

RESOLUTION NO. 18-04

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO AMENDMENT NO. ONE TO THE INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA FOR THE WINCHESTER ROAD SIDEWALK IMPROVEMENT PROJECT.

WHEREAS, the City of Apache Junction ("City") and the State of Arizona Department of Transportation ("ADOT") desire to enter into an Intergovernmental Agreement ("IGA") for Winchester Road from Southern Avenue to 16<sup>th</sup> Avenue and Southern Avenue from Winchester Road to Royal Palm Road (the "Project"); and

WHEREAS, the City acquired additional federal-aid funds to help with the increase construction costs; and


WHEREAS, the attached written amendment ("IGA/JPA 15-0005194-I, Amendment No. One: 18-0006744-I") modifies the original financial and administrative conditions for design of the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION ARIZONA, AS FOLLOWS:

- 1) The Mayor and City Council hereby approve the attached IGA and the Mayor is hereby authorized to sign the agreement on behalf of the City.
- 2) The City Manager and/or his designee is authorized and directed to take all steps necessary to carry out the purpose and intent of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS 3RD DAY OF APRIL, 2018.

SIGNED AND ATTESTED TO THIS 3RD DAY OF APRIL, 2018.

  
\_\_\_\_\_  
JEFF BERDY  
Mayor

ATTEST:



KATHLEEN CONNELLY  
City Clerk

APPROVED AS TO FORM:

 3.27.18

RICHARD J. STERN  
City Attorney

**ADOT File No.: IGA: 15-0005194-I**  
**Amendment No. One: 18-0006744-I**  
AG Contract No.: P0012015001096  
Project Location/Name: Winchester Rd,  
16<sup>th</sup> Ave-Southern Ave  
Type of Work: Sidewalk Connections  
**Federal-aid No.: CMAQ-APJ-0(212)T**  
**ADOT Project No.: SZ183**  
**01D/03D/01C**  
**TIP/STIP No.: APJ15-441D**  
**CFDA No.: 20.205 - Highway Planning**  
**and Construction**  
**Budget Source Item No.: N/A**

**AMENDMENT NO. ONE  
TO  
INTERGOVERNMENTAL AGREEMENT**

**BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF APACHE JUNCTION**

**THIS AMENDMENT NO. ONE to INTERGOVERNMENTAL AGREEMENT (the "Amendment No. One")**, is entered into this date \_\_\_\_\_, pursuant to 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 APACHE JUNCTION, acting by and through its MAYOR and CITY COUNCIL (the "City"). The City and State are collectively referred to as the "Parties."

**WHEREAS**, the INTERGOVERNMENTAL AGREEMENT, IGA/JPA 15-0005194-I, A.G. Contract No. P0012015001096, was executed on May 14, 2015, (the "Original Agreement");

**WHEREAS**, the State is empowered by Arizona Revised Statutes § 28-401 to enter into this Amendment No. One and has delegated to the undersigned the authority to execute this Amendment No. One on behalf of the State;

**WHEREAS**, the City is empowered by Arizona Revised Statutes § 48-572 to enter into this Amendment No. One and has by resolution, a copy of which is attached and made a part of, resolved to enter into this Amendment No. One and has authorized the undersigned to execute this Amendment No. One on behalf of the City; and

**NOW THEREFORE, in consideration of the mutual terms expressed herein, the purpose of this Amendment No. One is to revise the funding for the construction phase. The Parties desire to amend the Original Agreement, as follows:**

**I. RECITALS****Section I, Paragraph 7. is revised, as follows:**

7. The federal funds will be used for the scoping/design and construction of the Project, including the construction engineering and administration cost ("CE"). The estimated Project costs are as follows:

**SZ183 03D (scoping/design):**

Federal-aid funds @ 94.3%	\$ 169,740.00
City's match @ 5.7%	<u>\$ 10,260.00</u>
<b>Subtotal – Scoping/Design*</b>	<b>\$ 180,000.00</b>

