

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATIONS**

CC: _____
Amend No. _____

Date prepared: June 14, 2010

Council Meeting Date: July 6, 2010

TO: Carl Swenson, City Manager

THROUGH: Susan J. Daluddung, Deputy City Manager

FROM: Andrew Granger, P. E., Engineering Director

THROUGH: Jamal Rahimi, P.E., PTOE, City Traffic Engineer

SUBJECT: Intergovernmental Agreement, State of Arizona, Installation of Pedestrian Countdown Signal Heads - City of Peoria Project - Various Locations (Project No. TE-1004)

RECOMMENDATION:

Discussion and possible action to adopt a Resolution approving the Intergovernmental Agreement (IGA) with the State of Arizona for installation of Pedestrian Countdown Signal Heads in the City of Peoria (City) at various locations. (MAG TIP No. PEO 10-890, ADOT Tracs Number SH44701C, Federal Project Number PEO-0(208)A).

SUMMARY:

As a part of our continuing effort to upgrade pedestrian facilities within the City, the City applied through Maricopa Association of Governments (MAG) for, and was awarded, a grant for the Highway Safety Improvement Program (HSIP). The Arizona Department of Transportation (ADOT), through the Highway Enhancements for Safety (HES) Team, is responsible for administering the HSIP. The City has identified 13 intersections as candidate locations for upgrading the existing pedestrian signal heads with pedestrian countdown signal heads through the HSIP.

The ADOT Local Governments Section acts as project administrator for the HES within the Phoenix metro area. In addition MAG, ADOT and the City assure that projects in the HES are administered to meet the criteria recommended by the funding resources and programs.

CITY CLERK USE ONLY:

- Consent Agenda
- Carry Over to Date: _____
- Approved
- Unfinished Business (Date heard previous: _____)
- New Business
- Public Hearing: No Action Taken

ORD. # _____ **RES. #** _____
LCON# _____ **LIC. #** _____
Action Date: _____

IGA PROJECT FUNDING

HES	\$ 41,600
City of Peoria Funds	\$ 0
Total Estimated Project Cost	\$ 41,600

ITEMIZED COST ESTIMATE

The current cost estimate based on unit and installation pricing and current known conditions is as follows:

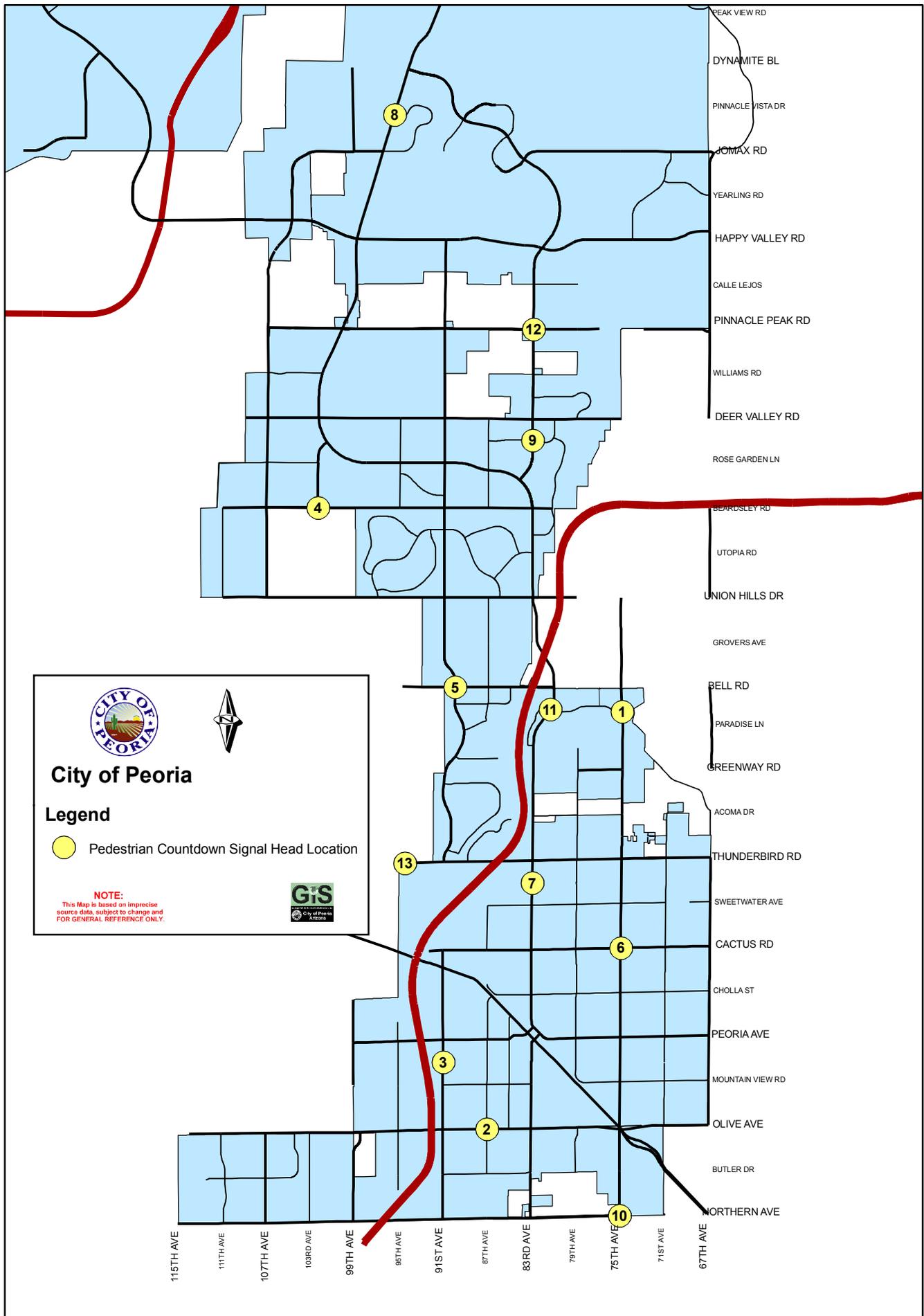
<u>Item</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total Amount</u>
Design Costs	None	NA	NA
Right of Way Acquisition	None	NA	NA
Utility Relocation	None	NA	NA
Unit Price	104	\$300/head	\$ 31,200
Installation	104	\$100/head	\$ 10,400
Construction Administration	None	NA	NA
Contingencies	None	NA	NA
		<u>Total</u>	<u>\$ 41,600</u>

