A. G. Contract No. KR98-0512TRN
ADOT ECS File: JPA 98-30
Project: HURF Advance
Section: Iron Springs Road
TRACS NO.: HF002 01C

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
CITY OF PRESCOTT, ARIZONA

THIS AGREEMENT is entered into 14 May, 1998, 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 PRESCOTT, acting by and through its City Council (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-6993(G) 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. The State Transportation Board has approved the advance of $720,000.00 in Highway User Revenue Funds (HURF) to the City for construction of improvements to the city road Iron Springs Road, from Willow Creed Road to Gail Gardner Way, and such funds will be repaid to the State by withholding from the Northern Arizona Council of Governments (NACOG) federal funds and the obligation authority for federal funds in the amount of $800,000.00, all in accordance with SB 1008, a copy of which is attached hereto and made a part hereof.

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

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NO. 22370
Filed with the Secretary of State
Date Filed: 05/14/98
Betsey Bayless
Secretary of State
By: Vicky Greenwood

II. SCOPE OF WORK

1. The City will:

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction.

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 additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations.

c. Invoice the State for thirty percent of the project cost at the start of construction.

d. Invoice the State for thirty percent of the project cost at the thirty percent and sixty percent project completion stages.

e. Upon completion, approve and accept the project as complete and provide maintenance.

f. Invoice the State for ten percent of the project cost at the one hundred percent project completion stage after final project review is completed by NACOG representatives and State ADOT representatives.

2. The State will:

a. Within 30 days after receipt and approval of an invoice, advance the City HURF funds in accordance with paragraph II.1.c., d. and f. above.

b. Withhold from NACOG, federal funds and the obligation authority of federal funds in the amount of $800,000.00.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; 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 City and that the City 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 City, 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. 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, unless assumed by another governmental entity, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

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

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

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

6. 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.

7. 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 Prescott
Public Works Director
P.O. BOX 2059 Dr.
Prescott, AZ 86302

8. 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 PRESCOTT, ARIZONA

By _____
PAUL DALY
Mayor

STATE OF ARIZONA
Department of Transportation

By _____
JAY KLAGGE, Director
Transportation Planning

ATTEST

By _____
MARIE WATSON
City Clerk

#98-044

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JPA 98-30

RESOLUTION

BE IT RESOLVED on this 11th day of March 1998, that I, the undersigned MARY E. PETERS, 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 Prescott for the purpose of defining responsibilities for the advance of HURF funds for the design, construction and maintenance of improvements to Iron Springs Road.

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

DAVID ALLOCCO, acting Manager
Engineering Technical Group

for MARY E. PETERS, Director

RESOLUTION NO. 3054

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, ACCEPTING A GRANT FROM THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE ACCEPTANCE OF HIGHWAY USER REVENUE FUNDS FOR THE WIDENING OF IRON SPRINGS ROAD, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT TO IMPLEMENT SAME.

WHEREAS, the City Council authorized City Staff to submit an application to the Arizona Department of Transportation for a grant to help fund the City's widening of Iron Springs Road; and

WHEREAS, the foregoing application has been approved.

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

SECTION 1. THAT, the City of Prescott hereby accepts the Grant from the Arizona Department of Transportation, AG Contract Number KR98-0512TRN, ADOT ECS File JPA 98-30, TRACS Number HF002 01C.

SECTION 2. THAT, the attached Intergovernmental Agreement with the Department of Transportation is hereby approved and accepted.

SECTION 3. THAT, the Mayor and Staff are hereby authorized to execute any and all documents to effectuate the foregoing.

PASSED, APPROVED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 14th day of APRIL, 1998.

PAUL S. DALY, Mayor

APPROVED AS TO FORM:

JOHN R. MOFFATT, City Attorney

ATTEST:

MARIE L. WATSON, City Clerk

JPA 98-30

APPROVAL OF THE PRESCOTT CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF PRESCOTT 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 _____ day of _____, 1998.

_____

City Attorney

House Engrossed Senate Bill

State of Arizona
Senate
Forty-third Legislature
First Regular Session
1997

FILED
Jane Dee Hull
Secretary of State

CHAPTER 60

SENATE BILL 1008

AN ACT

AMENDING SECTION 28-6993, ARIZONA REVISED STATUTES; RELATING TO THE STATE HIGHWAY FUND; PROVIDING FOR CONDITIONAL ENACTMENT.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 28-6993, Arizona Revised Statutes, is amended to read:

28-6993. State highway fund; authorized uses

A. Except as provided in subsection B of this section and section 28-6538, the state highway fund shall be used for any of the following purposes in strict conformity with and subject to the budget as provided by this section and by sections 28-6997 through 28-7003:

1. To pay salaries, wages, necessary travel expenses and other expenses of officers and employees of the department and the incidental office expenses, including telegraph, telephone, postal and express charges and printing, stationery and advertising expenses.