**SZ183 01C (construction):**

Federal-aid funds @ 94.3%	\$ 1,738,442.00
City's match @ 5.7%	<u>\$ 105,081.00</u>
<b>Subtotal – Construction**</b>	<b>\$ 1,843,523.00</b>
<b>Estimated TOTAL Project Cost</b>	<b>\$ 2,023,523.00</b>

**Summary:**

<b>Total Estimated City Funds</b>	<b>\$ 115,341.00</b>
<b>Total Federal Funds</b>	<b>\$ 1,908,182.00</b>

\* (Includes ADOT Project Development Administration ("PDA") Costs (formerly Project Management & Design Review ("PMDR")))

\*\* (Includes 15% CE (this percentage is subject to change, any change will require concurrence from the City) and 5% Project contingencies)

The Parties acknowledge that the final Project costs may exceed the initial estimate(s) shown above, and in such case, the City is responsible for, and agrees to pay, any and all, actual costs exceeding the initial estimate. If the final bid amount is less than the initial estimate, the difference between the final bid amount and the initial estimate will be de-obligated or otherwise released from the Project. The City acknowledges it remains responsible for, and agrees to pay according to the terms of this Agreement, any and all actual costs exceeding the final bid amount.

**Consistent with the Original Agreement, the State invoiced the City and received \$10,260.00 in June 2015 from the City for the City's share of the scoping/design costs of the Project.**

## **II. SCOPE OF WORK**

### **Section II, Paragraph 1.f. is revised, as follows:**

1. The State will:
  - f. After completion of design and prior to bid advertisement, invoice the City for the outstanding PDA costs, as applicable, and the City's share of the Project construction costs, estimated at \$105,081.00. After the Project costs for construction are finalized, the State will either invoice or reimburse the City for the difference between estimated and actual costs, and de-obligate or otherwise release any remaining federal funds from the scoping/design phase of the Project.

### **Section II, Paragraph 2.d. is revised, as follows:**

2. The City will:
  - d. After completion of design, within 30 calendar days of receipt of an invoice from the State and prior to bid advertisement, pay to the State, any outstanding PDA costs and the City's share of the Project construction costs, estimated at \$105,081.00; be responsible for and pay the difference between the estimated and actual construction costs of the Project, within 30 calendar days of receipt of an invoice.

## **III. MISCELLANEOUS PROVISIONS**

### **Section III, Paragraph 18. and 19. are added, as follows:**

18. The Parties shall comply with the applicable requirements of Arizona Revised Statutes § 35-393.01.
19. The City acknowledges and will comply with Title VI of the Civil Rights Act Of 1964.

**EXCEPT AS AMENDED, ALL OTHER** terms and conditions of the Original Agreement remain in full force and effect.

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**THIS AMENDMENT NO. ONE** shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

**IN ACCORDANCE WITH** Arizona Revised Statutes § 11-952 (D), attached and incorporated in this Amendment No. One is the written determination of each Party's legal counsel that the Parties are authorized under the laws of this State to enter into this Amendment No. One and that the Amendment No. One is in proper form.

**IN WITNESS WHEREOF**, the Parties have executed this Amendment No. One the day and year first above written.

**CITY OF APACHE JUNCTION**

**STATE OF ARIZONA**

Department of Transportation

By \_\_\_\_\_  
**JEFF SERDY**  
Mayor

By \_\_\_\_\_  
**STEVE BOSCHEN, P.E.**  
Division Director

ATTEST:

By \_\_\_\_\_  
**KATHY CONNELLY**  
City Clerk

ADOT File No.: IGA 15-0005194-I  
Amendment No. One: 18-0006744-I

**ATTORNEY APPROVAL FORM FOR THE CITY OF APACHE JUNCTION**

I have reviewed the above referenced Amendment No. One to the Original Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF APACHE JUNCTION, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Amendment No. One 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 Amendment No. One.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
City Attorney