



RESOLUTION 2011-831

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL
OF THE TOWN OF CAMP VERDE, YAVAPAI COUNTY, ARIZONA,
ADOPTING AN INTERGOVERNMENTAL AGREEMENT WITH THE
ARIZONA DEPARTMENT OF TRANSPORTATION.**

WHEREAS, the State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and the Town is empowered by Arizona Revised Statutes § 9-240 to enter into this Agreement.

WHEREAS, The Arizona Department of Transportation (ADOT) has received funding through the Federal Highway Administration (FHWA) for the design and construction of two sidewalk segments totaling approximately 3,375 feet, along State Route 260 (Project) located within the Town of Camp Verde boundary.

WHEREAS, upon Project design completion by the State and approval by the FHWA, the State will advertise, bid and award the construction contract for the Project and carry out the construction administration in coordination with, and acting as Agent for, the Town's project along Finnie Flat Road. Upon completion of the State Route 260 Sidewalk Project the Town will assume maintenance responsibility for the sidewalk and landscaping.

WHEREAS, the Mayor and Common Council has reviewed the proposed Intergovernmental Agreement for the Project. **NOW THEREFORE**, the Mayor and Common Council of the Town of Camp Verde resolve, pursuant to ARS §11-951 through § 11-954 to execute Intergovernmental Agreement/Joint Project Agreement 10-2271 with the Arizona Department of Transportation. Passed and approved by a majority voted of the Common Council at the Regular Session of January 19, 2011.

PASSED AND ADOPTED:



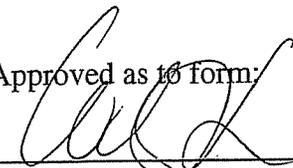
Bob Burnside, Mayor

Attest:



Deborah Barber, Town Clerk

Approved as to form:



William J. III Sims, Town Attorney

ADOT File No.: IGA/JPA 10-2271
AG Contract No.: P001 2010 004307
Project No.: TEA 260- A(201)A
Project: Sidewalks & Landscaping
Section: SR 260 Cliffs Parkway-Main St
TRACS No.: H7171 01C
Budget Source Item No.: 75310/75312

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF CAMP VERDE

THIS AGREEMENT is entered into this date February 3, 2011, 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 CAMP VERDE, 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 § 9-240 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.
 3. Such project lies within the boundary of the Town and has been selected by the Town; the survey of the project has been completed; and the plans, estimates and specifications will be prepared and, as required, submitted by the State to the Federal Highway Administration (FHWA) for its approval.
 4. The interest of the State in this project is the acquisition of federal funds for the use and benefit of the Town and to authorize such federal funds for the project pursuant to Federal law and regulations. The State shall be the designated agent for the Town.
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5. This Agreement pertains to the design and construction of two segments of six (6) foot wide sidewalk along State Route 260, one approximately 1,750 linear feet in length on the north side of the highway from an existing Town sidewalk along Cliffs Drive then east to 7th Street, the other approximately 1,625 linear feet in length on the south side of the highway from 7th Street then east to Main Street all within the Town of Camp Verde, hereinafter referred to as the "Project". The improvements will also include ADA accessible curb ramps, landscaping and irrigation, street furniture, and may include a pedestrian hybrid beacon at 7th Street. The State shall advertise, bid and award the Project and the Town will maintain the Project.

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

a. Prepare and provide design plans, specifications and other such documents and services required for construction of the Project.

b. Upon approval by the FHWA, proceed to advertise for, receive and open bids subject to the concurrence of the FHWA. The State will enter into a contract(s) with a firm(s) to whom the award is made for the construction of the Project. Administer contract(s) for the Project and make all payments to the contractor(s). Be responsible for contractor claims for additional compensation caused by the Project delays attributable to the State.

c. Upon completion of the Project, perform the final inspection and notify the Town in writing that the Project has been constructed in accordance with the Project documents and has been satisfactorily completed.

d. Not be obligated to maintain said Project, should the Town fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

e. Certify that all necessary rights-of-way have been or will be acquired prior to advertisement for bid. Hereby 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.

2. The Town will:

a. Upon execution of this Agreement designate the State as authorized agent for the Town.

b. Provide for cost and, as an annual item in the Town's budget, proper maintenance of the Projects including all components, installed and constructed for the Project.

c. Upon completion of the Project, agree to accept and assume full responsibility of said Projects in writing.

d. Provide for cost and, as an annual item in the Town's budget, proper maintenance and emergency repairs of the improvements related to the Project, including all components for the Project cited in Recital 5 of this Agreement. Provide proper and perpetual maintenance for the Project including, but not limited to, keeping sidewalks and ramps reasonably clean and clear of debris and maintaining and repairing landscape surfaces and related swales and embankments. Be responsible for any repairs necessary to keep the sidewalks and ramps compliant with the American with Disabilities Act Accessibility Guidelines.

e. Be responsible for furnishing and maintaining the electrical and solar power and water necessary to maintain the pedestrian hybrid beacon and landscaping and irrigation system, including all testing, adjusting, repairing and operation of the irrigation system.

