

Resolution No. 2018-24

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF FOUNTAIN HILLS, MARICOPA COUNTY, ARIZONA, APPROVING AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA RELATING TO PAVING ROADWAY SHOULDERS.

WHEREAS, by Resolution 2013-42 the Mayor and Town Council of the Town of Fountain Hills (the "Town") approved an Intergovernmental Agreement with the State of Arizona (the "State") relating to the construction and paving of shoulders along Fountain Hills Boulevard from Segundo Drive to Pinto Drive (the "Agreement"); and

WHEREAS, the Town and the State desire to amend the Agreement to revise the project costs;

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

SECTION 1. That the Town, through its Mayor and Council, hereby approves Amendment No. One to Intergovernmental Agreement (the "Amendment"), attached hereto as Exhibit A.

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 Fountain Hills, Maricopa County, Arizona, this 17th day of April, 2018.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:


Linda M. Kavanagh, Mayor


Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:


Grady E. Miller, Town Manager


Dickinson Wright PLLC, Town Attorneys

EXHIBIT A
AMENDMENT NO. ONE TO
INTERGOVERNMENTAL AGREEMENT

ADOT File No.: IGA: 13-0001686-I
Amendment No. One: 18-0006757-I
AG Contract No.: P0012013002386
Project Location/Name: Fountain Hills
Blvd between Segundo Dr & Pinto Dr
Type of Work: Pave Shoulders
Federal-aid No.: CMAQ-FTH-0(208)S
ADOT Project No.: SZ039 01D/01C
TIP/STIP No.: FTH 14-102
CFDA No.: 20.205 - Highway Planning
and Construction
Budget Source Item No.: N/A

AMENDMENT NO. ONE
TO
INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF FOUNTAIN HILLS

THIS AMENDMENT NO. ONE to INTERGOVERNMENTAL AGREEMENT (the "Amendment No. One"), is entered into this date _____, pursuant to 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, acting by and through its MAYOR and TOWN COUNCIL (the "Town"). The Town and State are collectively referred to as the "Parties."

WHEREAS, the INTERGOVERNMENTAL AGREEMENT, IGA/JPA 13-0001686-I, A.G. Contract No. P001 2013 002386, was executed on September 26th, 2013, (the "Original Agreement");

WHEREAS, the State is empowered by Arizona Revised Statutes § 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 Town is empowered by Arizona Revised Statutes § 48-572 to enter into this Amendment No. One and has by resolution, 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 Town; and

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

I. RECITALS

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

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

SZ039 01D (Project Development Administration (PDA) costs*):

Town funds @ 100%	\$ 10,000.00
Subtotal – Scoping/Design	\$ 10,000.00

SZ183 01C (construction):

Federal-aid funds @ 94.3%	\$ 551,538.00
Town’s match @ 5.7%	<u>\$ 33,338.00</u>
Subtotal – Construction**	\$ 584,876.00
Estimated TOTAL Project Cost	\$ 594,876.00

Summary:

Total Estimated Town Funds	\$ 43,338.00
Total Federal Funds	\$ 551,538.00

* (formerly known as Project Management & Design Review (PMDR))

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

The Parties acknowledge that the final Project costs may exceed the initial estimate(s) shown above, and in such case, the Town is responsible for, and agrees to pay, any and all, actual costs exceeding the initial estimate. If the final bid amount is less than the initial estimate, the difference between the final bid amount and the initial estimate will be de-obligated or otherwise released from the Project. The Town acknowledges it remains responsible for, and agrees to pay according to the terms of this Agreement, any and all actual costs exceeding the final bid amount.

II. SCOPE OF WORK

Section II, Paragraph 1. d. is revised, as follows:

1. The State will:
 - d. After completion of design and prior to bid advertisement, invoice the Town for the actual PDA costs, as applicable, and the Town’s share of the Project construction costs, estimated at \$33,338.00. After the Project costs for construction are finalized, the State will either invoice or reimburse the Town for the difference between estimated and actual costs.

Section II, Paragraph 2. e. is revised, as follows:

2. The Town will:
 - e. After completion of design, within 30 days of receipt of an invoice from the State and prior to bid advertisement, pay to the State, any outstanding PDA costs and the Town's share of the Project construction costs, estimated at \$33,338.00. Be responsible for and pay the difference between the estimated and actual construction costs of the Project, within 30 days of receipt of an invoice.

III. MISCELLANEOUS PROVISIONS

Section III, Paragraphs 17. and 18. are added, as follows:

17. The Town acknowledges and will comply with Title VI of the Civil Rights Act Of 1964.
18. The Parties shall comply with the applicable requirements of Arizona Revised Statutes §35-393.01.

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

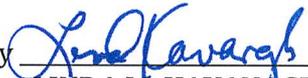
THIS AMENDMENT NO. ONE shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

IN ACCORDANCE WITH Arizona Revised Statutes § 11-952 (D) attached and incorporated in this Amendment No. One 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. One and that the Amendment No. One is in proper form.

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

TOWN OF FOUNTAIN HILLS

STATE OF ARIZONA
Department of Transportation

By 
LINDA M. KAVANAGH
Mayor

By _____
STEVE BOSCHEN, P.E.
Division Director

ATTEST:

By 
BEVELYN J. BENDER
Town Clerk

ATTORNEY APPROVAL FORM FOR THE TOWN OF FOUNTAIN HILLS

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 TOWN OF FOUNTAIN HILLS, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Amendment No. One to be in proper form and within the powers and authority granted to the Town 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.

DATED this 17 day of April, 2018.



Town Attorney