AG Contract No. KR98 2719TRN
ECS File: JPA 98-219
Project: Engineering Survey Account
Section: Colorado River Indian Tribes

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE COLORADO RIVER INDIAN TRIBES

THIS AGREEMENT is entered into 2 SEPTEMBER 1999, 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 COLORADO RIVER INDIAN TRIBES, acting by and through its TRIBAL COUNCIL ("the "Tribe").

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 Tribe is empowered 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 Tribe.

3. The Tribe requests the State, as agent for the Tribe, to perform certain work and prepare certain documents required by the Federal Highway Administration to qualify certain highway, bridge and railroad grade crossing projects for and to receive Federal funds. Such future work, consisting of, but not specifically limited to, the review and approval of the Tribe prepared environmental documents, the preparation of the analysis requirements for documentation of environmental categorical exclusion determinations; review of reports, design plans, maps, and specifications; geologic materials testing and analysis; right-of-way related activities (when specifically authorized by, for and on behalf of the Tribe, and at no cost to the State) and such other related tasks essential to the achievement of the aforementioned objectives.

NO. 23527
Filed with the Secretary of State
Date Filed: 09/02/99
Betsey Bayless
Secretary of State
By Vicky V. Graenewoed

4. The only interest of the State in performing the work embraced herein is in the acquisition of federal funds for the use and benefit of the Tribe by reason of federal law and regulations under which funds for the projects are authorized to be expended, and is acting as agent for the Tribe.

5. The estimated cost of the work shall be determined by procedures established in Local Government Engineer's Bulletin which is attached hereto and made a part hereof, which funds the Tribe shall transmit to and deposit with the State for the purpose of funding the cost of the work performed by the State. The minimum estimated cost of work for any project is $5000.00.

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

II. SCOPE OF WORK

1. The State will:

a. Subsequent to the deposit of sufficient funds by the Tribe, begin performance of the work that is required by the Federal Highway Administration to bring the projects to the construction stage.

b. Furnish all labor, materials, and equipment necessary to complete the work embraced herein when such resources are available.

c. Provide the Tribe a periodic statement of account identifying the projects for which 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.

2. The Tribe will:

a. Provide the State with individual project requests to perform the necessary work on a project by project basis.

b. Deposit with the State sufficient funds for the cost of the work, all or any part of which will be used by the State to fund the cost of performing the work.

c. Solely bear the cost of the work embraced herein without State or Federal funds.

d. Insure that sufficient Tribe funds are available for the State to accomplish the work contemplated, and deposit with the State additional funds as may be required to complete the work. Such additional deposits will be made upon request of the State when the funds in the account have been depleted, or when the account balance is so low that funds for the cost of anticipated or ongoing work are not expected to be sufficient to cover the State's expenditures.

III. MISCELLANEOUS PROVISIONS

1. The State will not be obligated to perform the work contemplated herein, or incur expenditures associated with such work unless sufficient funds are then on deposit with the State, or when labor, materials or equipment are not available to the State.

2. The State assumes no financial obligation or liability under this agreement whatsoever. The Tribe assumes full responsibility for the adequacy and accuracy of environmental assessments and reports, the design, plans, specifications, reports, engineering and geological testing in connection therewith. 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 Tribe and that the Tribe 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, or the Tribe, 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 and attorneys' fees.

3. The cost of any design or engineering work covered by this agreement is to be borne by the Tribe, but should some unforeseen condition or curcumstance increase the cost of the work to be performed by the State in excess of the amount shown in the recital, the State shall not be obligated to incur any expenditure in excess of the Tribe's deposit.

4. This agreement shall remain in force and effect for a period of five years from the effective date, and will be automatically renewed for successive periods of five years, unlesss sooner terminated by either the Tribe or the State, or other competent authority.

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

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

7. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this agreement.

8. 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.

9. 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, Arizona 85007	Colorado River Indian Tribes Chairman Route 1, Box 23-B Parker, AZ 85344

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.