f. Conduct all maintenance work within the State right-of-way in a manner to minimize traffic congestion and interference with through-traffic. All traffic control will meet the requirements of the most recent Arizona Department of Transportation's "Uniform Traffic Control Manual".

g. Obtain, per established procedures of the State's Prescott Engineering District Permit Office, a valid annual blanket Encroachment Permit for the routine/normal maintenance and emergency maintenance work provided by the Town within the State's rights-of-way. Agree to obtain separate permits for any new construction or installations in accordance with the Prescott District established procedures. The Town agrees all activities performed by the Town under this Agreement shall be set forth in and covered by the appropriate Encroachment Permit.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said project and related deposits or reimbursement, except any provisions for maintenance shall be perpetual, subject to budget appropriation, unless assumed by another competent entity. Further, this Agreement may be cancelled at any time prior to the award of the project construction contract, upon thirty days (30) written notice to the other party. It is understood and agreed that, in the event the Town terminates this Agreement, the State shall in no way be obligated to maintain said Project.

2. To the extent permitted by law, each party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs or other expenses (including, but not limited to, reasonable attorneys' fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death), property damage and any other claims (including, but not limited to, claims of derivative or vicarious liability), which are caused by the act, omission, negligence, misconduct or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.

3. The cost of construction and construction engineering work under this Agreement is to be covered by federal funds set aside for this Project, up to the maximum available.

4. The cost of the project under this Agreement includes applicable indirect costs approved by the Federal Highway Administration (FHWA).

5. The Town warrants compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 amendments and with Arizona Revised Statutes § 41.725.

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

7. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

8. To the extent applicable under law, the provisions set forth in Arizona Revised Statutes § 35-214 and § 35-215 shall apply to this Agreement.

9. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 09-09 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

10. **Non-Availability of Funds:** Every payment obligation of the State or Town under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the non-appropriating party at the end of the period for which the funds are available. No liability shall accrue to the non-appropriating party in the event this provision is exercised, and the non-appropriating party shall not be obligated or liable for any future payments as a result of termination under this paragraph.

11. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

12. 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 Camp Verde
Attn: Ron Long
395 S. Main Street
Camp Verde, Arizona 86322
(928) 567-0534
(928) 567-1540 Fax

ADOT Transportation Enhancement &
Scenic Roads Section
1615 W. Jackson St. MD EM10
Phoenix, AZ 85007
(602) 712-6258
(602) 712-3347 Fax

For Town Financial Matters:

Lisa Elliott, Sr. Accountant
395 S. Main Street
Camp Verde, Arizona 86322
Phone # 928-567-6631 ext. 109
Fax # 928-567-5607

13. Compliance requirements for Arizona Revised Statutes § 41-4401—immigration laws and E-Verify requirement:

a. The Town warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Arizona Revised Statutes § 23-214(A).

b. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract, and the Town may be subject to penalties up to and including termination of the Agreement.

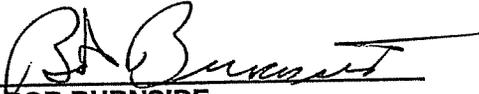
c. The State retains the legal right to inspect the papers of any employee who works on the Project to ensure that the Town or subcontractor is complying with the warranty under paragraph (a).

14. Pursuant Arizona Revised Statutes § 35-391.06 and § 35-393.06, each Party certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in Arizona Revised Statutes § 35-391 and/or § 35-393, as applicable. If any Party determines that another Party submitted a false certification, that Party may impose remedies as provided by law including terminating this Agreement.

15. In accordance with Arizona Revised Statutes § 11-952(D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

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

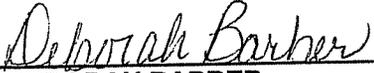
TOWN OF CAMP VERDE

By 
BOB BURNSIDE
Mayor

STATE OF ARIZONA
Department of Transportation

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

ATTEST:

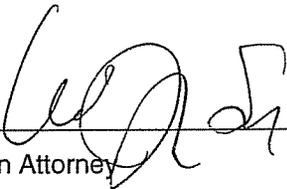
By 
DEBORAH BARBER
City Clerk

ATTORNEY APPROVAL FORM FOR THE TOWN OF CAMP VERDE

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 CAMP VERDE, 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 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 8 day of May, 2011



Town Attorney



RESOLUTION 2011-831

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OF THE TOWN OF CAMP VERDE, YAVAPAI COUNTY, ARIZONA,
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PASSED AND ADOPTED:

Bob Burnside, Mayor

Attest:

Deborah Barber, Town Clerk

Approved as to form:

William J. III Sims, Town Attorney



TOM HORNE
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
TRANSPORTATION SECTION

SUSAN E. DAVIS
ASSISTANT ATTORNEY GENERAL
DIRECT LINE: 602-542-8855
E-MAIL: SUSAN.DAVIS@AZAG.GOV

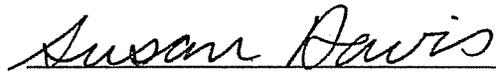
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. P0012010004307 (**IGA/JPA 10-227-I**), an Agreement between public agencies, i.e., The State of Arizona and Town of Camp Verde, 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: February 3, 2011

TOM HORNE
Attorney General



SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:ln:#1599926
Attachment