

ADOT CAR No.: IGA 23-0009140-I
Amendment No. One: 25-0011396-I
AG Contract No.: P0012023000711
Project Location/Name: El Mirage Rd -
303L – Jomax Rd
Type of Work: DCR, EA, Design
Federal-aid No.: PEO-0(231)T
ADOT Project No.: T0428 01D/03D
TIP/STIP No.: PEO23-115PDRB
ALN: 20.205 - Highway Planning and
Construction
Budget Source Item No.: 103196

**AMENDMENT NO. ONE
TO
INTERGOVERNMENTAL AGREEMENT**

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF PEORIA

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 PEORIA, acting by and through its MAYOR and CITY COUNCIL (the “City” or “Local Agency”). The State and the Local Agency are each individually referred to as a “Party” and are collectively referred to as the “Parties.”

WHEREAS, the INTERGOVERNMENTAL AGREEMENT, IGA 23-0009140-I, A.G. Contract No. P0012023000711, was executed on June 21, 2023, (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 Local Agency is empowered by A.R.S. § 48-572 to enter into this Amendment No. One and has by resolution, if required, 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 Local Agency; and

NOW THEREFORE, in consideration of the mutual terms expressed herein, the purpose of this Amendment No. One is to revise the Project to include scoping/design and increase Project costs; Exhibit A is revised and replaced accordingly. The Parties desire to amend the Original Agreement, as follows:

Consistent with the Original Agreement, the City has been invoiced and paid \$90,000 for PDA, plus \$504,361 for DCR costs, and will pay the remaining \$960,000 for the City’s share of design costs within 30 days of receipt of an invoice.

The Parties incorporate the paragraphs set forth above as part of the body of this Amendment No. One.

I. RECITALS

Section I, Paragraph 3. is revised, as follows:

3. The work proposed under this Agreement consists of a Design Concept Report (DCR), the Environmental Assessment (EA), and design for the construction of new roadway, approximately 2.1 miles of El Mirage Road from State Route 303 L (SR303L) to Jomax Road, (the "Project"). The Project will identify the final alignment, right of way and infrastructure needs, establish jurisdictional ownership and maintenance of the corridor responsibilities. The Project cost, shown in Exhibit A, is estimated at \$4,794,361, which includes federal aid and the Local Agency's match. The State will administer the Project.

II. SCOPE OF WORK

Section II, Paragraphs 2. c. and d. are revised, as follows:

2. The State will:
 - c. After receipt of the PDA costs and the Local Agency's estimated share of the Project costs, on behalf of the Local Agency, prepare and provide all documents pertaining to the DCR, EA, design, and post-design of the Project, incorporating comments from the Local Agency, as appropriate. Review and approve documents required by FHWA to qualify the Project for and to receive federal funds. Perform tasks that may consist of, but are not limited to, preparation of environmental documents; analysis and documentation of EA determinations and environmental categorical exclusion determinations; geologic materials testing and analysis; right of way related oversight and stewardship activities; preparation of reports, design plans, maps, specifications and cost estimates and other related tasks essential to the design development of the Project.
 - d. Submit all required documentation pertaining to the Project to FHWA with the recommendation that the maximum federal funds programmed for this Project be approved for the DCR, EA, and design. After receipt of FHWA authorization, proceed to advertise for and enter into contract(s) with the consultant(s) for the Project, including post-design. Should costs exceed the maximum federal funds available it is understood and agreed that the Local Agency will be responsible for any overage.

Section II, Paragraph 3.e is revised, and paragraphs 3. f. - j. are added, as follows:

