

Staff Summary Report



Council Meeting Date: May 15, 2008

Agenda Item Number: _____

SUBJECT: Request authorization for the Mayor to sign an intergovernmental agreement with the Regional Public Transportation Authority (RPTA) for site design and construction of the South Tempe Transportation Center.

DOCUMENT NAME: 20080515PWRY02 TRANSPORTATION PLANNING (1101-01)

SUPPORTING DOCS: Yes

COMMENTS: The City will receive Public Transportation Funds (PTF) totaling \$1,945,123.

PREPARED BY: Robert Yabes: Principal Planner, 350-2734

REVIEWED BY: Carlos de Leon: Deputy Public Works Manager, 350-8527

LEGAL REVIEW BY: Theresa Voss: Assistant City Attorney, 350-8814

FISCAL NOTE: This IGA provides \$1,945,123.00 regional funding for Transit.

RECOMMENDATION: Recommend approval.

ADDITIONAL INFO: This Intergovernmental Agreement will allow the City to receive Public Transportation Funds (PTF) from the Regional Public Transportation Authority for the design and construction of South Tempe Transit Center. The total funding from PTF for the South Tempe Transportation Center is \$1,945,123.00.

Approved by Glenn Kephart, Public Works Manager

AGREEMENT NO.169-35-2008

INTERGOVERNMENTAL AGREEMENT

**THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY
AND
CITY OF TEMPE**

(South Tempe Transit Center) Funding for FY 07-08

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into this ___ day of _____, 2008, by and between the Regional Public Transportation Authority, a public agency duly organized and existing under the laws of the State of Arizona (hereinafter referred to as “RPTA”) and the City of Tempe, a municipal corporation duly organized and existing under the laws of the State of Arizona acting by and through its Transportation Division (hereinafter referred to as “CITY”); and

WHEREAS, CITY has Charter authority to provide transit services and Charter and Statutory authority to enter into agreements with other entities within the Phoenix Urban Area to provide transit services [A.R.S. § 11-951, et seq.; Chapter 2, Section 2, Subsections (c), (i) and (l), Charter of the City of Tempe, 1969]; and

WHEREAS, RPTA is a political subdivision of the state of Arizona, i.e., a public improvement district, established for the purpose of planning and providing public transportation services [A.R.S. §48-5101, et seq.]; and

WHEREAS, as a political subdivision of the state of Arizona, RPTA “may contract and enter into stipulations of any nature to do all acts necessary and convenient for the full exercise of” its powers granted under A.R.S. § 48-5101, et seq [A.R.S. §48-5123], including entering into intergovernmental agreements [A.R.S. § 11-951, et seq.]; and

WHEREAS, RPTA is the designated recipient of Public Transportation Funds (PTF) under the Regional Transportation Plan (RTP) and is charged with distributing PTF funds to local recipients such as CITY; and

WHEREAS, CITY’s proposed South Tempe Transit Center is eligible for PTF funds (to be used as the local match) together with Federal Transit Administration (FTA) grant funds for acquisition, design, and/or construction of the aforementioned project; and

WHEREAS, the Transit Life Cycle Plan is a 20 year plan adopted by RPTA and its constituent agencies setting forth RPTA's allocation of funds to CITY and RPTA's other constituent agencies; and

WHEREAS, the CITY's aforementioned projects are projects approved for RPTA contribution in the Transit Life Cycle Plan; and

WHEREAS, CITY has been authorized by its City Council and RPTA has been authorized by its Board of Directors to enter into this Agreement; and

WHEREAS, the sums set forth herein have been approved for disbursement in RPTA's annual budget; NOW, THEREFORE,

IT IS HEREBY AGREED, by and between the parties, as follows:

SECTION 1. CITY's Obligations. CITY shall:

- (1) Construct its South Tempe Transit Center facility located in the City of Tempe, Arizona (hereinafter sometimes referred to herein as "the Project"). Attached hereto, and by this reference incorporated herein, are the following /Attachments:

Attachment A	Draft Design Concept Report
Attachment B	RPTA Reimbursement Request Form