COLORADO RIVER INDIAN TRIBES	STATE OF ARIZONA Department of Transportation
By _____ DANIEL EDDY, JR. Chairman	By _____ PETER L. ENO Contract Administrator

ATTEST:

By _____
LaWANDA LAFFOON
Secretary

98-219.doc
29dec

JPA 98-219

RESOLUTION

BE IT RESOLVED on this 27th day of December 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 Colorado River Indian Tribes for the purpose of establishing a preliminary engineering survey account.

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

DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group
for Mary E. Peters, Director

Resolution No 28-98

RESOLUTION

COLORADO RIVER TRIBAL COUNCIL

A Resolution to APPROVE PROCEEDING WITH THE AWARDED ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT) TRAIL GRANT PROPOSAL OF $200,800 ($160,150 ADOT, $40,650 CRIT) TO CONSTRUCT A 4 MILE INTERPRETIVE TRAIL AND LANDSCAPE THE 4 CORNERS AREA

Be it resolved by the Tribal Council of the Colorado River Indian Tribes, in regular / special meeting assembled on February 13, 1998

WHEREAS, the Tribes have been awarded $160,150 for the construction of the said project; and

WHEREAS, the Tribes match requirement for the Arizona Department of Transportation Grant is 20% of the total grant $40,650; and

WHEREAS, this match will be used to pay Arizona Department of Transportation for project management and contingency costs; and

WHEREAS, this match will also pay for project construction start up costs; and

WHEREAS, this plan was also approved by the Resources Development Committee in January; and

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council hereby approves the plan to construct a 4 mile interpretive trail and landscape the Four corners area; and

BE IT FURTHER RESOLVED that the matching funds $40,650 will be committed in matching and in-kind funds from the Colorado River Indian Tribes; and

BE IT FINALLY RESOLVED that the Tribal Council Chairman and Secretary of the council, or their designated representatives, are hereby authorized to execute any and all documents necessary to implement this action including environmental and archaeological clearances, Right of Ways, match funds and contracts with participating parties.

The foregoing resolution was on February 13, 1998 duly approved by a vote of 6 for, 0 against and 1 abstaining, by the Tribal Council of the Colorado River Indian Tribes, pursuant to authority vested in it by Section VI Article 1 f &h of the Constitution and By laws of the Tribes, ratified by the Tribes on March 1, 1975 and approved by the Secretary of the Interior on May 29, 1975, pursuant to Section 16 of the Act of June 18, 1934, (46 Stat. 984). This resolution is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By Daniel Eddy Jr.
Chairman

Lawanda Laffron
Secretary

JPA 98-219

APPROVAL OF

THE COLORADO RIVER INDIAN TRIBES ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the COLORADO RIVER INDIAN TRIBES and declare this agreement to be in proper form and within the powers and authority granted to the Tribes under the laws of the Tribes.

DATED this 2nd day of February, 1998.

Attorney

STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ 85007-2926

JANET NAPOLITANO
ATTORNEY GENERAL

TRN Main: (602) 542-1680
Direct: (602) 542-8837
Fax: (602) 542-3646

MAIN PHONE: (602) 542-5025
FACSIMILE: (602) 542-4085

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR98-2719TRN, 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 27, 1999.

JANET NAPOLITANO
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:et/85500

Enc.

COLORADO RIVER INDIAN TRIBES

'Ahakhav Tribal Preserve

ROUTE 1, BOX 23-B
PARKER, ARIZONA 85344
TELEPHONE (520) 669-8831 • FAX (520) 669-5354
E-Mail: hyahokahe@aol.com

8-29

E. Jack Hammitt
Joint Project Administrator
Arizona Dept. of Transportation
205 South 17th Ave, mail drop 616E
Phoenix, AZ 85007

CC: Marc Danelowitz

August 24, 1999

Dear Jack,

Enclosed are the three signed, original IGA agreements, plus the written approval of the tribal attorney, and a copy of the tribal resolution approving the grant agreement for the Ahamacave Trail Project in Parker, Arizona. A copy of this letter has been sent to Marc, as he is ever helpful, and to keep him abreast of the progress of the grant.

It was pleasant to talk with you on the phone. Perhaps one day you will come up and walk the trail! If you have any questions, or need more information, please call Terry Shaffer or myself, or at 520-669-2664.

