AG Contract No. KR97 1749TRN
ADOT ECS File No. JPA 97-119
Project: TEA-FLO-0(1)P/SL385 01C
Section: Silver King Hotel
Restoration

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF FLORENCE

THIS AGREEMENT is entered into 11 September, 1997, 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 TOWN OF FLORENCE, acting by and through its MAYOR and TOWN COUNCIL (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 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 Town 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 Town.

3. Congress has authorized appropriations for, but not limited to, transportation enhancements including roadside attractions of historic preservation.

4. Such project within the boundary of the Town has been selected by the Town; the survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.

NO. 21879
FILED WITH SECRETARY OF STATE
Date Filed 09/11/97
Jane Dee Hull
Secretary of State
By Vicky Greenewald

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the Town by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The Town, in order to obtain federal funds for the construction of the project, is willing to provide Town funds to match federal funds in the ratio required or as finally fixed and determined by the Town and FHWA.

7. The work embraced in this agreement, to be administered by the Town, and the estimated costs are as follows: Reconstruction and Rehabilitation of Historic Structure.

Estimated Construction Cost (incl. CE cost)	$ 498,159.00
Federal Aid Funds @ 94.3%	$ 469,764.00
Town Funds	$ 28,395.00

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

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the Town with the aid and consent of the State and the FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of FHWA and the State, enter into a contract(s) with a firm(s) to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the US Secretary of the Interior's "Standards for the Treatment of Historic Properties", and other applicable standards and guidelines. The State will enter into a Project Agreement with FHWA covering the work embraced in said construction contract and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the Town shall be obligated to incur any expenditure in excess.

2. Prior to the solicitation of bids, the Town shall set aside sufficient funds in the amount determined to be necessary to match federal funds in the ratio required.

3. Upon completion of construction, the Town shall ensure appropriate and proper maintenance of the structure.

a. In the event that the property is sold prior to the end of twenty (20) years from the date of this agreement, the Town shall at that time record a covenant with the property deed which passes these requirements to the new owner, in order to ensure that the property is protected from historically unsympathetic changes. The Town shall take appropriate measures to protect the property against willful damage and vandalism.

b. In the event the property is sold without a protective covenant recorded with the property deed, the Town will reimburse the FHWA a pro-rata amount of $25,000.00 for each year, or fraction of a year, remaining in the twenty (20) year period.

4. The Town shall allow public access to the structure and grounds during normal business hours, including, but not limited to, tours and announced public meetings.

5. The Town will provide personnel to supervise construction. The FHWA will participate in the cost of construction supervision provided by the Town at the pro rata established in the Project Agreement for up to 15 percent of the cost of construction. Construction supervision costs not participated in by FHWA shall be borne by the Town. All construction project change orders are to be copied to the State.

6. The Town will complete the project in accordance with approved plans and specifications and the requirements of the relevant State and federal statutes, rules, or regulations. In the event the Town fails to comply with the plans, specifications or any relevant State or federal statutes, rules, or regulations, the Town shall hold the State harmless from any claims or costs incurred by the State as a result of the Town's failure to comply.

7. State employees may perform any inspections of the project or audit any books or records of the Town in order for the State to satisy itself that the monies on the project have been spent and the project completed in accordance with the plans and specifications, statutes, rules, and regulations of the State and federal government.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The Town assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and

indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or 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 provisions of this agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs 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 or attorneys' fees.

2. The cost of the design, construction and construction engineering work covered by this agreement is to be borne by FHWA and Town, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, Town agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

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

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

6. The provisions of Arizona Revised Statutes Section 35-214 pertaining to State audit are applicable to this contract. In the event of such an audit the Town will bear all costs associated therewith.

7. 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.

8. 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:

Department of Transportation Joint Project Administration 205 S. 17th Avenue - 616E Phoenix, AZ 85007	Town of Florence Town Manager 133 North Main Street Florence, AZ 85232

9. 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.

TOWN OF FLORENCE

By _____
MARSHA DAY
Mayor

STATE OF ARIZONA
Department of Transportation

By _____
PETER L. ENO
Contract Administrator

ATTEST:

By _____
LISA GARCIA
Town Clerk

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RESOLUTION

BE IT RESOLVED on this 24th day of July 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 Town of Florence for the purpose of defining responsibilities for the design, construction and maintenance of a the restoration of the Silver King Hotel.

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

Dalli D. Saxton

for LARRY S. BONINE
Director

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APPROVAL OF THE FLORENCE TOWN ATTORNEY

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

DATED this 18th day of August, 1997.

Town Attorney

TOWN OF FLORENCE

RESOLUTION NO. 601-97

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF FLORENCE, ARIZONA AUTHORIZING AND APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE RESTORATION PHASE OF THE SILVER KING HOTEL PROJECT.

WHEREAS, the Town of Florence is serving as sponsor and pass through agent for the Federal Highway Administration Transportation Enhancement Program Grant administered by the Arizona Department of Transportation; and

WHEREAS, the Florence Preservation Foundation has completed the Planning and Design Phase of this restoration program and is ready to solicit bids for construction, and

WHEREAS, it is necessary for an intergovernmental agreement between the Town of Florence, the sponsoring agency, and the Arizona Department of Transportation in order for reimbursement of actual project costs to occur; and

WHEREAS, said required agreement must be formally approved by the Town Council.

NOW THEREFORE, BE IT RESOLVED that the Mayor of the Town of Florence is authorized to execute the intergovernmental agreement with Arizona Department of Transportation, a copy of which is attached hereto as exhibit A.

PASSED AND ADOPTED this 18, day of August, 1997.

Marsha Day, Mayor

ATTEST:

Lisa Garcia, Town Clerk

APPROVED AS TO FORM:

John R. Wildermuth, Town Attorney

STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

GRANT WOODS
ATTORNEY GENERAL

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MAIN PHONE : 542-5025
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR97-1749TRN, 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 August 29, 1997.

GRANT WOODS
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

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