- (2) On a quarterly basis, submit to RPTA a request for reimbursement on RPTA's Reimbursement Request Form (Attachment B to this Agreement) and provide an update on project status.
- (3) Keep and maintain for a period of five (5) years after project completion all books and records reasonably necessary to support the reimbursement sought from RPTA. If requested by RPTA, such records shall be made available to RPTA for annual audit, upon not less than fourteen (14) calendar days prior written notice to CITY, at CITY's offices, during normal business hours. RPTA shall be solely responsible for any and all costs associated with such audits.
- (4) Shall comply with all applicable laws, ordinances, regulations and codes of federal, state and local governments. Further, CITY shall be solely responsible for obtaining all approvals and permits necessary.
- (5) In performing hereunder, CITY will look to RPTA's Transit Life Cycle Program and its approved policies (collectively referred to as the "TLCP") for guidance, including but not limited to:
 - (a) CITY shall act as Lead Agency and fulfill Lead Agency responsibilities
 - (b) CITY shall ensure that Design Concept Report (Exhibit A) is completed and approved through the RPTA committee process prior to start of construction

- (6) CITY shall provide quarterly reports to RPTA summarizing the previous quarter's activities. The quarterly reports shall be due to RPTA 15 days after the end of the quarter.
- (7) Either through its own funds or through other funding sources, be responsible for costs above the allocated amounts unless a change in the TLCP is requested and approved.
- (8) Be responsible for securing and drawing federal funds.

SECTION 2. RPTA's Obligations. RPTA shall:

- (1) Disburse PTF funds to CITY, as approved in the Transit Life Cycle Plan and in RPTA's annual budget, according to the following schedule:

FY 2007-08	\$755,835
FY 2008-09	\$1,189,288

To the extent practicable, and as supported by actual expenditures, disbursements shall be in four equal quarterly installments, i.e., in July, September, December, and March) within fifteen (15) days of receipt of a completed Reimbursement Request Form, Attachment B. PROVIDED, however, that: (1) expenditures eligible for reimbursement that are in excess of the amount authorized for that year's reimbursement, shall be carried forward to future years until either reimbursement shall have been made or until all allocated sums have been disbursed; and, (2) authorized but unexpended reimbursements shall be carried forward to future years until all allocated sums have been disbursed.

- (2) Be solely responsible for any and all costs associated with audits of CITY expenditures as specified in Section 1(A)(3), above.

SECTION 3. Statutorily Required Provision. The following provisions are included herein to satisfy the requirements of A.R.S. § 11-952:

- A. Duration. The term of this Agreement shall commence on the date that it is fully executed by the parties and properly filed and/or recorded. It expires on whichever of the following shall first occur: (a) completion, acceptance and full payment of all sums due as and for the Project's local match; or, (b) by amendment canceling the Project and RPTA's obligations hereunder. This agreement may be extended for four (4) one (1) year options periods.
- B. Purpose: To provide local funding for the work described in Section 1(A) (1) hereof and Attachments "A", hereto.
- C. Budget. Sums paid by RPTA hereunder come from Public Transportation Funds (PTF) under the Regional Transportation Plan (RTP) as approved for RPTA contribution in the Transit Life Cycle Plan. Further, sums payable hereunder are annually approved by RPTA's Board of Directors when it approves its annual budget, and this Agreement and

annual appropriations are subject to board approval.

- D. Ownership, Operation and Maintenance. The acquired facility under this Agreement is the property of CITY, and RPTA claims no interest therein by virtue of its financial participation pursuant to the terms of this Agreement. Further, CITY shall be responsible for operating and maintaining the facility, and RPTA has no operation or maintenance responsibilities.
- E. Termination. This Agreement shall terminate on the completion of the Project. RPTA's payment obligation shall continue until: (a) completion, acceptance and full payment of all sums due as and for the Project's local matches; (b) by amendment canceling the Project and RPTA's obligations hereunder; or (c) upon the failure of the RPTA Board of Directors to appropriate funds pursuant to Section 2(1) and Section 3.C., whichever shall first occur.

SECTION 4. General Provisions. The following provisions are material and essential to the parties' entry into this Agreement. A breach of any of the provisions of this Section shall constitute a material breach of contract.

