

RESOLUTION NO. 2013-35
C-65-12-010-M-01

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, APPROVING THE FIRST AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH THE MARICOPA COUNTY LIBRARY DISTRICT RELATING TO THE OPERATION OF THE TOWN OF FOUNTAIN HILLS BRANCH LIBRARY.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. The First Amendment to the Intergovernmental Agreement between the Town of Fountain Hills (the "Town") and the Maricopa County Library District relating to the operation of the Town Branch Library (the "First Amendment") is hereby approved in the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to cause the execution of the First Amendment and to take all steps necessary to carry out the purpose and intent of this Resolution.

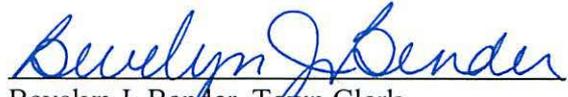
PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Arizona, September 5, 2013.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:



Linda M. Kavanagh, Mayor



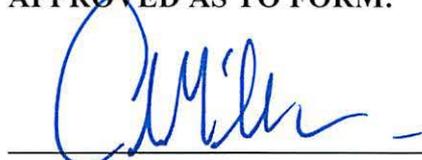
Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:



Kenneth W. Buchanan, Town Manager



Andrew J. McGuire, Town Attorney

EXHIBIT A
TO
RESOLUTION NO. 2013-35

[First Amendment]

See following pages.

**FIRST AMENDMENT
TO
INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
MARICOPA COUNTY LIBRARY DISTRICT**

THIS FIRST AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT (this "First Amendment") is entered into as of September 5, 2013, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town") and the Maricopa County Library District a political subdivision of the State of Arizona (the "Library District"). The Town and the Library District are sometimes referred to herein individually as a "Party" and collectively as the "Parties." All capitalized terms not defined herein shall have the meanings set forth in the IGA (defined below).

RECITALS

A. The Town and the Library District entered into an Intergovernmental Agreement, Agenda No. C-65-12-010-M-00, dated June 16, 2011, for the operation of the Town Branch Library (the "IGA") in a building owned by the Town (the "Library").

B. The Library District desires to utilize additional space outside of the Library, designated as the Town of Fountain Hills Centennial Circle ("Centennial Circle"), to conduct activities related to the operation of the Library.

C. The Town and the Library District desire to amend the IGA to provide for the Library District's use of Centennial Circle as set forth in this First Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Library District hereby agree as follows:

1. Centennial Circle. The Library District may utilize Centennial Circle to conduct Library District sponsored events and activities in relation to the Library District's operation of the Library ("District Events"). The Library District shall utilize the Town's procedures for reserving use of Centennial Circle. The Town shall provide use of Centennial Circle to the Library District for District Events at no cost to the Library District.

2. E-verify, Records and Audits. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Parties and their respective subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). The Parties' or a subcontractor's breach of

the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by either Party under the terms of this Agreement. The Parties each retain the legal right to randomly inspect the papers and records of the other Party and the other Party's subcontractors who work under this Agreement to ensure that the other Party and its subcontractors are complying with the above-mentioned warranty. The Parties warrant to keep their respective papers and records open for random inspection during normal business hours by the other Party. The Parties and their respective subcontractors shall cooperate with the other Party's random inspections including granting the inspecting Party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

3. Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, the Parties each certify that they do not have scrutinized business operations in Sudan or Iran. For the purpose of this Section, the term "scrutinized business operations" shall have the meanings set forth in ARIZ. REV. STAT. §§ 35-391 or 35-393, as applicable. If either Party determines that the other Party submitted a false certification, the Party making such determination may impose remedies as provided by law including terminating the IGA.

4. Effect of Amendment. In all other respects, the IGA is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the IGA shall remain in full force and effect.

5. Non-Default. By executing this First Amendment, the Library District affirmatively asserts that (i) the Town is not currently in default, nor has it been in default at any time prior to this First Amendment, under any of the terms or conditions of the IGA and (ii) any and all claims, known and unknown, relating to the Agreement and existing on or before the date of this First Amendment are forever waived.

6. Conflict of Interest. This First Amendment and the IGA may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this instrument as of the date and year first set forth above.

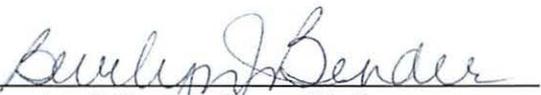
TOWN:


Kenneth W. Buchanan, Town Manager

LIBRARY DISTRICT:


Chairman Board of Directors

ATTEST:

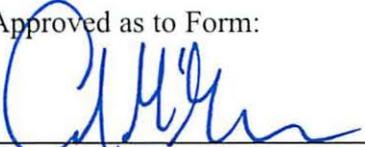

Bevelyn J. Bender, Town Clerk

ATTEST:


Clerk of the Board 10/9/13

In accordance with the requirements of ARIZ. REV. STAT. § 11-952(D), the undersigned City Attorneys acknowledge that (i) they have reviewed the above agreement on behalf of their respective clients and (ii) as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

Approved as to Form:


Andrew J. McGuire, Town Attorney

Approved as to Form:


Library District Attorney