

## INTERGOVERNMENTAL AGREEMENT CONCERNING CERTAIN RESPONSIBILITIES FOR CAMELBACK RANCH

Contract # C-7072  
Parties: City of Glendale, City of Phoenix, Western Loop Public Facilities Corporation  
Date: October 9, 2009  
Amended October 14, 2014 (Deleted language is noted with a ~~striketrough~~ and additions are noted in Changes in ***bolded italics***)

Note the Clerk has on file Contract #6977 with the same title. Contract #6977 has a note that the City of Phoenix was making changes to the agreement and a new agreement was being provided to the City of Glendale.

### SALIENT TERMS

#### Facility Development §2.1

Glendale, through Western Loop 101, has designed and constructed the Facility Improvements as detailed in the Facility Development Agreement. Phoenix acknowledges and agrees that the Facility Improvements may be developed on the MLB Land consistent with the Phoenix Zoning Ordinance. Phoenix shall not assert any right or privilege with respect to the naming of the MLB Facility and shall not seek the prominent display of the City of Phoenix name or logo on or within the MLB Facility, excluding areas in which a display(s) may have already existed as of March 1, 2009.

#### Anticipated Development §2.2(B)

Rightpath plans to develop on the Development Land the minimum development requirements described on **Exhibit E**, subject to and consistent with zoning by Phoenix ("Minimum Improvements"). Conveyance of Development Land. Glendale has conveyed Parcel A of the Development Land to Rightpath, subject to Rightpath's right to require Glendale to repurchase all or any portion of Parcel A; and

#### Infrastructure Improvements §2.2(E)

Western Loop 101 has caused to be designed and is constructing the public improvements on Camelback Ranch, as described on **Exhibit D** and as required by Phoenix as a condition of the Camelback Ranch Development, in accordance with and as authorized by A.R.S. §9-462.01.

#### Main Street Development §1

Rightpath will design, engineer, fund, and construct the Main Street

Development in accordance with the minimum Improvements as set forth in Exhibit E, and the terms and conditions of the Glendale Development Agreement.

**Utilities §2.4**

Phoenix, as the certificated provider of potable water, wastewater, and reclaimed water utility services to Camelback Ranch, will provide potable water, wastewater, and reclaimed water utility services to the Camelback Ranch, under the same terms and conditions as Phoenix's other potable water, wastewater, and reclaimed water utility customers.

**Budget §2.5**

Western Loop 101 provided Phoenix with a budget document detailing construction costs for the Infrastructure Improvements on the Development Land. The budget is \$51,700,000 (the "Infrastructure Improvement Costs").

**Financing of Improvement §3**

Western Loop 101 financing of the Facility Improvements and the Infrastructure Improvements is structured as follows. The cost of designing, engineering, and constructing the Facility Improvements, and the costs associated with the financing thereof, has been incurred as a separate and distinct obligation with no collateral or cross obligations related to the repayment of any other debt incurred by Western Loop 101 (the "Series A Obligation"). The principal amount of the Series A Obligation will not exceed \$137,496,000, unless an additional obligation is approved in accordance with § 4.7. The term of the Series A Obligation will not exceed 360 months, unless an extended term is approved in accordance with § 4.7. The cost of designing, engineering and constructing the Infrastructure Improvements, and the costs associated with the financing thereof, has been incurred as a separate and distinct obligation with no collateral or cross obligations related to the repayment of any other debt incurred by Western Loop 101 ("Series B Obligation"). Phoenix has been provided the terms of the financing that will be partially repaid from the Phoenix Tax Pledge, as defined below. The principal amount of the Series B Obligation will not exceed \$51,700,000, unless an additional obligation is approved in accordance with § 4.7. The term of the Series B Obligation will not exceed three hundred sixty (360) months, unless an extended term is approved in accordance with § 4.7.

**Western Loop 101 Sources of Revenue §3.2**

Western Loop 101 will secure the following income with which to make debt payments, provide for reserve accounts, and to fund other associated expenses and to assure its good standing, financial condition, and continued corporate existence: pledges from Phoenix, Glendale, , revenue from development activity, on Camelback Ranch, Main Street and the Glendale Airport, AzSTA Funds, interest income and lender's assurances.

### **Western Loop 101 Uses of Revenue §3.3**

Western Loop 101 will use all revenue secured in the following manner: repayment of project debt, repayment of Lender's assurances and soft costs

### **Phoenix Tax Pledge §4.1**

~~Phoenix unconditionally and irrevocably pledges and agrees to pay to Western Loop 101 80% of the general fund portion of transaction privilege tax revenues that are actually received by Phoenix for taxable activities occurring on Camelback Ranch from and after the effective date of this Agreement (the "Phoenix Payments") up to a maximum amount of \$37,000,000 (the "Phoenix Contribution").~~

*Phoenix unconditionally and irrevocably pledges and agrees to pay Western Loop 101 or its successor 80% of the general fund portion of transaction privilege tax revenues that are actually received by Phoenix for taxable activities occurring on Camelback Ranch from and after the effective date of this Agreement (the "Phoenix Payments") up to a maximum amount of \$16,447,079 (the "Phoenix Contribution").*

### **Glendale Tax Pledge §4.2**

Glendale unconditionally and irrevocably pledges and agrees to pay to Western Loop 101 100% of the non-dedicated transaction privilege tax revenues (i.e., the transaction privilege taxes not dedicated to specific use by its voters) imposed and actually received by Glendale for taxable activities occurring on the Main Street Development (the "Glendale Payments").