3. The Local Agency will:
 - e. Automatically grant to the State, by execution of this Agreement, its agents and/or contractors, without cost, the temporary right to enter the Local Agency's rights of way, as required, to conduct any and all pre-design, environmental related, construction and preconstruction activities for the Project, on, to and over said Local Agency's rights of way. This temporary right will expire with completion of the Project.
 - f. Certify that all necessary rights of way have been or will be acquired prior to advertisement for bid and also certify that all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the Project area, shall be removed from the proposed right of way, or will be removed prior to the start of construction, in accordance with The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended; 49 CFR 24.102 Basic Acquisition Policies; 49 CFR 24.4 Assurances, Monitoring and Corrective Action, parts (a) & (b) and ADOT Right of Way Procedures Manual: 8.02 Responsibilities, 8.03 Prime Functions, 9.06 Monitoring Process and 9.07 Certification of Compliance. Coordinate with the appropriate State's Right of Way personnel during any right of way process performed by the Local Agency, if applicable.
 - g. As applicable, the Local Agency shall certify that it has adequate resources to discharge the Local Agency's real property related responsibilities and ensures that its Title 23-funded projects are carried out using the FHWA approved and certified ADOT Right of Way Procedures Manual and that it will comply with current FHWA requirements whether or not the requirements are included in the FHWA approved ADOT Right of Way Procedures Manual (23 CFR 710.201). Additionally the Local Agency shall certify that all real estate related activities requiring licensure are performed by licensed individuals as defined by the Arizona Department of Real Estate (A.R.S. §§ 32-2121 & 32-2122).
 - h. Not permit or allow any encroachments on or private use of the right of way, except those authorized by permit. In the event of any unauthorized encroachment or improper use, the Local Agency shall take all necessary steps to remove or prevent any such encroachment or use. Provide a copy of encroachment permits issued within the Project limits to the State.
 - i. Investigate and document utilities within City right of way contained within the Project limits; submit findings to ADOT determining prior rights or no prior rights; approve a location within the final right of way to re-establish the prior rights location for those utilities with prior rights.
 - j. Be obligated to incur any expenditure should unforeseen conditions or circumstances increase Project costs. Be responsible for the cost of any Local Agency requested changes to the scope of work of the Project, such changes will require State and FHWA approval. Be responsible for any contractor claims for additional compensation caused

by Project delay attributable to the Local Agency. Payment for these costs will be made to the State within 30 days of receipt of an invoice from the State.

III. MISCELLANEOUS PROVISIONS

(NO CHANGES)

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

Remainder of this page is intentionally left blank.

(Signatures begin on the next page)

THIS AMENDMENT NO. ONE shall become effective upon the full completion of signing and dating by all Parties to this Amendment No. One.

IN ACCORDANCE WITH A.R.S. § 11-952 (D), the written determination of each Party's legal counsel providing 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 is set forth below.

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

THE CITY OF PEORIA

By _____ Date _____
JASON BECK
Mayor

ATTEST:

By _____ Date _____
LORI DYCKMAN
City Clerk

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 Peoria, an agreement among public agencies which, has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and A.R.S. § 48-572 and declare this Amendment No. One to be in proper form and within the powers and authority granted to the City of Peoria 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.
Approved as to Form:

By _____ Date _____
EMILY JURMU
City Attorney

ARIZONA DEPARTMENT OF TRANSPORTATION

By _____ Date _____
AUDRA MERRICK, PE
Project Delivery and Operations
Director

This Amendment No. One between public agencies, the State of Arizona and the City of Peoria has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and A.R.S. § 28-401 by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona. No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Amendment No. One.

By _____ Date _____
Assistant Attorney General

EXHIBIT A
El Mirage Rd - 303L - Jomax Rd
Cost Estimate

IGA: 23-0009140-I
Amendment One: 25-0011396-I

T0428 01D/03D

The Project costs are estimated as follows:

	Original	Amend #1	AMENDED TOTAL
Executed Date:	June 21, 2023	<i>Pending</i>	
<u>ADOT Project Development Administration (PDA) Cost, non-federal-aid:</u>			
Local Agency's costs @ 100%*	\$30,000	\$60,000	\$90,000
<u>DCR:</u>			
Federal-aid funds @ 94.3%	\$1,000,000		\$1,000,000
Local Agency's match @ 5.7%*	60,445		60,445
Local Agency's costs @ 100%*	338,126	105,790	443,916
Subtotal - DCR/PDA	\$1,428,571	165,790	\$1,594,361
<u>Scoping/Design</u>			
Federal-aid funds @ 94.3%		\$2,240,000	\$2,240,000
Local Agency's match @ 5.7%*		135,398	135,398
Local Agency's costs @ 100%*		824,602	824,602
Subtotal - Scoping/Design		\$3,200,000	\$3,200,000
Estimated TOTAL Project Cost	\$1,428,571	3,365,790	\$4,794,361
Total Estimated Local Agency Funds	\$428,571	\$1,125,790	\$1,554,361
Total Federal Funds	\$1,000,000	\$2,240,000	\$3,240,000

*(The Local Agency has paid PDA costs of \$90,000 plus DCR costs of \$504,361 and will be invoiced for the additional design costs estimated at \$960,000)