2. To pay for both:

(a) Equipment, supplies, machines, tools, department offices and laboratories established by the department.

(b) The construction and repair of buildings or yards of the department.

3. To pay the cost of both:

(a) Engineering, construction, improvement and maintenance of state highways and parts of highways forming state routes.

(b) Highways under cooperative agreements with the United States that are entered into pursuant to this chapter and an act of Congress providing for the construction of rural post roads.

4. To pay land damages incurred by reason of establishing, opening, altering, relocating, widening or abandoning portions of a state route or state highway.

5. To reimburse the department revolving account.

6. To pay premiums on authorized indemnity bonds and on compensation insurance under the workers' compensation act.

7. To defray lawful expenses and costs required to administer and carry out the intent, purposes and provisions of this title and to pay lawful bills and charges incurred by the state engineer.

8. To acquire, construct or improve entry roads to state parks or roads within state parks.

9. To acquire, construct or improve entry roads to state prisons.

10. To pay the cost of relocating a utility facility pursuant to section 28-7156.

11. For the purposes provided in subsections C, D, E and F of this section and sections 28-1143, 28-2010, 28-2353 and 28-3003.

B. For each of the following fiscal years, the department shall allocate and the state treasurer shall distribute monies in the state highway fund to the department of public safety for funding a portion of highway patrol costs in eight installments in each of the first eight months of a fiscal year that do not exceed:

1. For the 1997-1998 fiscal year, fifteen million dollars.

2. For the 1998-1999 fiscal year, twelve million five hundred thousand dollars.

3. For the 1999-2000 fiscal year and for all subsequent fiscal years, ten million dollars.

C. Subject to legislative appropriation, the director shall use the monies in the state highway fund as prescribed in section 28-6991, paragraph 12 for processing the application and for the criminal background investigations required pursuant to chapters 10 and 13 of this title.

D. Subject to legislative appropriation, the department may use the monies in the state highway fund as prescribed in section 28-6991, paragraph 13 to carry out the duties imposed by this title for registration or titling of vehicles, to operate joint title, registration and driver licensing offices, to cover the administrative costs of issuing the air quality compliance sticker, modifying the year validating tab and issuing the windshield sticker and to cover expenses and costs in issuing special plates pursuant to sections 28-2404~~,~~ AND 28-2412~~, 28-2413, 28-2414, 28-2415 and~~ THROUGH 28-2416.

E. The department shall use monies deposited in the state highway fund pursuant to chapter 5, article 5 of this title only as prescribed by that article.

F. Monies deposited in the state highway fund pursuant to section 28-2269 shall be used only as prescribed by that section.

G. THE DEPARTMENT MAY EXCHANGE MONIES DISTRIBUTED TO THE STATE HIGHWAY FUND PURSUANT TO SECTION 28-6538, SUBSECTION A, PARAGRAPH 1 FOR LOCAL GOVERNMENT SURFACE TRANSPORTATION PROGRAM FEDERAL MONIES SUBALLOCATED TO COUNCILS OF GOVERNMENT AND METROPOLITAN PLANNING ORGANIZATIONS IN COUNTIES WITH A POPULATION OF FOUR HUNDRED THOUSAND PERSONS OR LESS IF THE LOCAL GOVERNMENT SCHEDULED TO RECEIVE THE FEDERAL MONIES CONCURS. AN EXCHANGE OF STATE HIGHWAY FUND MONIES PURSUANT TO THIS SUBSECTION SHALL BE IN AN AMOUNT THAT IS AT LEAST EQUAL TO NINETY PER CENT OF THE FEDERAL OBLIGATION AUTHORITY THAT EXISTS IN THE PROJECT FOR WHICH THE EXCHANGE IS PROPOSED.

Sec. 2. Conditional enactment

Because this act amends a section of the Arizona Revised Statutes as amended by Senate Bill 1009 (title 28 rewrite; conforming legislation), this act is effective from and after September 30, 1997 only if Senate Bill 1009, forty-third legislature, first regular session, relating to transportation, is enacted into law.

APPROVED BY THE GOVERNOR APRIL 8 1997.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 8TH 1997.

STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

GRANT WOODS
ATTORNEY GENERAL

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TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR98-0512TRN, 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.

DATE May 8, 1998.

GRANT WOODS
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:et/12289

Enc.