

ADOT File No.: IGA/ JPA.: 16-0005909-I
Amendment No. Two: 18-0007220-I
AG Contract No.: P001 2016001897
Project Location/Name: MAR-CSG Hwy -
Porter Road to White and Parker Road
Type of Work: Capacity Additions
(Reconstruction)
Federal-aid No.: MAR-0(206)T
ADOT Project No.: T0086 01D/01C/01U
TIP/STIP No.: MAR 14-403 & MAR 15-402
CFDA No.: 20.205 - Highway Planning and
Construction
Budget Source Item No.: N/A

**AMENDMENT NO. TWO
TO
INTERGOVERNMENTAL AGREEMENT**

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF MARICOPA

THIS AMENDMENT NO. TWO to INTERGOVERNMENTAL AGREEMENT (the “Amendment No. Two”), 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 MARICOPA, 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 16-0005909-I, A.G. Contract No. P001 2016 001897, was executed on July 5, 2016, (the “Original Agreement”); and IGA/JPA 18-0006826-I Amendment No. One, executed on May 7, 2018, (the “Amendment No. One”);

WHEREAS, the State is empowered by A.R.S § 28-401 to enter into this Amendment No. Two and has delegated to the undersigned the authority to execute this Amendment No. Two on behalf of the State;

WHEREAS, the City is empowered by A.R.S § 48-572 to enter into this Amendment No. Two and has by resolution, a copy of which is attached and made a part of, resolved to enter into this Amendment No. Two and has authorized the undersigned to execute this Amendment No. Two on behalf of the City; and

NOW THEREFORE, in consideration of the mutual terms expressed herein, the purpose of this Amendment No. Two is to revise Project costs and federal funding amounts. The Parties desire to amend the Original Agreement and Amendment No. One, as follows:

I. RECITALS

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

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

T0086 01D (scoping/design):

Federal-aid funds @ 94.3%	\$ 497,855.00
City's match @ 5.7%	<u>\$ 30,093.00</u>
Subtotal - Scoping/Design*	\$ 527,948.00

T0086 01U (utility reloactaion):

Federal-aid funds @ 94.3%	\$ 70,725.00
City match @ 5.7%	\$ 4,275.00
City match @ 100%	<u>\$ 10,000.00</u>
Subtotal -	\$ 85,000.00

T0086 01C (construction):

Federal-aid funds @ 94.3%	\$ 4,319,438.00
City's match @ 5.7%	\$ 261,090.00
City's match @ 100%	<u>\$ 213,564.00</u>

Subtotal - Construction **\$4,794,092.00**

TOTAL Estimated Project Cost **\$5,407,040.00**

Total Estimated City's Funds **\$ 519,022.00**

Total Federal Funds **\$ 4,888,018.00**

* (Includes ADOT Project Development Administration (PDA) costs)

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

The City has been approved to receive additional federal-aid for the construction phase of this Project. Consistent with the Original Agreement and Amendment No. One, the City has been invoiced and paid \$30,948.00 for design, and invoiced and paid \$488,074.00 toward construction, for a total of \$519,022.00. This includes an excess of \$223,564.00 over the required local 5.7% match amount. After the Project costs are finalized, the State will either invoice or reimburse the City for the difference between actual costs and the amount the City has already paid.

II. SCOPE OF WORK

(NO CHANGES)

III. MISCELLANEOUS PROVISIONS

Section III, Paragraph 20, is revised, as follows:

20. The Parties shall ensure that all contractors comply with the applicable requirements of A.R.S §35-393.01.¹

EXCEPT AS AMENDED, ALL OTHER terms and conditions of the Original Agreement and Amendment No. One remain in full force and effect.

¹ 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. TWO 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. Two 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. Two and that the Amendment No. Two is in proper form.

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

CITY OF MARICOPA

STATE OF ARIZONA

Department of Transportation

By _____
CHRISTIAN PRICE
Mayor

By _____
STEVE BOSCHEN, PE
Division Director

ATTEST:

By _____
VANESSA BUERAS
City Clerk

ATTORNEY APPROVAL FORM FOR THE CITY OF MARICOPA

I have reviewed the above referenced Amendment No. Two 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 MARICOPA, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Amendment No. Two 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. Two.

DATED this _____ day of _____, 2019.

City Attorney

