ECS FILE: IGA-86-09
PROJECT: M-950-8(1)
SECTION: Junction SR 90 - Avenida Cochise
A.G. CONTRACT NO. KA86-1009

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF SIERRA VISTA

THIS AGREEMENT entered into this 22ND day of JULY, 1986, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, hereinafter called "State", and the CITY OF SIERRA VISTA, acting by and through its City Council, hereinafter called "City".

WHEREAS, State is empowered by Section 28-108 Arizona Revised Statutes 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 the Director of Arizona Department of Transportation has delegated to the undersigned the authority to execute same on behalf of State; and

WHEREAS, City is empowered by Section 11-952, Arizona Revised Statutes, to enter into this agreement and acting by and through its City Council, 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 same on behalf of City; and

WHEREAS, State and City desire to widen SR 92 from the Junction with SR 90 to Avenida Cochise to provide four 12 foot lanes plus median left-turn lane plus 8 foot shoulders; and

WHEREAS, City adopted Resolution 1368 on April 12, 1984, communicating its desire to have said construction project underway in 1986 and committing to allocating local matching funds toward the improvement of SR 92 within their jurisdiction in an amount commensurate with Federal policy regarding such local contributions, and with State policy regarding the advancement of projects when local funding contributions are made if such contribution will advance the project program; and

WHEREAS, State and City desire to enter into a joint project for construction of said widening.

THEREFORE, the parties hereto agree as follows:

NO. 11352
FILED WITH SECRETARY OF STA
Date Filed 8-4-86
Secretary of State

STATE SHALL

1. Design and develop construction plans for widening SR 92 from Milepost 321.2 to Milepost 322.9 for net length of 1.7 miles.

2. Advertise for and accept bids for construction of the project prior to the end of 1986.

3. Submit to City, after entering into a contract for construction of the project, a bill setting forth the total price, the local City's share, the State share and the Federal share thereof. The total price will be the combination of the contract bid price plus 15% for State's engineering and construction administration expenses. The local City share will be determined by taking 15% of the total price for that portion of the project which is inside the City limits. The local City share is not to exceed $300,000.

CITY SHALL

1. Upon receiving the aforesaid bill from State and approving the amount thereof, pay same within thirty (30) days.

The parties hereto further agree that:

To the extent permitted by law, State and City agree to defend, indemnify, and hold harmless each other and their agents, officials, employees and subsidiaries, from and against any and all claims, actions, demands, liability, damage, cost and expense of whatsoever character whether direct or indirect, or consequential, including loss or damage to property of either party hereto or of their persons and for the injury or death to any or all persons caused by or attributable to the negligence or fault of the State or the City, their employees or agents. As to any liability claims where the parties hereto may be jointly at fault, whether or not a named defendant to an action, the parties agree that they will share in any settlement or judgement on the amount that is proportionate to the degree of negligence or fault of the respective parties as agreed to between them or adjudicated by the courts.

THIS AGREEMENT shall remain in full force and effect until completion of said project as aforesaid; provided, however, that this agreement may be cancelled by either party upon 30 days written notice by one party to the other party.

All parties hereto acknowledge that this agreement is subject to cancellation by the Governor pursuant to the provisions of Section 38-511 Arizona Revised Statutes.

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 Section 12-1518 (B) and (C) of Arizona Revised Statutes as amended.

This agreement shall become effective on the date of filing same with the Secretary of State.

Attached hereto and incorporated herein by reference is a copy of State's resolution authorizing entry into this agreement, a copy of City's resolution passed by its City Council, a copy of the written determination of the appropriate attorney that City is authorized under the laws of the State to enter into this agreement and that said agreement is in proper form, and a copy of the Attorney General's Intergovernmental Agreement Determination.