- A. Entire Agreement; Modification (No Oral Modification). This Agreement, and any Exhibits, Attachments, or Schedules attached hereto, constitute the full and complete understanding and agreement of the parties. It supersedes and replaces any and all previous representations, understandings, and agreements, written or oral, relating to its subject matter. This Agreement, and its terms, may not be modified or changed except in writing signed by both parties. There shall be no oral alteration or modification of this Agreement.
- B. Invalidity of Any Provisions. This Agreement shall remain in full force and effect even if one or more of its terms or provisions have been held to be invalid or unenforceable. Such a holding shall result in the offending term or provision being ineffective to the extent of its invalidity or unenforceability without invalidating the remaining terms and provisions hereof; this Agreement shall thereafter be construed as though the invalid or unenforceable term or provision were not contained herein.
- C. Applicable Law and Litigation. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Arizona. Any and all litigation between the parties arising from this Agreement shall be litigated solely in the appropriate state court located in Maricopa County, Arizona.
- D. Conflicts of Interest. All parties hereto acknowledge that this Agreement is subject to cancellation pursuant to the provisions of § 38-511, Arizona Revised Statutes.
- E. Non-waiver. Should either party fail or delay in exercising or enforcing any right, power, privilege or remedy under this Agreement such failure or delay shall not be deemed a waiver, release or modification of the requirements of this Agreement or of any of the terms or provisions thereof.

F. Notice. Any notice, consent, or other communication (“Notice”) required or permitted under this Agreement shall be in writing and either delivered in person, sent by facsimile transmission, deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, or deposited with any commercial air courier or express service addressed as follows:

If intended for RPTA:

David Boggs, Executive Director.
Regional Public Transportation Authority
302 North First Avenue, Suite 700
Phoenix, AZ 85003
Telephone: (602) 262-7433
FAX: (602) 495-0411

If intended for CITY:

Carlos de Leon, Deputy Public Works Manager
Public Works Department
City of Tempe
31 E. 5th Street
Tempe, AZ 85280
Telephone: (480) 350-2775
FAX: (480) 858-2097

Notice shall be deemed received at the time it is personally served or on the day it is sent by facsimile transmission or, on the second day after its deposit with any commercial air courier or express service or, if mailed, ten (10) days after the notice is deposited in the United States mail as above provided. Any time period stated in a Notice shall be computed from the time the Notice is deemed received. Either party may change its mailing address, FAX number or the person to receive notice by notifying the other party as provided in this section.

Notice sent by facsimile transmission shall also be sent by regular mail to the recipient at the above address. This requirement for duplicate notice is not intended to change the effective date of the notice sent by facsimile transmission.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

City of Tempe

Regional Public Transportation Authority

By: _____
Hugh Hallman
Mayor

By: _____
David A. Boggs
Executive Director

ATTEST: _____
City Clerk

ATTEST: _____
Jon Medwin
Manager of Contracts and
Procurement

ATTEST: _____
Christopher Curcio
Deputy Executive Director
Finance

INTERGOVERNMENTAL AGREEMENT DETERMINATION

In accordance with the requirements of §11-952(D), Arizona Revised Statutes, each of the undersigned attorneys acknowledge: (1) that they have reviewed the above Agreement on behalf of their respective clients; and, (2) that, as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

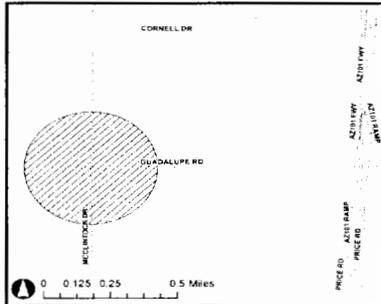
Attorney for City of Tempe

Attorney for RPTA

ATTACHMENT A DESIGN CONCEPT FORM

Design Concept Report		
Project Description		
Project Name	South Tempe Transit Center	
Facility Type	Transit Center	
MAG Project #		
RTP Phase	1	
Year Open for Service	FY 2009	
Advancement or Deferral?	No	
	<u>Date</u>	<u>Prepared by</u>
Draft Prepared	5/16/2007	Scott Miller (HDR S.R. Beard & Associates)
Update 1		
Update 2		
Update 3		
Proposed Schedule (FY)		
Pre-Design	2008	
Design	2008	
Land	2008	
Construction	2009	
Project Objective	Site, design and construct a regional 4-bay transit center facility to support the following passenger services:	