ATTACHMENTS:

1. Location Map
2. Resolution w/ IGA

CONTACT: Mannar Tamirisa, 623-773-7652

Pedestrian Countdown Signal Head Locations



RESOLUTION NO. 2010-54

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, ARIZONA, ADOPTING A RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA AND THE CITY OF PEORIA FOR INSTALLATION OF PEDESTRIAN COUNT DOWN SIGNAL HEADS.

WHEREAS, the City of Peoria (City) Mayor and City Council are authorized by Title 9, Chapter 2, Article 4, Section 9-276 (1) to lay out and establish or otherwise improve streets, alleys, avenues, sidewalks, etc. and by Title 11, Chapter 7, Section 11-951 *et seq.* to enter into Intergovernmental Agreements with other governing bodies for services or joint exercise of powers; and

WHEREAS, the City desires to enter into an Intergovernmental Agreement with the State of Arizona for Installation of Pedestrian Count Down Signal Heads; and

THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of Peoria, Arizona approves and adopts this Resolution to enter an Intergovernmental Agreement with the State of Arizona, and the City of Peoria (attached) for installation of Pedestrian Count Down Signal Heads at various locations within the City of Peoria.

PASSED AND APPROVED by the Mayor and City Council of the City of Peoria, Arizona this 6th day of July.

Bob Barrett, Mayor

ATTEST:

Mary Jo Waddell, City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

Attachment:

1. Intergovernmental Agreement

ADOT File No.: IGA/JPA 10-0811
AG Contract No.: P0012010001921
Project No. N/A
Project: Countdown Signal
Section: Various Locations
TRACS No.: SH 44701C
Budget Source Item No.: HSIP

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF PEORIA

THIS AGREEMENT is entered into this date _____, 2010, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF 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 hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.
 3. Congress has established the Highway Safety Improvement Program (HSIP) as a core Federal-aid for the specific purpose of achieving a significant reduction in traffic fatalities and serious injuries on public roads. The State and the City have identified systematic improvements within the City as eligible for this funding.
 4. The improvements proposed in this Agreement, hereinafter referred to as the 'Project,' include the purchase and installation of thirteen (13) pedestrian countdown signals within City of Peoria for a total not to exceed \$41,600.00 through the State's Procurement Process utilizing an ADOT Procurement contract(s). The State shall advertise, bid and award the Project.
 5. Such Project lies within the boundary of the City and has been selected by the City; the survey of the Project has been completed; and the plans, estimates and specifications will be prepared and, as required, submitted by the State to the Federal Highway Administration (FHWA) for its approval.
 6. The interest of the State in this project is the acquisition and distribution of HSIP Funds for the use and benefit of the City and to authorize such HSIP Funds for the project pursuant to Federal law and regulations. The State shall be the designated agent for the City.
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The current Project costs are as follows:

TRACS No. SH4470 1C

TOTAL HSIP Funds **\$ 41,600.00**

*TOTAL Project Costs \$ 41,600.00
 *(Includes CE and project contingencies)

The Parties acknowledge that the eventual actual cost may exceed the estimate, and such case the City is responsible for any and all costs exceeding the estimate. Actual costs may be less than the estimate and not needed for the Project, at which time any excess HSIP funding will be de-obligated from the Project.