Sincerely yours,

Fred Phillips
Project Administrator

Office Memorandum OF THE COLORADO RIVER INDIAN TRIBES

TO: Fred Phillips, Ahakhav Tribal Preserve

DATE: February 27, 1998

FROM: Daniel Eddy, Jr., Tribal Chairman ACTING

SUBJECT: Adoption of Proposed Resolution

At its special meeting of February 13, 1998, the Tribal Council took action to adopt the proposed resolution to Approve Proceeding with the Awarded Arizona Department of Transportation (ADOT) Trail Grant Proposal of $200,800 ($160,150 ADOT, $40,650 CRIT) to construct a 4 mile Interpretive Trail and Landscape the 4 Corners Area.

Further action was taken to set aside a total of $30,000 from the Council's Contingency Account for the Tribes' portion of the required cash inkind.

Notify the Arizona Department of Transportation of the Council's action and process the necessary documents for signature.

By copy of this memorandum, Controller Dennis Vaughan is apprised of Council's action and is directed to make the necessary budget adjustment.

xc: Tribal Council
Dennis Vaughan, Controller

Rec'd 3/4/98 JR

Office Memorandum
OF THE COLORADO RIVER INDIAN TRIBES

To: Fred Phillips, Project Administrator, Ahakhav Tribal Preserve
From: Tara Velez, Acting Attorney General
Subject: IGA for ADOT Funded Trail Grant
Date: February 2, 1999

As you requested, I reviewed and signed the last page of the attached IGA. Thank you for providing the resolutions which authorize engaging in the contract.

Below are a few concerns I had regarding the agreement. I understand that the Tribes may be required to sign the agreement as currently written in order to receive assistance from the state and that it engaged in this contract previously with no negative effects. However, I would still like to make you aware of the possible consequences. Other than those discussed below, I had no legal concerns or problems with the IGA.

1. On page 3, Section III, paragraph 2, the Tribes solely bear any and all liability should any arise under this agreement. It also is required to indemnify the state for any liability the state incurs. Generally this type of clause should be avoided.

2. Paragraph 8 on page 3 calls for arbitration in the event of a dispute. This may limit sovereign immunity.

3. The agreement lacks a termination clause. The only reference to termination is in paragraph 4 which states the contract will automatically renew unless terminated sooner by either party. This may allow either party to terminate with no notice to the other party. However, it is more likely that reasonable notice will be required.

Please call me at 669-1271, if you have any questions.

FEDERAL-AID HIGHWAY PROGRAM
INTERGOVERNMENTAL AGREEMENT PROJECT REQUEST FORM

TO: ENGINEERING CONSULTANTS SECTION
JACK HAMMITT, MANAGER
AGREEMENTS BRANCH

12-7-98

98-219

FROM: MARK DANELOWITZ
PROJECT MANAGER
LOCAL GOVERNMENT SECTION

Project No. TEA-ICR-0(1)P

TRACS No. SL434 01C

Project Location AHAMACAVE TRAIL PROJECT

Project Termini ——

Project Sponsor COLORADO INDIAN TRIBE

SPONSOR CONTACT MS. TERRY SHAFFER
TITLE
ADDRESS ROUTE 1, BOX 23-B
PARKER, AZ. 85344
TELEPHONE (520) 669-2664 - FAX= (520) 669-2425

SCOPE OF WORK CONSTRUCT MULTI-USE PATH

Cost to ADOT 0

Estimated Project Cost (incl. 15% CE Cost) $

Federal Funds @ % $

Funds @ % $

Non Federal-Aid Funds $

% Surcharge on total estimated cost as per
Local Government Engineer policy memo of April 4, 1994 $

TOTAL FUNDS $

COMMENTS PRELIMINARY ENGINEERING - SURVEY ACCOUNT

TRANSMISSION VERIFICATION REPORT

TIME : 10/14/1999 08:53
NAME : ADOT LOCAL GOVERNMT
FAX : 6024073253
TEL : 6022558107

DATE,TIME	10/14 08:48
FAX NO./NAME	95206692425
DURATION	00:04:57
PAGE(S)	08
RESULT	OK
MODE	STANDARD