Site Location and Background	
RTP Location	Guadalupe Rd & McClintock Dr
RTP Location City	Tempe
Selected Site Location	TBD
Selected Site Address	Tempe, AZ (update with site address)
Selected Site Legal Description	
Original Land Owner	TBD
Final Land Owner	TBD
Land Owned or Leased for Final Use	TBD
Final Purchase Date (if applicable)	TBD
Lease Dates (if applicable)	TBD
Site Size (acres)	TBD
Current Land Use	TBD
General Plan Land Use	TBD
Zoning	TBD
Zoning Amendment Required	TBD
Zoning Amendment Date	TBD
Existing Conditions	TBD (identify existing structures, character of nearby land uses, environmental issues, topography and drainage, pedestrian/vehicle access, etc.)



Design	Quantity/Size	Standard or Enhanced Materi Comments
Project Elements		
Total Parking Spaces	TBD	TBD
Covered Parking Spaces	TBD	TBD
Site Lighting Fixtures	TBD	TBD
Security Cameras	TBD	TBD
Passenger Platforms	TBD	TBD
Passenger Shelters	TBD	TBD
Drinking Fountains	TBD	TBD
Passenger Information Kiosks	TBD	TBD
Security/Passenger Buildings	TBD	TBD
Landscaping (acreage)	TBD	TBD
Signage	TBD	TBD
Special Features (i.e. frwy ramp)	TBD	TBD

Project Budget				
Programmed Budget (year of expenditure)	Total Project	PTF	Federal	Local
FY 2008 (Pre-Design, Design, Land Acquisition)	\$755,835	\$755,835	\$0	\$0
FY 2009 (Construction)	\$1,189,288	\$1,189,288	\$0	\$0
Total	\$1,945,123	\$1,945,123	\$0	\$0

Preliminary Design Cost Estimate	
Site Preparation	TBD
Irrigation	TBD
Landscaping	TBD
Site Features/Amenities including construction	TBD
Traffic Control Devices	TBD
Overhead Costs (permits, insurance, etc.)	TBD
Total	TBD

Final Design Cost Estimate	
Site Preparation	TBD
Irrigation	TBD
Landscaping	TBD
Site Features/Amenities including construction	TBD
Traffic Control Devices	TBD
Overhead Costs (permits, insurance, etc.)	TBD
Total	TBD

**ATTACHMENT B
RPTA REIMBURSEMENT REQUEST FORM**

Regional Public Transportation Authority PTF Expenditure Reimbursement Request					
The information provided will be used by the Regional Public Transportation Authority (RPTA) to monitor designated lead agency cash flow to ensure compliance with ARS 48-5103. No further monies may be paid out under this program unless this report is completed and filed as required.					
RECIPIENT ORGANIZATION NAME AND ADDRESS			PROJECT AGREEMENT NUMBER		REQUEST NO.
			REPORTING PERIOD (Dates)		
			FROM:		TO:
			TOTAL		PTF SHARE
TOTAL ELIGIBLE COSTS			\$	-	\$ -
TOTAL PREVIOUS PAYMENTS			\$	-	\$ -
CURRENT PAYMENT REQUESTED			\$	-	\$ -
REMAINING FUNDING			\$	-	\$ -
REQUIRED SIGNATURE					
This document must be signed by the recipient's Chief Financial Officer or their designated representative.					
CERTIFICATION					
I certify the financial expenditures submitted for reimbursement with this report, including supporting documentation, are eligible and allowable expenditures consistent with the project goals and requirements, have not been previously requested, and that payment is due. I also certify that all matching requirements have been met and sufficient documentation exists in our files and are available upon request or in the event of an audit.					
SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL				DATE REQUEST SUBMITTED	
TYPED OR PRINTED NAME AND TITLE				TELEPHONE	
Instructions					
1. Keep a copy of everything submitted.					
2. All project records, including financial records, must be maintained for 3 years beyond project completion.					
<i>For RPTA use only</i>					
Date request received:			Life cycle compliance review (signature/date)		
Approved for funds availability (signature/date)			Date of funds transfer (signature/date)		
Comments					
Project	WBS	Phase	Activity	GL Account (Finance Only)	Amount
			7901		
			7901		
			7901		
			7901		