

INTERGOVERNMENTAL AGREEMENT BETWEEN CITY OF APACHE JUNCTION AND PINAL COUNTY FOR CONSTRUCTION AND MAINTENANCE OF AN OFF-LEASH DOG PARK

THIS AGREEMENT is made and entered into this ____ day of _____, 2021, by and between the CITY OF APACHE JUNCTION, ARIZONA, an Arizona municipal corporation (hereinafter referred to as “Apache Junction”) and PINAL COUNTY, ARIZONA, a political subdivision of the State of Arizona, (“County”), both of which are referred to collectively as the “Parties” or individually as a “Party”.

RECITALS

- A. City desires to develop an off-leash dog park (the “Park”) within its downtown area and has identified the Roy Hudson County Complex at the southeast corner of Superstition Boulevard and Idaho Road (575 North Idaho Road) as the most appropriate, cost-effective, central location for the Park (also referred to contextually as the “Site” as depicted in Exhibit A).
- B. County also desires to make available the Site for Park for use by both City and County residents.
- C. This Intergovernmental Agreement (“IGA”) will promote efficiency in the use of public facilities and funds.
- D. Pursuant to Arizona Revised Statutes Annotated (“A.R.S.”) §§ 11-251 and 11-933, County has the authority to manage and control real property, transfer interests in real property, and enter into cooperative agreements for the development and maintenance of public parks.
- E. Pursuant to A.R.S. §§ 9-240 and 9-276, City has the authority to erect buildings and improve parks, public grounds and off-street parking sites.
- F. Pursuant to A.R.S. § 11-951 *et seq.*, the Parties are authorized to enter into IGAs for the purposes of taking joint or cooperative action.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties to this Agreement agree as follows:

1. City’s Obligations

- A. Design and construct Park at the Site.

- B. Reconstruct current Site detention basin to provide for more efficient regional stormwater drainage.
- C. Provide funding for design, construction, utilities, operation and management of Park, excluding monthly electrical cost for irrigation system and drinking fountain operation.
- D. Install fencing around the perimeter of Park and provide routine security monitoring.
- E. Work with County to develop a schedule and signage for Park hours which will accommodate regular maintenance of Park as well as accessible parking for Park patrons and customers who are conducting county business on the Site.
- F. Enable County to utilize Park for dog-related activities and services without cost.

2. County's Obligations

- A. Provide City access to make Site and Park improvements.
- B. Pay monthly electrical costs for irrigation system and drinking fountain operation in Park.
- C. Allow City unlimited access to Park for security and maintenance operations by appropriate city staff.
- D. To obtain City's consent for the County's use of the Park.

3. Indemnification and Insurance. To the extent permitted by law, the Parties covenant and agree to fully indemnify, defend and hold harmless each other, their elected and appointed officers, boards, directors, employees, their special districts, as well as agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature relating to this Agreement, including but not limited to attorney and expert witness fees, which, are the result of any act or omission of each Party, their officers, boards, directors, employees, their special districts, agents, and anyone acting under their direction or control, whether reckless, intentional or negligent, in connection with or incident to this Agreement. If any action or claim shall be brought or asserted against the Parties or their elected and appointed officers, boards, directors or employees, their special districts, agents for which indemnity may be sought from the Parties, the Parties shall promptly notify one another in writing. The noticed Party shall, within ten (10) working days of receiving such notice, assume the defense thereof, and the payment of all expenses, including any attorney fees and all court costs which shall be paid as

incurred. It is understood and agreed that the Parties may elect to self-insure or obtain insurance through their pooling agreement with other governmental entities against any or all of the risks related to this Agreement. This section shall survive the expiration or early termination of this Agreement

4. Duration of Agreement/Termination. This Agreement shall be valid upon execution and shall continue for a term of twenty five (25) years, but shall automatically renew for each year thereafter unless either Party terminates this Agreement for any reason upon sixty (60) calendar days' written notice to the other Party by overnight delivery service or first class certified mail, postage prepaid, addressed to the other Party as set forth in Section 9 of this Agreement.

5. Binding Effect. The obligations and rights created in this Agreement are binding upon and shall inure to the benefit of the Parties and their successors, assigns and legal representatives. Neither Party may assigns its rights under this Agreement without the prior written approval of the other Party. Such successor or assignee shall assume, in writing, all duties and obligations hereunder of the prior Party and shall further agree to be bound by and to fully perform the terms of this Agreement.

6. Entire Agreement. This Agreement and any attachments represent the entire agreement between City and County and supersede all prior negotiations, representations or agreements, either express or implied, written or oral. It is mutually understood and agreed that no alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Parties hereto. Written and signed amendments shall automatically become part of this Agreement and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

7. Severability. City and County each believe that the execution, delivery and performance of this Agreement are in compliance with all applicable laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring City to do any act in violation of any applicable laws, including any constitutional provision, law, regulation, or city code), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. Unless prohibited by applicable laws, the Parties further shall perform all acts and execute, acknowledge and/or deliver all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

8. Governing Law, Venue and Attorney Fees. The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either Party for the purpose of enforcing a right or rights provided for in this Agreement, shall be tried in a court of competent jurisdiction in the State of Arizona. In the event either Party shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition in this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs including: all litigation and appeal expenses, collection expenses, reasonable attorney fees, necessary witness fees and court costs to be determined by the court in such action

9. Notices. All notices and insurance certificates required under this Agreement shall be sent as follows:

If to City: City Manager
300 E. Superstition Blvd.
Apache Junction, AZ 85119
480-474-5066