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

II. SCOPE OF WORK

1. The State will:

a. Submit all documentation required to the Federal Highway Administration (FHWA) containing the above-mentioned Project with the recommendation that it be approved for purchase and installation. The Project will be performed, completed, accepted and paid for in accordance with the requirements of the Project Plans and specifications.

b. Request the maximum HSIP funds programmed for covering the work encompassed in said construction contract and will request the maximum HSIP Funds available, including construction engineering and administration costs. Should costs exceed the maximum HSIP funds available, it is understood and agreed that the City will be responsible for any overage.

c. Approve the Project, if such project funds are available from and authorized by FHWA for the Project. Be the designated authorized agent for the City.

d. 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.

e. Upon notification from FHWA of authorization and establishment of the funding authority, using State of Arizona's Procurement Process, proceed to advertise for, receive and open bids and enter into a contract(s) with a firm(s) to whom the award is made for the design of the Project. Such Project is to be performed, completed, accepted and paid for in accordance with the requirements of the approved Project Plans and Special Provisions. Enter into a contract(s) with a firm(s) to whom the award is made for the purpose of the Project.

2. The City will:

a. Designate the State as authorized agent for the City, if such project is approved by the FHWA and project funds are available.

b. Upon execution of this Agreement, coordinate with the State regarding the specifics of the equipment to be ordered to best ensure the requirements of the Project are met.

c. Be responsible for any overage of costs exceeding the maximum HSIP funds available for the Project. Agree that the cost of the analysis and work covered by this Agreement is to be borne by FHWA and the City, each in the proportion prescribed and determined by FHWA. The City shall pay such costs within thirty (30) days of receipt of invoice from the State.

d. Be responsible for any unforeseen conditions or circumstances which increase the cost of said work. Should a change in the extent or scope of the work called for in this Agreement become necessary, be obligated to incur and will pay for said increased costs.

e. Enter into an agreement with the design consultant which states that the design consultant shall provide services as required and requested throughout the design and construction phases of the Project.

f. Upon completion of the Project, agree to accept and assume full responsibility of said Project in writing.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said Project, except any provisions for maintenance/electrical power and/or landscaping maintenance shall be perpetual by the City. Further, this Agreement may be cancelled at any time prior to advertisement of the project construction contract, upon thirty days (30) written notice to the other party. It is understood and agreed that, in the event the City terminates this Agreement, the State shall in no way be obligated to maintain said Project.

2. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction Project. The City, in regard to the City's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid on behalf of the City and the fulfillment of any other responsibilities of the State as specifically set forth herein; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof shall be the liability of the City and that to the extent permitted by law, the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all costs and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or non performance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, or its independent contractors, the City, any of its agents, officers and employees, or its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

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

4. The cost of the project under this Agreement includes applicable indirect costs approved by the Federal Highway Administration (FHWA).

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

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

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

8. 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 09-09 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

9. **Non-Availability of Funds:** Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment 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.

10. In the event of any controversy, which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

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

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 637E
Phoenix, Arizona 85007
(602) 712-7124
(602) 712-3132 Fax

City of Peoria
Attn: Jamal Rahimi
9878 North 85th Ave
City of Peoria, Arizona 85345
(623) 773-7225
(623) 773-7394 Fax

12. Compliance requirements for Arizona Revised Statutes § 41-4401—immigration laws and E-Verify requirement:

a. The City warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Arizona Revised Statutes § 23-214, Subsection A.

b. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract, and the City may be subject to penalties up to and including termination of the Agreement.

c. The State retains the legal right to inspect the papers of any employee who works on the Project to ensure that the City or subcontractor is complying with the warranty under paragraph (a).

13. Pursuant to Arizona Revised Statutes § 35-391.06 and § 35-393.06, each Party certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in Arizona Revised Statutes § 35-391 and/or § 35-393, as applicable. If any Party determines that another Party submitted a false certification, that Party may impose remedies as provided by law including terminating this Agreement.

14. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

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 _____
BOB BARRETT
Mayor

By _____
SAM MAROUFKHANI, P.E.
Deputy State Engineer, Development

ATTEST:

By _____
MARY JO WADDELL
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 _____, 2010

City Attorney