IGA 78-05

AGREEMENT NO. **19781**

THIS AGREEMENT, made this 13 day of April, 1978, pursuant to A.R.S., Sections 11-951 through 11-954, by and between the ARIZONA DEPARTMENT OF TRANSPORTATION, an agency of the State of Arizona, thereunto duly authorized, hereinafter designated DEPARTMENT OF TRANSPORTATION, and the CITY OF PHOENIX, acting by and through its City Manager, thereunto duly authorized hereinafter designated as CITY.

RECITALS:

WHEREAS, the CITY is empowered by Chapter 2, Section 2, Paragraph i and Chapter 4, Section 2, Paragraph 45 of the Phoenix City Charter, to undertake public improvements and is desirous of bringing to the construction stage certain projects which have been selected by the DEPARTMENT OF TRANSPORTATION and the CITY, subject to the approval of the Federal Highway Administration as by law required, and to that end requests the DEPARTMENT OF TRANSPORTATION to perform certain work and prepare documents required by the Federal Highway Administration to qualify the said projects for and to receive Federal funds thereon, such work consisting of, but not specifically limited to, the development and preparation of environmental impact statements; development, preparation and/or review of designs, plans, maps, specifications; aerial and ground surveys; geologic materials testing and analysis; traffic engineering studies; and such other related tasks essential to the achievement of the aforementioned objective, and

WHEREAS, the purpose to be accomplished by this Agreement is the performance of said work, and

WHEREAS, the estimated cost of said work is Twenty-Five Thousand Dollars ($25,000.00) annually, which sum the CITY

is willing to transmit to and deposit with the DEPARTMENT OF TRANSPORTATION for the purpose of defraying the cost of the work described herein, and

WHEREAS, the Director of the DEPARTMENT OF TRANSPORTATION is empowered by A.R.S., Section 28-108 to enter into this agreement and has duly authorized the Assistant Director of the Highways Division and the State Engineer to execute the same, and

WHEREAS, the DEPARTMENT OF TRANSPORTATION is well equipped and willing to perform under this agreement.

ARTICLE I

IN CONSIDERATION of the covenants of the CITY herein contained and the faithful performance thereof, the DEPARTMENT OF TRANSPORTATION agrees:

1. That subsequent to the initial deposit by the CITY of the sum of Twenty-five Thousand Dollars ($25,000.00), it will begin performance of certain work and prepare the documents required by the Federal Highway Administration necessary to bring the projects to the construction stage.

2. That it will furnish all labor, materials and equipment necessary to complete the work it herein agrees to do.

3. That it will provide to the CITY a monthly statement of account identifying the projects for which the work has been performed, the type and amount of expenditures, and the account balance. No statement will be provided if there is no activity on the account.

ARTICLE II

IN CONSIDERATION of the covenants of the DEPARTMENT OF TRANSPORTATION herein contained and the faithful performance thereof, the CITY agrees:

1. That it will deposit with the DEPARTMENT OF TRANSPORTATION the sum of Twenty-five Thousand Dollars ($25,000.00), all or any part of which shall be used by the DEPARTMENT OF TRANSPORTATION to defray the cost of the work herein embraced.

2. That the cost of the work herein embraced shall be borne wholly by the CITY without State or Federal funds.

3. That it will deposit with the DEPARTMENT OF TRANSPORTATION additional funds as may be required to complete the work as herein embraced. Such deposits will be made upon request of the DEPARTMENT OF TRANSPORTATION based upon a low or depleted account balance as described in ARTICLE I, paragraph 3 of this Agreement.

ARTICLE III

IN CONSIDERATION of the promises, it is mutually agreed:

1. That any part of the sum of Twenty-five Thousand Dollars ($25,000.00) deposited by the CITY remaining after the cost of the work, as finally fixed and determined by the DEPARTMENT OF TRANSPORTATION, has been paid, shall be returned forthwith to the CITY upon written request.

2. That the DEPARTMENT OF TRANSPORTATION and the STATE OF ARIZONA assume no financial obligation or liability hereunder and that any damage arising from the carrying out in any respect of the work embraced in this Agreement or any modification thereof, shall be solely the liability of the CITY; that the CITY agrees to save and hold harmless the STATE, any of its departments, agencies, officers or employees from all cost and damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by

any activity, condition or event arising out of the performance or nonperformance of any provision of this Agreement by the CITY, any of its agents or any of its independent contractors. The above cost incurred by the STATE, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and reasonable attorneys' fees. When any above cost, damage or other damage occurs as aforesaid, the CITY assumes the burden of proof that the above activity, condition or event did not cause such cost, damage or other damage.

3. That the cost of the work covered by this Agreement shall be borne by the CITY, but should some unforeseen condition or circumstance increase the cost of the work to be performed by the DEPARTMENT OF TRANSPORTATION in excess of the amount shown in the recital, the DEPARTMENT OF TRANSPORTATION shall not be obligated to incur any expenditure in excess of the CITY'S deposit specified in ARTICLE II, Paragraph 1.

4. That this agreement shall remain in force until the work herein embraced has been completed in accordance with the terms of the agreement or, until earlier terminated by either the CITY or the DEPARTMENT OF TRANSPORTATION upon thirty days written notice of that intent.

5. That this contractual agreement shall be filed with the Secretary of State and shall become effective upon such filing.

