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CERTIFICATION ACCEPTANCE AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF PHOENIX

THIS AGREEMENT ("Agreement") is entered into by and between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION ("State"), and CITY OF PHOENIX ("City"). The State and City are collectively referred to as "Parties" or individually as "Party." Both the State and City are government agencies.

I. RECITALS

1. The Parties recognize the importance of a balanced, integrated, intermodal transportation system for the State of Arizona and understand the need for maximum flexibility in the use of federal funds to address the needs of all transportation modes.

2. The Parties acknowledge that transportation infrastructure projects play an essential role in the State's transportation system and preservation and maintenance of the transportation infrastructure protects the investments of the past and allows for economic development in the future.

3. The Parties recognize that stewardship is the efficient and effective management of public funds that have been entrusted to the Federal Highway Administration (FHWA) and oversight is the act of ensuring the Federal-aid Highway Program (FAHP) is delivered in accordance with applicable laws and regulations.

4. Title 23, Code of Federal Regulation (C.F.R.), Sections 1.11 and 635.105 allow a State to delegate certain activities, under supervision, to qualified local public agencies for FAHP projects under Certification Acceptance. Delegation is a privilege with responsibilities for both Parties and requires the Parties work in partnership.

5. According to 23 C.F.R. §§ 1.11 and 635.105, the State, as the supervising agency, maintains accountability to FHWA for FAHP projects under Certification Acceptance and is responsible for oversight that ensures projects are completed in compliance with federal and state laws and regulations and conformance with approved plans and specifications.

6. Full Certification Acceptance status includes the delegation of contract administration, development and design, construction administration, project inspection, and internal program evaluation to the City.

7. Partial Certification Acceptance status excludes the delegation of procurement of an engineering or design-related services consultant from Full Certification Acceptance status activities listed above.

8. The State retains responsibility for disadvantaged business enterprises, equal employment opportunity, on the job training, environmental processes, approval of final certification of right-of-way, proprietary item determinations, and project final acceptance.

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

II. REQUIREMENTS

1. The City will:

    a. Accept the delegated authority for Partial Certification Acceptance status from the State for design, plans, specifications, estimates, contract awards, and inspections of FAHP projects.

    b. Adhere to federal and state laws and regulations, responsibilities and requirements set forth by FHWA, and the *Arizona Department of Transportation Certification Acceptance Manual* (current and as it may be amended in compliance with federal requirements) when developing and delivering FAHP projects with continuous stewardship and oversight.

    c. Perform delegated activities as outlined in the *Arizona Department of Transportation Certification Acceptance Manual* (current and as it may be amended in compliance with federal requirements).

    d. Cooperate with the State in the adoption of processes, procedures, and guidelines for selecting, developing, financing, constructing, and maintaining FAHP projects.

    e. Have a compliant project development and delivery program, accounting controls, and a project inspection and internal program evaluation process in place for FAHP projects.

    f. Ensure that the City's Designated Approval Authority reviews and approves FAHP projects.

    g. Ensure a full-time employee of the City is in responsible charge of FAHP projects or obtain approval from the State before hiring a consultant to act in a management role for the City.

    h. Assign to each FAHP project, a professional engineer registered in the State of Arizona, either on staff as a public employee or a contract employee designated as the City's Engineer.

    i. Have adequate, suitably equipped, and knowledgeable staff to undertake and complete the work satisfactorily on FAHP projects.

    j. Obtain any required State and FHWA reviews, concurrences, and approvals on FAHP projects.

    k. Obtain, keep, and maintain all books, papers, records, files, accounts, reports, bid documents with backup data, including electronic data, and all other materials relating to the FAHP contract and project.

l. Ensure all FAHP contract and project documents are retained and made available for inspection by the State and FHWA during the plan development and construction stages and at least five years after the FHWA final voucher has been recorded. This requirement will survive the termination or expiration of this Agreement or any individual agreement under this Agreement.

2. The State will:

   a. Delegate authority, and does delegate authority by this Agreement, for Partial Certification Acceptance status to the City for design, plans, specifications, estimates, contract awards, and inspections of FAHP projects.

   b. Communicate with FHWA regarding all aspects of the Certification Acceptance program and FAHP projects.

   c. Adhere to federal and state laws and regulations and the responsibilities and requirements set forth by FHWA, and the *Arizona Department of Transportation Certification Acceptance Manual* (current and as it may be amended in compliance with federal requirements) when developing and delivering FAHP projects with continuous stewardship and oversight.

   d. Maintain and update the *Arizona Department of Transportation Certification Acceptance Manual* (current and as it may be amended in compliance with federal requirements) and provide ongoing guidance to the City through the *Arizona Department of Transportation Certification Acceptance Manual* (current and as it may be amended in compliance with federal requirements), training, periodic reviews, and other related tools.

   e. Cooperate with the City in the adoption of processes, procedures, and guidelines for selecting, developing, financing, constructing, and maintaining FAHP projects.

   f. Have a Certification Acceptance program, accounting controls, and an oversight process in place for FAHP projects.

   g. Have adequate, suitably equipped, and knowledgeable staff to undertake and complete the work satisfactorily on FAHP projects.

   h. Provide any required State reviews, concurrences, and approvals and submit any requests to FHWA for required authorizations, reviews, concurrences, and approvals on FAHP projects.

   i. Conduct continuous oversight on the City's federal-aid programs and projects to ensure compliance with federal and state laws and regulations and conformance with approved plans and specifications.

III. MISCELLANEOUS PROVISIONS

1. This Agreement supersedes and replaces the 1996 Certification Acceptance Agreement and any subsequent amendments between the State and City.

2. This Agreement takes effect on the signature date of the FHWA Arizona Division Administrator, who signs this Agreement last.

3. The terms, conditions, and provisions of this Agreement will remain in full force and effect for three years.

4. This Agreement will govern all program- and project-specific agreements between the State and City.

5. If a conflict exists between the terms, conditions, and provisions of this Agreement and any other agreement between the State and the City, this Agreement will govern and control.

6. Any modification to this Agreement will occur only with the mutual consent of both Parties.

7. This Agreement may be cancelled at any time upon 30 days written notice to the other Party.

8. The State may terminate this Agreement upon the City's request or if in the opinion of the Arizona Department of Transportation Director the City lacks adequate staffing or performance. The rescission may be applied to all or part of the program or projects under the Certification Acceptance program.

9. In case of termination of this Agreement for any reason, the City will have a continuing obligation to comply with the terms of this Agreement until all requirements under this Agreement are completed.

IN WITNESS WHEREOF, the Parties, by execution of this Agreement, acknowledge that their signing representatives have read, understand, and agree to be bound by the terms, conditions, and provisions of this Agreement.

CITY OF PHOENIX a Municipal Corporation Ed Zuercher, City Manager

By _____
RAY DOVALINA, JR., P.E.
Street Transportation Director

STATE OF ARIZONA Department of Transportation

By _____
Dallas Hammit, P.E.
Deputy Director for Transportation/State Engineer

ATTEST:

By _____
CRIS MEYER
City Clerk

CONCUR:

FEDERAL HIGHWAY ADMINISTRATION Arizona Division

By _____
Karla S. Petty
Division Administrator

Date 10/26/2016

CITY CLERK DEPT.
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ATTORNEY APPROVAL FOR CITY OF PHOENIX

I have reviewed this Agreement between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, and CITY OF PHOENIX pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Agreement to be in the 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.

By _____ **Date** 10/21/16
Acting City Attorney