

ADOT File No.: IGA 18-0007206-I
Amendment No. Two: 19-0007625-I
AG Contract No.: P001 2018 003355
Project Location/Name: I-40 Butler Ave
TI & Fourth St Underpass
Type of Work: Replace Bridges
Federal-aid No.: 040-D(234)T
ADOT Project No.: H8815 01C
TIP/STIP No.: NA
CFDA No.: 20.205 - Highway Planning and
Construction
Budget Source Item No.: 19816

**AMENDMENT NO. TWO
TO
INTERGOVERNMENTAL AGREEMENT**

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF FLAGSTAFF

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 FLAGSTAFF, 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 18-0007206-I, A.G. Contract No. P001 2018 003355, was executed on December 3, 2018, (the “Original Agreement”); and IGA 18-0007206-I Amendment No. One, executed on September 26, 2019, (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, attributable to higher than estimated bid response. Consistent with the Original Agreement and Amendment No. One, the City has been invoiced and paid \$6,154,026.00 for the City’s share of Bridge Project costs and \$360,017.00 for the Project Enhancements and the City will pay the remaining \$2,043,392.00 for the City’s share of Bridge Project costs and the remaining \$297,210.00 for

the Project Enhancements, within 30 days of receipt of an invoice. The Parties desire to amend the Original Agreement and Amendment No. One, as follows:

I. RECITALS

(NO CHANGES)

II. SCOPE OF WORK

Section II, Paragraphs 1.a., 1.b., 1.d., and 1.g. are revised, as follows:

1. The Parties agree:
 - a. The Bridge Project construction cost is \$16,394,836.00, contingent on the awarded bid amount. The Parties will each contribute \$8,197,418.00 toward the construction of the Bridge Project.
 - b. To equally share Bridge Project costs that exceed the current \$16,394,836.00 construction cost.
 - d. That if the Agreement is completely or partially terminated, the unused contributions will be returned to both Parties in the same percentage as originally contributed.
 - g. The City will be solely responsible for all Project Enhancements costs. The construction cost for said Project Enhancements is \$657,227.00, contingent on the awarded bid amount.

III. MISCELLANEOUS PROVISIONS

Section III, Paragraph 19 is revised, as follows:

19. The Parties shall ensure that all contractors comply with the applicable requirements of A.R.S. §35-393.01.

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

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 FLAGSTAFF

STATE OF ARIZONA
Department of Transportation

By _____
CORAL EVANS
Mayor

By _____
STEVE BOSCHEN, PE
Division Director

ATTEST:

By _____
STACY SALTZBURG
City Clerk

ATTORNEY APPROVAL FORM FOR THE CITY OF FLAGSTAFF

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 FLAGSTAFF, 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.

City Attorney

Date