### **Development Revenue Share §4.3**

In accordance with the terms of the Glendale Development Agreement, Rightpath will pay to Western Loop 101 a percentage of Rightpath's Adjusted Gross Profits, as defined in this section ("Development Revenue Share"), derived from any sale, lease, rental, or other income producing activity not to Affiliated Entities that is generated by Rightpath's activities on the Development Land, Main Street Development, or the Airport Property (the "Development Activities") as follows:

1. 6% for Development Activities taking place within the Development Land;
2. 6% for Development Activities taking place within the Main Street Development; and
3. 3% for Development Activities taking place within the Airport Property, but only to the extent diversion of income derived from Airport Land from reinvestment into the Airport is

consistent with FAA regulations and existing Glendale Airport federal grant assurances.

#### **Commercial Development on MLB Land §4.3(F)**

If any portion of the MLB Land is developed by the Teams or an Affiliated Entity for a commercial use other than for the sale of tickets for spring training, sale of tickets to other events in the Facility, sales of food and merchandise not directly associated with events in the Facility, and which is similar to the use developed by Rightpath on the Development Land, the Teams or the Affiliated Entity will be required to commit Development Revenue Share equal to that of the Rightpath's Development Revenue Share on the Development Land and this amount will become part of the Development Revenue Share.

**AzSTA Funds §4.4** Glendale and AzSTA have entered the AzSTA IGA, wherein AzSTA commits certain funds to Glendale to pay for the Facility Improvements {"AzSTA Funds"). Transfer of Funds. Glendale will transfer the right to receive the AzSTA Funds to Western Loop 101, or Glendale will receive and remit the AzSTA Funds to Western Loop 101 as received. Use. AzSTA Funding will only be used to pay the Series A Obligation, fund any required reserve account for Series A Obligation, or for Lender's Assurance Repayment, but only to the extent the Lender's Assurance was drawn upon to make payments for the Series A Obligation.

**Interest Income §4.5** All amounts held by Western Loop 101 for any reasonable period prior to expenditure will be invested in an insured money-market account, treasury bills, or other similar investments, as allowable under law for a municipal property corporation, and at the highest rate available.

#### **Glendale Purchase §9.1**

Effective Date Purchase. Pursuant to a separate purchase agreement, Glendale will purchase from Phoenix 1.38 acres adjacent to the MLB Facility, as depicted in Exhibit F, for parking purposes (the "Parking Property") at its current appraised price of \$5.00 per square foot. The purchase of the Parking Property is a condition precedent to Phoenix's obligations under this Agreement. Further, this Agreement shall be of no force or effect if the purchase is not approved by the Phoenix Parks and Recreation Board and the Phoenix City Council, or if Glendale fails to execute the purchase agreement.

#### **Contingent Purchase §9.2**

~~Pursuant to the purchase agreement, Glendale will also purchase from Phoenix the 14.2 acres of the Phoenix Land comprised of the acreage~~

~~between the ROW and the MLB Facility (9.21 acres) and between the ROW and Parcel A of the Development Land (4.99 acres) (collectively the "Future Acreage") and as depicted in Exhibit F, at the current appraised price of \$5.00 per square foot if the Future Acreage is not purchased, or in the process of being purchased, five years after the effective date of this Agreement.~~ *Pursuant to the terms of the Real Estate Purchase Agreement entered into between the parties on April 22, 2010 and the first amendment thereto (collectively the "Purchase Agreement"), Glendale will also purchase from Phoenix the 14.2 acres of the Phoenix Land comprised of the acreage between the ROW and the MLB facility (9.21 acres, otherwise known as Lot 5 in the Purchase Agreement) and between the ROW and Parcel A of the Development Land (4.99 acres, otherwise known as Lot 3 in the Purchase Agreement) (collectively the "Future Acreage") and as depicted in Exhibit F at the price of \$5.00 per square foot.* Glendale will not have the right or the obligation to purchase the Future Acreage if Phoenix expresses written intent to retain the property. If the duty to purchase becomes operative, Glendale may also satisfy the duty by producing a buyer who is ready, willing and able to pay Phoenix the amount described above in full at the time the duty to purchase becomes operative. The purchase of the Future Acreage, if applicable, will be a condition precedent to the performance of any of Phoenix's obligations under this Agreement that may accrue after the duty to purchase becomes operative.