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

CITY OF SIERRA VISTA, a Municipal Corporation

BY: Jean Randle

ATTEST:

Brenda Woodhouse
City Clerk

STATE OF ARIZONA
ARIZONA DEPARTMENT OF TRANSPORTATION

BY: W. O. FORD
State Engineer

PROJECT: M-950-8(1)
SECTION: Junction S.R. 90 - Avenida Cochise

RESOLUTION

BE IT RESOLVED on this 11th day of June, 1986, that I, Charles L. Miller, as Director, ARIZONA DEPARTMENT OF TRANSPORTATION, have determined that it is in the best interests of the State of Arizona that the DEPARTMENT OF TRANSPORTATION, acting by and through the Highways Division, enter into an Intergovernmental Agreement with the City of Sierra Vista for the purpose of widening S.R. 92 from the Junction with S.R. 90 to Avenida Cochise, thus providing four 12-foot traffic lanes, median left-turn lane and 8-foot shoulders.

THEREFORE, authorization is hereby given to draft said Agreement which, upon completion, shall be submitted for approval and execution by the State Engineer.

Charles L. Miller

Charles L. Miller, Director
Arizona Department of Transportation

JDC:ks

RESOLUTION 1793

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA, REAFFIRMING PLANNING GOAL 02 TRANSPORTATION, REAFFIRMING SETTLED POLICY COMMITTING TO PROVIDE LOCAL MATCHING FUNDS FOR IMPROVEMENT OF HIGHWAY 92, REAFFIRMING FY 86-87 BUDGET APPROPRIATION TO PROVIDE THE CITY SHARE OF LOCAL MATCHING FUNDS, APPROVING THE INTERGOVERNMENTAL AGREEMENT WITH ARIZONA DEPARTMENT OF TRANSPORTATION FOR EXECUTION AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, It is settled policy of the City Council, adopted by Resolution No. 1368, to provide the City's share of local matching funds for improving Highway 92 if the Arizona Department of Transportation (ADOT) would advance the schedule to FY 86; and

WHEREAS, ADOT did advance the schedule for improving Highway 92 South and have advertised for bids to open on June 27; and

WHEREAS, The City Council did approve an appropriation for the City's share of local matching funds in the FY 86-87 budget, Street Improvements adopted by Resolution No. 1754; and

WHEREAS, ADOT has submitted an intergovernmental agreement to the City of Sierra Vista for execution that commits the allocation of the City's share of local matching funds; and

WHEREAS, the City of Sierra Vista is empowered by Section 11-952, Arizona Revised Statutes to enter into such agreement through action by the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the City Council Planning Goal 02 Transportation be, and hereby is, reaffirmed.

SECTION 2

That the Council's settled policy as established by Resolution No. 1368 to provide the City's share of local matching funds, if the Highway 92 widening project schedule is advanced be, and hereby is, reaffirmed.

SECTION 3

That the Council's appropriation of the City's share of local matching funds in the FY 86-87 budget adopted by Resolution No. 1754 be, and hereby is, reaffirmed.

SECTION 4

That the City Council be, and hereby does, approve for execution the intergovernmental agreement with ADOT to provide 15% of the total price for that portion of the Highway 92 widening project which is inside the City limits, not to exceed $300,000, as the City share of local matching funds.

SECTION 5

That the City Manager, City Clerk, City Attorney or their duly authorized officers and agents, be and hereby are, authorized and directed to take all steps necessary to carry out the purposes and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 10th DAY OF JULY, 1986.

Jean Randle
JEAN RANDLE
Mayor

ATTEST:

Bruce Mordhorst
BRUCE A. MORDHORST
City Clerk

APPROVED AS TO FORM:

FAUVER & TILL
City Attorney

PREPARED BY:

William N. Taylor
WILLIAM N. TAYLOR
Assistant to the City Manager for Budget/Purchasing

CERTIFICATE

I HEREBY CERTIFY THAT THE CITY OF SIERRA VISTA IS AUTHORIZED UNDER THE LAW OF THIS STATE TO ENTER INTO THIS AGREEMENT AND THAT SAID AGREEMENT IS IN PROPER FORM.

FAUVER & TILL
CITY ATTORNEY

Attorney General
1275 WEST WASHINGTON
Phoenix, Arizona 85007
Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. KR86-1009, 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 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 this 25th day of July, 1986.

ROBERT K. CORBIN
Attorney General

James R. Relphorde
Assistant Attorney General
Transportation Division

2018G