A. G. Contract No. KR97 0279TRN
ADOT ECS File: JPA 97-19
Project: H4415 01C
Section: US-95 Somerton

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF SOMERTON

THIS AGREEMENT is entered into 24 February, 2000, 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 the CITY OF SOMERTON, 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 by resolution, a copy of which is attached hereto and made a part hereof, resolved 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 48-572 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.

3. Incident to an improvement project to US-95, the State and the City desire to construct curb, gutter and sidewalks, and other amenities with the project, hereinafter referred to as the Project, for the safety and benefit of the motoring public.

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

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NO 23856
Filed with the Secretary of State
Date Filed: 02/24/2000
Betsey Bayless
Secretary of State
By Vicky V. Greenwald

II. SCOPE OF WORK

1 The State will:

a. Provide to State standards design plans, specifications and such other documents required for construction bidding and construction. Incorporate City review comments as appropriate

b. Call for bids and award one or more construction contracts for the Project. Administer same and make all payments to the contractor(s). Be responsible for any contractor claims for extra compensation attributable to the State.

c. Upon completion, approve and accept the Project on behalf of the parties hereto, and provide maintenance to the Project inside the State right-of-way, except for sidewalks or related amenities, whether within or outside of the State right-of-way.

2. The City will:

a. Review the design documents and provide comments.

b. Issue the State's contractor a temporary construction permit. Be responsible for any contractor claims for extra compensation attributable to the City.

c. Upon completion and acceptance by the State on behalf of the parties hereto, provide maintenance to the Project sidewalks and related amenities, whether within or outside of the State right-of-way.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said Project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. 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 Section 12-1518.

6. 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 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

City of Somerton
City Manager
110 N. State Avenue
Somerton, AZ 85350

7. Attached hereto and incorporated herein 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 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.

CITY OF SOMERTON

By _____
AGUSTIN TUMBAGA
Mayor

STATE OF ARIZONA
Department of Transportation

By _____
WILLIAM J. HIGGINS
Deputy State Engineer

ATTEST

By _____
JIM FERGUSON
City Manager

JPA 97-19

RESOLUTION

BE IT RESOLVED on this 7th day of February 1997, that I, the undersigned LARRY S. BONINE, as Director of the 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 Intermodal Transportation Division, to enter into an agreement with the City of Somerton for the purpose of defining responsibilities for the design, construction and maintenance of sidewalk improvements to US-95 in the City.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

Dall B. Lapton

for LARRY S. BONINE
Director

RESOLUTION NO. 586

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOMERTON, ARIZONA AUTHORIZING THE MAYOR TO EXECUTE AND THE CITY MANAGER TO ATTEST TO ANY AND ALL DOCUMENTS PERTAINING TO THE IMPROVEMENT PROJECT TO US-95 (MAIN STREET) BETWEEN THE CITY OF SOMERTON, ARIZONA AND THE STATE OF ARIZONA DEPARTMENT OF TRANSPORTATION

The City is desirous of entering into certain agreements incident to an improvement project to US-95 (Main Street) whereby the State and City desire to construct curb, gutter and sidewalks, and other amenities with the project for the safety and benefit of the motoring public; therefore

BE IT RESOLVED, by the City Council of the City of Somerton, Arizona as follows:

That Agustin Tumbaga, Jr., the City's Mayor, is authorized to execute, and Jim Ferguson, the City Manager, to attest to, on behalf of the City of Somerton, Arizona, any documents related to the improvement project to US-95 (Main Street).

PASSED AND ADOPTED this 1st day of February, 2000.

Agustin Tumbaga Jr., Mayor

ATTEST:

Jim Ferguson, City Clerk

APPROVED AS TO FORM:

Gerald W. Hunt, City Attorney

JPA 97-19

APPROVAL OF THE SOMERTON CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF SOMERTON 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.

DATED this 1st day of February, 2000.

City Attorney

STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ 85007-2926

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JANET NAPOLITANO
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR97-0279TRN, 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 February 16, 2000.

JANET NAPOLITANO
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:et/612172

Enc.