidance). Entities that expend \$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 in accordance with §200.331 Subpart F. 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 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

12. This Agreement shall be governed by and construed in accordance with Arizona laws.
13. This Agreement may be cancelled in accordance with A.R.S. § 38-511.
14. The City shall retain all books, accounts, reports, files and other records relating to the Agreement for five years after completion of the Project. These documents shall be subject at all reasonable times to inspection and audit by the State. Such records shall be produced by the City at the request of ADOT.
15. 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."
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. 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. The Parties shall comply with the applicable requirements of A.R.S. § 41-4401.
19. The Parties shall certify that all contractors comply with the applicable requirements of A.R.S. §35-393.01.
20. The Parties shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.
21. 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 Section
205 S. 17th Avenue, Mail Drop 637E
Phoenix, AZ 85007
JPABranch@azdot.gov

City of Goodyear
Attn: Hugh Bigalk
190 N. Litchfield Rd.
Goodyear, AZ 85338
623.882.7514
Hugh.bigalk@goodyearaz.gov

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 Goodyear
Attn: Hugh Bigalk
190 N. Litchfield Rd.
Goodyear, AZ 85338
623.882.7514
Hugh.bigalk@goodyearaz.gov

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 Goodyear
Attn: Hugh Bigalk
190 N. Litchfield Rd.
Goodyear, AZ 85338
623.882.7514
Hugh.bigalk@goodyearaz.gov

22. Any revisions to the names and addresses above may be updated administratively by either Party and shall be in writing.
23. In accordance with A.R.S. § 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.

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

CITY OF GOODYEAR

STATE OF ARIZONA

Department of Transportation

By _____
GEORGIA LORD
Mayor

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

ATTEST:

By _____
DARCIE MCCRACKEN
City Clerk

By _____
BRENT A CAIN, PE
Transportation Systems Management and Operations
Division Director

ATTORNEY APPROVAL FORM FOR THE CITY OF GOODYEAR

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 GOODYEAR, 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.

City Attorney

Date