With a copy to: City Attorney
300 E. Superstition Blvd.
Apache Junction, AZ 85119
480-474-5105

If to County: County Manager
PO Box 827
Florence, AZ 85232
520-866-6212

With a copy to: County Attorney
PO Box 887
Florence, AZ 85232
520-866-6271

10. Conflicts of Interest This Agreement is subject to, and may be terminated by City in accordance with, the provisions of A.R.S. § 38-511.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

PINAL COUNTY, ARIZONA, a political
subdivision of the State of Arizona

Stephen Q. Miller
Chairman of the Board of Supervisors

ATTEST:

Natasha Kennedy
Pinal County Clerk

**THE CITY OF APACHE JUNCTION,
ARIZONA, an Arizona municipal
corporation**

Chip Wilson
Mayor

ATTEST:

Jennifer Pena
City Clerk

COUNSEL APPROVAL AS TO FORM:

I have read this Agreement and have determined such Agreement is in proper form and is entered into within the powers of and authority granted under the laws of the State of Arizona.

Kent Volkmer, Pinal County Attorney

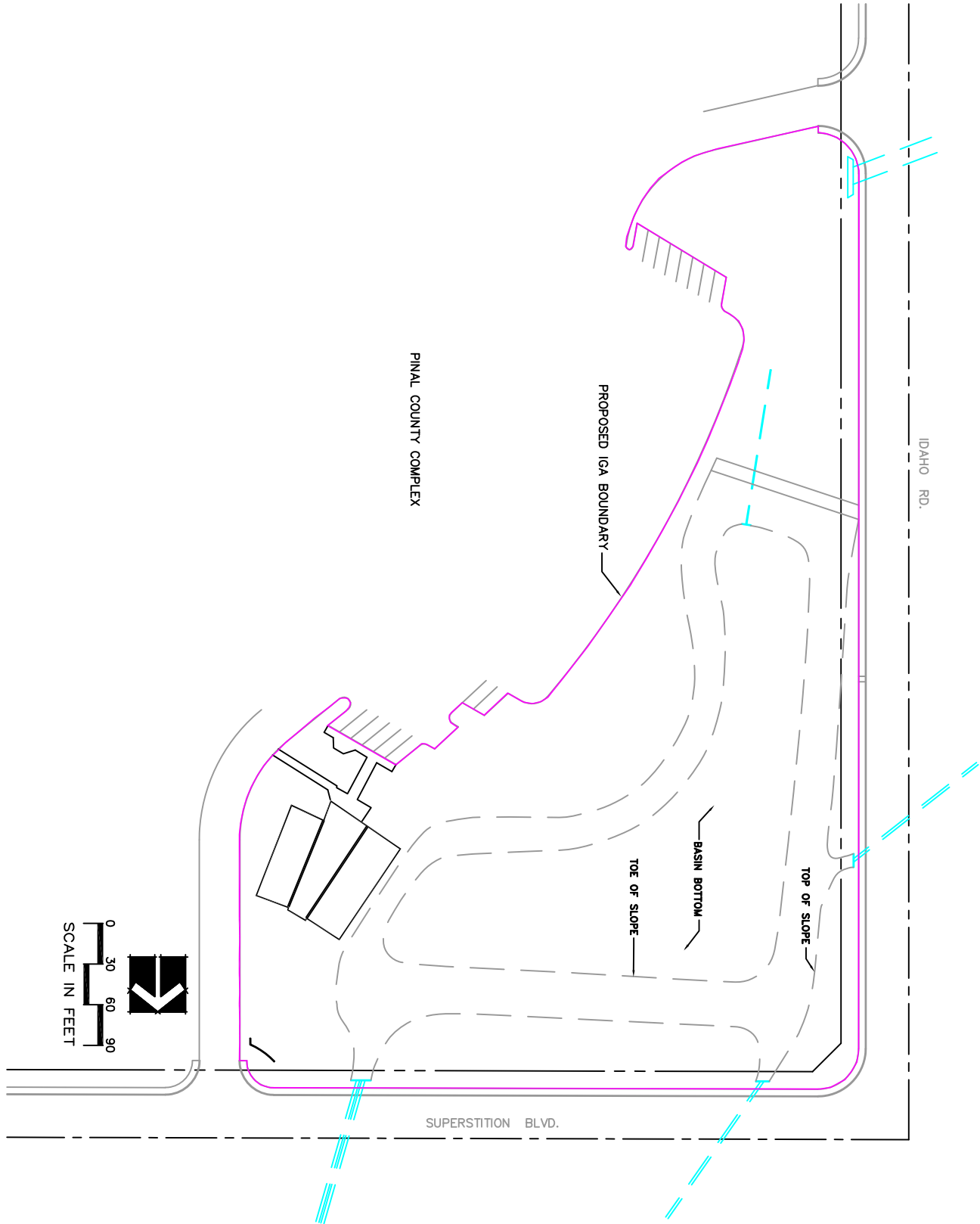
Date

I have read this Agreement and have determined such Agreement is in proper form and is entered into within the powers of and authority granted under the laws of the State of Arizona.

Richard J. Stern, Apache Junction City Attorney

Date

EXHIBIT A





APACHE JUNCTION DOG PARK AT PINAL COUNTY BASIN **Preliminary Concept Plan**

scale: 1"=20'
0' 10' 20' 40' north

Date: 12.28.2020
Project Number: 19.1290