6. Attached hereto is an authenticated copy of the resolutions of the CITY authorizing said entity to enter into this agreement and a copy of the written determination of the City Attorney or an Assistant or a Deputy City Attorney that this agreement in in proper form and is within the powers and

authority granted to the CITY under the laws of this State.

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

ARIZONA DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION

By _____

ATTEST:

_____

CITY OF PHOENIX, a municipal corporation

MARVIN A. ANDREWS, City Manager

By _____
EDWARD M. HALL
Street Transportation Administrator

ATTEST:

_____
City Clerk

NO. 4247
FILED WITH SECRETARY OF STATE
Date Filed 4/13/78
Secretary of State

APPROVED AS TO FORM and within the powers and authority granted to the City of Phoenix under the laws of the State of Arizona.

_____
ACTING City Attorney

JWS/rc 3/24/78

GREEN – CITY CLERK
WHITE – CITY ATTORNEY
BLUE – CITY MANAGER
PINK – ACCOUNTS NOTIFICATION
CANARY – DEPARTMENT NOTIFICATION
BUFF – DEPARTMENT FILE COPY

City of Phoenix, Arizona

REQUEST FOR COUNCIL ACTION

COMPLETE THIS FORM PER A.R. 4.11

INSTRUCTIONS: REQUESTS FOR ORDINANCES, RESOLUTIONS AND FORMAL COUNCIL ACTION MUST BE IN THE CITY MANAGER'S OFFICE BY 4 P.M. ON THE FRIDAY, ELEVEN DAYS BEFORE THE FORMAL CITY COUNCIL MEETING WITH ALL REQUIRED SIGNATURES.

1. To The City Manager: DATE February 23 1978

THE FOLLOWING COUNCIL ACTION IS HEREBY REQUESTED: [X] ORDINANCE [ ] RESOLUTION [ ] FORMAL ACTION.
(GIVE NECESSARY INFORMATION FOR PREPARATION OF DOCUMENT OR ACTION REQUESTED, AND OUTLINE REASONS.)

MAJOR STREET IMPROVEMENTS
AGREEMENT WITH ARIZONA DEPARTMENT OF TRANSPORTATION
PRELIMINARY ENGINEERING FUNDS

Authorizing the City Manager to enter into an Agreement with the Arizona Department of Transportation for providing the necessary preliminary engineering to qualify the City projects to receive Federal aid.

Also authorizing the City Manager to deposit with the Arizona Department of Transportation in a special fund the sum of $25,000 for preliminary costs. The deposit is required at this time to allow the Arizona Department of Transportation to continue the processing of Urban projects which are included in the Six-Year Major Street Program.

The Department of Transportation furnishes the City of Phoenix accounting information periodically allowing specific charges to be made against various projects.

(USE REVERSE SIDE IF NECESSARY)

2. Bid Bond Required? [ ] YES [X] NO

3. Bond Submitted by Low Bidder? [ ] YES [ ] NO

4. Performance Bond Required? $ [illegible]

5. If Funds Are Required, Please Complete The Following:

AMOUNT: $ [illegible]

SOURCE OF FUNDS: 07 Highway Users Tax Fund

[ ] BUDGETED [ ] SUPPLEMENTAL [ ] CONTINGENCIES

ACCOUNT NOS. TO RECORD TRANSACTION

FUND	ACTIVITY	OBJECT	PROJECT
07	[illegible]		

6. Emergency Clause? [X] YES [ ] NO

IF LESS THAN FIVE COUNCIL MEMBERS ARE PRESENT:
[X] CONTINUE ONE WEEK
[ ] ADOPT WITHOUT EMERGENCY CLAUSE

7. Prepared By: J. C. Fofckert

8. Desired Agenda Date: March 1[illegible], 197[illegible]

9. Formal Contract Required? [X] YES [ ] NO 19781A

10. Requested By:
DIVISION Design
SIGNATURE S/David C. Clyne [illegible] City Engineer

11. Recommended By:
DEPARTMENT Engineering
SIGNATURE [illegible]

12. To The City Attorney:

A. PREPARE THE NECESSARY DOCUMENTS AND SUBMIT THEM TO THE CITY MANAGER'S OFFICE NOT LATER THAN 3 P.M. FRIDAY, FOUR DAYS PRECEDING THE FORMAL COUNCIL MEETING.

B. UPON RECEIPT OF COPY INDICATING COUNCIL APPROVAL, PREPARE FORMAL CONTRACT.

Edward M Hall

13. Approved As To Availability Of Funds:

MANAGEMENT & RESEARCH DIRECTOR

14. Approved:

Robert L. [illegible]

DEVELOPMENT SERVICES MANAGER

CITY MANAGER

15. Council Action Taken:

RESOLUTION NO. _____ ORDINANCE NO. _____ DATE 3/14 1978

Formal Action: Approved request to authorize an agreement with Arizona Dept. of Transportation.

J-3364

CITY CLERK'S FILE NO.

10-7 REV. 4-[illegible]

OFFICE OF THE

Attorney General

BRUCE E. BABBITT
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 78-272 which is an agreement between public agencies 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 proper form and is within the powers and authority granted to the State or its agencies under the laws of 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 contract.

DATED this 7th day of April, 1978.

JOHN A. LaSOTA, JR.
Acting Attorney General

Albert Morgan

ALBERT MORGAN
Assistant Attorney General