ADOT File No.: IGA/JPA 11-151I
AG Contract No.: P001 2011 002438
Project: Traffic Control Services
Section: State Highways
DPS Contract No.: 2010-265
Budget Source Item No.:

INTERAGENCY SERVICES AGREEMENT

BETWEEN
THE ARIZONA DEPARTMENT OF TRANSPORTATION
AND
THE ARIZONA DEPARTMENT OF PUBLIC SAFETY

THIS AGREEMENT is entered into this date August 31, 2011, pursuant to the Arizona Revised Statutes § 11-951 through § 11-954, as amended, between the ARIZONA DEPARTMENT OF TRANSPORTATION, acting by and through its DIRECTOR (the "ADOT") and the ARIZONA DEPARTMENT OF PUBLIC SAFETY, acting by and through its HIGHWAY PATROL DIVISION (the "DPS"). The ADOT and the DPS are collectively referred to as "Parties".

I. RECITALS

1. The ADOT 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 DPS is empowered by Arizona Revised Statutes § 41-1713 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 on behalf of the DPS.

3. The ADOT is responsible for ensuring the safety of workers and the public in State highway work zones. The ADOT will determine when outside law enforcement is required to provide traffic control and other services within State highway work zones. The ADOT will require ADOT construction contractors or their designated representatives ("Contractors") to utilize the DPS officers when outside law enforcement is required to provide traffic control within State highway work zones. The ADOT has determined all inclusive hourly rate that it will pay the Contractors for the use of the DPS law enforcement officers within State highway work zones. The breakdown of this all inclusive hourly rate is attached hereto as Exhibit A.

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

II. SCOPE OF WORK

1. The ADOT will:

a. Determine when outside law enforcement is necessary to ensure the safety of construction zone workers and the public.

b. When deemed necessary, require the Contractors to use DPS law enforcement officers, when available, to provide traffic control within State highway work zones.

c. Determine the hourly all inclusive hourly rate to pay the Contractors for the use of the DPS law enforcement officers within State highway work zones.

d. Upon request from the DPS, provide a report to DPS of all billing information.

2. The DPS will:

a. Appoint DPS personnel with appropriate authority to coordinate the utilization of DPS officers by the Contractors for work contemplated herein.

b. On an "as available" basis, dispatch DPS officers with appropriate equipment and vehicle to State highway work zones as requested by the Contractors on all applicable construction contracts advertised 30 days or more after the effective date of this agreement.

c. Require DPS officers utilized at ADOT construction or other work sites to perform their duties in strict compliance with current DPS policies and procedures.

d. Retain authority to recall a DPS officer from an ADOT work zone assignment. In the event, the Contractors shall not be liable for any salary payment or vehicle use payment during such time and will not be invoiced for that time.

3. Either Party will:

a. Initiate, on an as-needed basis or at least annually, a review of the all-inclusive hourly rate paid to the Contractors for DPS officers assigned to ADOT highway work zones provided in this Agreement.

III. MISCELLANEOUS PROVISIONS

1. Each party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs or other expenses (including, but not limited to, reasonable attorneys' fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death), property damage and any other claims (including, but not limited to, claims of derivative or vicarious liability), which are caused by the act, omission, negligence, misconduct or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.

2. The terms, conditions and provisions of this Agreement shall remain in full force and effect for a term of one (1) year after this Agreement has become effective, but shall automatically renew itself unless either Party sends out written notice of termination at least thirty (30) days prior to the end of each year.

3. Non-Availability of Funds: Every obligation of the ADOT 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 ADOT at the end of the period for which the funds are available. No liability shall accrue to the ADOT in the event this provision is exercised, and the ADOT shall not be obligated or liable for any future payments as a result of termination under this paragraph.

4. Nothing in this Agreement shall be construed as guaranteeing the ADOT's collection of all amounts due from the Contractors for the provision of DPS traffic control services. In the event that collections efforts are unsuccessful, no liability shall accrue to ADOT and DPS will then assume the sole responsibility for collecting any unpaid monies from the Contractors.

5. Either Party may terminate this Agreement for convenience or caused upon thirty (30) days written notice to the other Party. Upon termination, ADOT shall reimburse the Contractors for all outstanding amounts up through the time upon which termination becomes effective. Any amounts collected shall be distributed pursuant to this Agreement.

6. The DPS and the ADOT warrant compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act"). Additionally, in a timely manner, the DPS will provide information that is requested by the State (ADOT) to enable the State (ADOT) to comply with the requirements of the Act, as may be applicable.

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

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

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

10. 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 herein by reference regarding "Non-Discrimination".

11. 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.

12. 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
Attn: Mr. John S. Halikowski, Director
206 S. 17th Avenue
Phoenix, Arizona 85007
(602) 712-7227

Arizona Department of Public Safety
Attn: Col. Robert C. Halliday, Director
PO Box 6638
Phoenix, Arizona 85005-6638

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

a. The ADOT and the DPS warrant compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Arizona Revised Statutes § 23-214(A).

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

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

14. The Parties hereto shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.

15. 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.

ARIZONA DEPARTMENT OF PUBLIC SAFETY

By _____
COL. ROBERT C. HALLIDAY
Director

Approved as to Form:

By _____ 9/2/11
Assistant Attorney General
Arizona Department of Public Safety

ARIZONA DEPARTMENT OF TRANSPORTATION

By _____
JOHN S. HALIKOWSKI
Director

Approved as to Form:

By _____
Assistant Attorney General
Arizona Department of Transportation

EXHIBIT A

DPS Reimbursement Rate Schedule

Hourly Rate	$44.00
Vehicle Idle Time	$9.97
Vehicle Mileage Rate (50 miles)	$2.78
Subtotal	$56.75
15% Markup (Prime & Broker)	$8.51
Total Hourly Rate	$65.26

TOM HORNE
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
TRANSPORTATION SECTION

SUSAN E. DAVIS
ASSISTANT ATTORNEY GENERAL
DIRECT LINE: 602-542-8855
E-MAIL: SUSAN.DAVIS@AZAG.GOV

INTERAGENCY AGREEMENT DETERMINATION

A.G. Contract No. P0012011002438 **(IGA/JPA 11-151-I)**, an Agreement between public agencies, i.e., The State of Arizona and The Arizona Department of Public Safety, has been reviewed pursuant to A.R.S. §§ 11-952 and 28-401 as amended, 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.

DATED: September 27, 2011

TOM HORNE
Attorney General

Susan Davis

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:ln:#2311536
Attachment