

**ADOT File No.: IGA: 16-0005808-I**  
**Amendment No. One: 19-0007269-I**  
AG Contract No.: P001 2016 001335  
Project Location/Name: Southern Ave -  
Delaware Dr to Ironwood Dr  
Type of Work: Travel Lanes, Sidewalks,  
Curb & Gutter Bike Lanes  
Federal-aid No.: APJ-0(214)T  
ADOT Project No.: T0061 01D/03D/01C  
TIP/STIP No.: APJ18-402, APJ18-403  
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 (“A.R.S”) §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the “State” or “ADOT”) and the CITY OF APACHE JUNCTION, acting by and through its MAYOR and CITY COUNCIL (the “City”). The State and the City are collectively referred to as the “Parties.”

**WHEREAS,** the INTERGOVERNMENTAL AGREEMENT, IGA/JPA 16-0005808-I, A.G. Contract No. P001 2016 001335, was executed on April 28, 2016, (the “Original Agreement”);

**WHEREAS,** the State is empowered by A.R.S § 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 A.R.S § 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 Project costs. The Parties desire to amend the Original Agreement as follows:**

**I. RECITALS**

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:

**T0061 01D (ADOT Project Development Administration (PDA) Cost)\***

Federal-aid funds @ 94.3%	\$ 42,865.00
City's match @ 5.7%	<u>\$ 2,591.00</u>
<b>PDA Cost</b>	<b>\$ 45,456.00</b>

**T0061 03D (scoping/design)**

Federal-aid funds @ 94.3%	\$ 181,999.00
City's match @ 5.7%	\$ 11,001.00
City's match @ 100%	<u>\$ 20,000.00</u>
<b>Subtotal - Scoping/Design</b>	<b>\$213,000.00</b>

**T0061 01C (construction)**

Federal-aid funds @ 94.3%	\$ 2,157,890.00
City's match @ 5.7%	\$ 130,434.00
City's match @ 100%	<u>\$ 74,136.00</u>
<b>Subtotal - Construction**</b>	<b>\$2,362,460.00</b>
<b>TOTAL Estimated Project Cost</b>	<b>\$2,620,916.00</b>
<b>Total Estimated City's Funds</b>	<b>\$ 238,162.00</b>
<b>Total Federal Funds</b>	<b>\$ 2,382,754.00</b>

\* (Formerly referred to as PMDR (Project Management and Design Review))

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

**Consistent with the Original Agreement, the City has been invoiced and paid \$13,592.00 and has paid the additional \$20,000.00 for the City's share of PDA and design costs.**

## **II. SCOPE OF WORK**

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

1. The State will:
  - e. After completion of design and prior to bid advertisement, invoice the City for the City's share of the Project construction costs, estimated at \$204,570.00. After the Project costs are finalized, the State will either invoice or reimburse the City for the difference between estimated and actual costs. De-obligate or otherwise release any remaining federal funds from the scoping/design phase of the Project.

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

2. The City will:
  - d. After completion of design, within 30 days of receipt of an invoice from the State and prior to bid advertisement, pay to the State, the City's share of the Project construction costs, estimated at \$204,570.00. Be responsible for and pay the difference between the estimated and actual construction costs of the Project, within 30 days of receipt of an invoice.

## **III. MISCELLANEOUS PROVISIONS**

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

18. The City acknowledges and will comply with Title VI of the Civil Rights Act Of 1964.
19. The Parties shall ensure that all contractors comply with the applicable requirements of A.R.S §35-393.01.<sup>1</sup>

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

---

---

<sup>1</sup> In *Jordahl v. Brnovich et al.*, Case No. 3:17-cv-08263 (D. Ariz.), the U.S. District Court entered a preliminary injunction that enjoins the State from enforcing A.R.S. § 35-393.01(A) (the "Anti-Israel Boycott Provision"). That statute states that: "[a] public entity may not enter into a contract with a company to acquire or dispose of services, supplies, information technology or construction unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of Israel." Unless and until the District Court's injunction in *Jordahl* is stayed or lifted, the Anti-Israel Boycott Provision (A.R.S. § 35-393.01(A)) is unenforceable and the State will take no action to enforce it.

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

**IN ACCORDANCE WITH** A.R.S § 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, PE**  
Division Director

ATTEST:

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

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

I have reviewed the above referenced Amendment No. One to the Original Agreement and Amendment No. One 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 \_\_\_\_\_, 2019.

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