AG Contract No. KR02-0537TRN
ADOT ECS File: JPA 02-35
Amendment Four
Project: Flagstaff Mall (Dodge Avenue – Old Route 66)
TRACS No.: G1051 02C
Budget Source Item #: Economic Strength Program (ESP)

AMENDMENT NO. FOUR

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF FLAGSTAFF

THIS AGREEMENT is entered into this date January 11, 2006, **Amendment Four** to JPA 02-035, AG Contract No.: KR02-0537TRAN, filed with the Secretary of State under No. 25343, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 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 City is empowered by Arizona Revised Statutes Section 11-201 and 28-7282 et seq, 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 City.

This Agreement is being amended as follows: **a)** The parties agree to amend the above-referenced Agreement due to unexpected delays Westcor will be unable to begin construction until Spring 2005. The City is requesting that the deadline be extended to December 31, **2006**. **b)** Amendment Number One, Two and Three are being attached as exhibits A, B and C, attached hereto and made a part hereof, as they were not required to be filed with the Secretary of State's Office.

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

NO. 25343
Filed with the Secretary of State
Date Filed: 1-11-06
Secretary of State
By:

II. SCOPE OF WORK

1. The City will:

Article II, Paragraph 1.c. is deleted and replaced in full as follows:

c. Provide the State a copy of the executed Project contract(s), submit reimbursement requests and expend the State ESP funds no later than December 31, **2006**. Provide the State detailed written reports of all ESP fund expenditures, supported by invoices, receipts or other suitable and appropriate documentation, and a final accounting report no later than thirty (30) days after ESP funds are fully expended.

III. MISCELLANEOUS PROVISIONS

Article III, Paragraph 4 is deleted and replaced in full as follows:

4. This Agreement shall remain in force and effect until December 31, **2006**, reimbursement and subsequent reports; provided, however, that this Agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental agency, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party. Further, this Agreement may be terminated and the ESP grant cancelled by the State if the City, in the opinion of and by action of the Transportation Board, fails to pursue due diligence on the Project or in the performance of any of the terms of this Agreement.

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.

CITY OF FLAGSTAFF, ARIZONA

By N White For
JOE DONALDSON
Mayor

STATE OF ARIZONA
Department of Transportation

By Dale Buskirk
DALE BUSKIRK, Division Director
Transportation Planning Division

ATTEST:

By Margie Brown
MARGIE BROWN
Clerk

02-035-TPD-Flagstaff-ESP-Amend 4-30Nov2005-slc

JPA 02-035 Amendment Four

ATTORNEY APPROVAL FORM FOR THE FLAGSTAFF

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY, 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 CITY 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 7th day of December, 2005.

City Attorney

ITEM NO.: 10 G

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT
TO THE CITY MANAGER

Michael Kerski
Prepared by

779-7632, x357
Phone Number

FROM: Planning Division

DATE: August 22, 2001

COUNCIL MEETING OF: 9/4/01

Steve Lee (Thy)
Department Head Signature

AGENDA ITEM: CONSIDERATION OF RESOLUTION NO. 2001-70 AUTHORIZING THE CITY OF FLAGSTAFF TO APPLY FOR AND, UPON AWARD, ACCEPT AN ECONOMIC STRENGTHS GRANT FY 2002 – ROUND 1 FROM THE STATE OF ARIZONA DEPARTMENT OF COMMERCE

STATEMENT OF SUBJECT:

The Arizona Department of Commerce has solicited applications for projects meeting the guidelines of the Economic Strength Projects Fund (Impact Transportation Projects) as specified in A.R.S. 28-7281 and A.R.S. 41-1513. At least $500,000 is available for FY 2002 – ROUND 1 for highway or road projects that will have a significant and immediate impact on a community's ability to attract, create or retain employment opportunities in Arizona.

RECOMMENDATION:

Read Resolution No. 2001-2001-70

Adopt Resolution No. 2001-2001-70

DISCUSSION:

Staff will be submitting an Economic Strength Projects Fund application for funding assistance for a road extension in the designated East Flagstaff Gateway Redevelopment Area. Additional funds that may be necessary to construct this road will come from City revenues and the Development Agreement with the Mall. This grant requires a ten percent City of Flagstaff match.

INITIALS	REVIEWED BY	DATE	INITIALS	REVIEWED BY	DATE
	CITY MANAGER			PUBLIC WORKS DIR.	
	CITY ATTORNEY			COM. DEV. DIR.	
	ASST. CITY MGR.			CITY ENGINEER	
	MGT. SCVS. DIR.		JBS/MY	PLANNING DIR.	8/21/01
	PURCHASING DIR.		SBK	GEAST MGE.	8/28/01

CERTIFICATION

I, CAROLYN JAGGER, City Clerk of the City of Flagstaff, Arizona, do hereby certify that the attached is a full, true, and correct copy of Resolution No. 2001-70 adopted by the Flagstaff City Council at their Meeting held September 4, 2001.

IN WITNESS WHEREOF, I have hereunto set my hand and impressed the official Seal of the City of Flagstaff, this 12th day of September, 2001.

CITY CLERK

(SEAL)

RESOLUTION NO. 2001-70

A RESOLUTION AUTHORIZING THE CITY OF FLAGSTAFF TO APPLY FOR AND, UPON AWARD, ACCEPT AN ECONOMIC STRENGTHS GRANT FY 2002 - ROUND 1 FROM THE STATE OF ARIZONA DEPARTMENT OF COMMERCE.

WHEREAS, the City Council has previously adopted the boundaries for the East Flagstaff Gateway Redevelopment Area; and

WHEREAS, the State of Arizona Department of Commerce is seeking applications for Economic Strengths Projects Fund (Impact Transportation Projects) as specified in A.R.S. 28-7281 and A.R.S. 41-1513; and

WHEREAS, the Planning Division of the Community Development Department has found that the East Flagstaff Gateway Redevelopment Area planned transportation improvements meets the criteria for the fund including: retention of significant jobs; significantly increasing the number of jobs; the project will lead to significant capital investment and also make a significant contribution to the economy;

NOW, THEREFORE, the City Council authorizes application for an Economic Strengths Projects grant, and upon award, acceptance of same.

PASSED AND ADOPTED by the Council and approved by the Mayor of the City of Flagstaff, this 4th day of September, 2001.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

TERRY GODDARD
Attorney General

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

CIVIL DIVISION
TRANSPORTATION SECTION
Writer's Direct Line:
602.542.8855
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INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR02-0537TRN (**JPA 02-35, Amendment Four**), an Agreement between public agencies, i.e., The State of Arizona and City of Flagstaff, 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: December 22, 2005

TERRY GODDARD
Attorney General

Susan Davis

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:940016
Attachment