#### **Development Reimbursement §10.1**

Effective Date Reimbursement. Glendale will reimburse Phoenix for certain expenses incurred in connection with the early planning of a regional park for Camelback Ranch, as well as costs related to the dedication of the east half of the ROW, as follows: a sum equivalent to \$5.00 per square foot for the east half of the ROW (125,863 square feet) plus \$768,711 for regional park planning ("Development Reimbursement"). The Development Reimbursement is a condition precedent to Phoenix's obligations under this Agreement and this Agreement shall be of no force or effect if the Development Reimbursement is not received by Phoenix within 120 days from the effective date of this Agreement.

#### **Contingent Reimbursement §10.2**

~~(A) On the date five years after the effective date of this Agreement, Glendale will further reimburse Phoenix at \$5.00 per square foot for costs related to the dedication of the southern portion of the west half of the ROW (56,713 square feet) if the Future Acreage as described in paragraph 9.2 above is not purchased, or in the process of being purchased, five years after the effective date of this Agreement. Glendale will not reimburse Phoenix if Phoenix expresses its written intent to retain the Future Acreage. The Contingent Reimbursement, if~~

~~applicable, will be a condition precedent to the performance of any of Phoenix's obligations under this Agreement that may accrue after the date the Contingent Reimbursement is due.~~

~~(B) Glendale agrees to a further reimbursement at \$5.00 per square foot for costs related to the dedication of the northern portion of the west half of the ROW (69,150 square feet) if the Phoenix Park Parcel (14.53 acres) ("Park Parcel") is not purchased, or in the process of being purchased, five years after the effective date of this Agreement. Glendale will not reimburse Phoenix if Phoenix expresses its written intent to retain the Park Parcel. The Contingent Reimbursement, if applicable, will be a condition precedent to the performance of any of Phoenix's obligations under this Agreement that may accrue after the date the Contingent Reimbursement is due. Upon execution of this First Amendment, Glendale will pay Phoenix \$345,750.00 as reimbursement, at \$5.00 per square foot, for costs related to the dedication of the northern portion of the west half of ROW (69,150 square feet).~~

## Exhibit D

~~Glendale will construct a roadway which commences at Camelback Road and 111<sup>th</sup> Avenue and terminates at 99<sup>th</sup> Avenue (the "Roadway"), with the alignment for the Roadway to be as described below. Glendale will improve the Roadway with all public road improvements required by and in accordance with City standards, including sidewalks on both sides of the Roadway, curb and gutters and utility lines for water, sewer, effluent, telephone, fiber optic cable, gas and electric, at Glendale's expense. Glendale will acquire, at its expense, all right of way necessary for the Roadway's public road improvements except any portions of the right of way owned by Rightpath, which will be dedicated by Rightpath without compensation, except as expressly provided in this Agreement.~~

~~The alignment for the Roadway will be one of the following, as determined by Glendale in the exercise of its reasonable discretion after consultation with Phoenix and Rightpath:~~

~~Option 1: The Roadway will begin at 99<sup>th</sup> Avenue and run west along the Maryland Avenue Alignment to the New River Channel, and then run south along the eastern boundary of the New River Channel, terminating at the intersection of Camelback Road and 111<sup>th</sup> Avenue.~~

~~Option 2: The Roadway will begin at the intersection of Camelback Road and 111<sup>th</sup> Avenue and run north to the southwest corner of property owned by SRP, and then run east along the north side of the Bethany Home outfall channel to the 101<sup>st</sup> Avenue alignment, and then run north along the 101<sup>st</sup> Avenue alignment to Main Street Boulevard, and then run east along Maryland Avenue Alignment, terminating at 99<sup>th</sup> Avenue.~~

~~Option 3: The Roadway will begin at the intersection of Camelback Road and 111<sup>th</sup> Avenue and run north to the southwest corner of the property owned by SRP, and then run east along the north side of the Bethany Home outfall channel, terminating at 99<sup>th</sup> Avenue.~~

~~The term "Maryland Road Alignment" means an extension of the existing Maryland Avenue from its termination point at 99<sup>th</sup> Avenue, running directly west, and aligning so that no more than one half of the right of way for the Roadway running along the Maryland Avenue Alignment is located on the Rightpath Property.~~

*Glendale will construct a roadway which commences at Camelback Road and 111<sup>th</sup> Avenue and terminates south of the Bethany Home Outfall (the "Roadway"). Glendale will improve the Roadway with all public road improvements required by and in accordance with Phoenix standards, including sidewalks on both sides of the Roadway, curb and gutters and utility lines for water, sewer, effluent, telephone, fiber optic cable, gas and electric, at Glendale's expense. Glendale has no obligation to extend the Roadway any farther because any remaining construction to extend Ballpark Boulevard beyond the existing alignment will be conducted in the regular course of development and not subject to this Agreement and First Amendment.*