

RESOLUTION NO. 2010-31

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, APPROVING AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA RELATING TO SHEA BOULEVARD IMPROVEMENTS.

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

SECTION 1. Amendment No. One to Intergovernmental Agreement between the Town of Fountain Hills and the State of Arizona relating to Shea Boulevard improvements, AG Contract No. P001-2009-003346 (the "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 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, August 19, 2010.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:



Jay T. Schlum, Mayor



Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:



Richard L. Davis, Town Manager



Andrew J. McGuire, Town Attorney

EXHIBIT A
TO
RESOLUTION NO. 2010-31

[Amendment No. One to Intergovernmental Agreement]

See following pages.

ADOT File No.: IGA/JPA 09-052I
AG Contract No.: P001-2009-003346
Amendment No. One
Project No.: **ARRA-FTH-0(203)A**
Project: Roadway Widening
Section: Shea Blvd.-Palisades Blvd
TIP ITEM No.: FTH07-301
TRACS No.: SS646 01C
Budget Source Item No.: ARRA

**AMENDMENT NO. ONE
TO
INTERGOVERNMENTAL AGREEMENT**

**BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF FOUNTAIN HILLS**

THIS AGREEMENT is entered into this date September 16, 2010, as Amendment No. One, amending IGA/JPA 09-052 I, A.G. Contract No. P001-2009-003346, filed with the Secretary of State under No. 31255 and executed November 20th 2009, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF FOUNTAIN HILLS, acting by and through its MAYOR and TOWN COUNCIL (the "Town"). The State and the Town are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Town.

Section I, Paragraph 7 of the original agreement is amended as follows:

The Project costs are *amended* as follows:

TRACS No. SS646 01C

Federal STP Funds	\$ 1,897,559.00
Local Funds (5.7%)	<u>\$ 114,700.00</u>
*TOTAL Project Costs	\$ 2,012,259.00
*(Includes CE and project contingencies)	

a. Consistent with terms of the original Agreement, ADOT invoiced the Town in the amount of \$131,000.00 and payment in that amount has been received from the Town. Under the amended terms, the Town has in effect made an overpayment to ADOT in the amount of \$16,300.00 (the difference between \$131,000.00 and \$114,700.00). Accordingly, upon finalization of Project costs, the State will either invoice or reimburse the Town for the difference between estimated and actual costs.

THEREFORE, in consideration of the mutual Agreements expressed herein, all ARRA funding for this Project has been eliminated and replaced with Federal STP funds, and the Parties agree to amend the original Agreement as hereby described above.

III. MISCELLANEOUS PROVISIONS

1. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 637E
Phoenix, Arizona 85007
(602) 712-7124
(602) 712-3132 Fax

Town of Fountain Hills
Attn: Randy Harrel, PE, L.S
16705 E. Avenue of the Fountains
Fountain Hills, Arizona 85268
(480) 816-1404
(480) 837-3145 Fax

2. This Amendment shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

PURSUANT TO ARIZONA REVISED STATUTES § 11-952 (D), attached hereto and incorporated herein, 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 Agreement and that the Agreement is in proper form.

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

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

TOWN OF FOUNTAIN HILLS

STATE OF ARIZONA

Department of Transportation

By 

JAY T. SCHLUM
Mayor

By 

SAM MAROUFKHANI, P.E.
Deputy State Engineer, Development

ATTEST:

By 

BEV BENDER
Town Clerk

IGA/JPA 09-052I
Amendment No. One

ATTORNEY APPROVAL FORM FOR THE TOWN OF FOUNTAIN HILLS

I have reviewed the above referenced Intergovernmental Agreement between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, and the TOWN OF FOUNTAIN HILLS, acting by and through its TOWN COUNCIL, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the TOWN OF FOUNTAIN HILLS under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 19th day of AUGUST, 2010.



Town Attorney

<p>TERRY GODDARD Attorney General</p>	<p style="text-align: center;"> OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 802.542.8855 Facsimile: 602.542.3846 E-mail: Susan.Davis@azag.gov</p>
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INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. P0012009003346 (IGA/JPA 09-052-I, Amendment No. One), an Agreement between public agencies, i.e., The State of Arizona and The Town of Fountain Hills has been reviewed pursuant to A.R.S. § 11-952, as amended, 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 Agreement.

DATED: September 16, 2010

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:ln:#1072677
Attachment