A.G. Contract No. KR99 1563TRN
ADOT ECS File: JPA 99-109
Project: TEA-SVS-0(3)P
Tracs: SL 424 01C
Section: Lenzner Avenue Multi-Use Path

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

THIS AGREEMENT is entered into 8 November, 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 CITY OF SIERRA VISTA, 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 and 28-334 to enter into this agreement and has by resolution, a copy of which is attached hereto and made 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. 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 City has been selected by the City; the survey of the project has been completed; and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.

NO 23659
Filed with the Secretary of State
Date Filed: 11/08/99
Betsey Bayless
Secretary of State
By Vicky V. Groenewold

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

6. The City, in order to obtain federal funds for the Transportation Enhancement Project, is willing to provide City funds to match federal funds in the ratio required or as finally fixed and determined by the FHWA.

7. The work embraced in this agreement and the estimated costs are as follows: Transportation Enhancement Project, Lenzner Avenue Multi Use Path and Landscaping.

Estimated Project Cost	$170,018.00
Federal Aid Funds @ 80%	$136,014.00
City Funds @ 20%	$ 34,004.00

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.

a. If such project is approved by FHWA and the funds are available for the project, the City with the aid and consent of the State and the FHWA will proceed with the design and construction of the project. Such project will be performed, completed, accepted and paid for in accordance with the requirements of the FHWA. The State will enter into a Project Agreement with FHWA covering the work embraced in said transportation enhancement project 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 City shall be obligated to incur any expenditure in excess.

2. Prior to the commencement of design, the City 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 City shall provide for, at its own cost and as an annual item in its budget, appropriate and proper maintenance.

4. The City shall allow public access to the completed project and grounds during normal business hours.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the project, any engineering in connection therewith, cost over-runs and 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 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. The cost of the design and construction of the work contemplated by this agreement is to be borne by FHWA and City, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, City 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 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 hereby 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 17th Avenue, Mail Drop 616E, Room 293
Phoenix, AZ. 85007

City of Sierra Vista
Public Works Director
1011 N. Coronado Drive
Sierra Vista, AZ 85635

8. Attached hereto is the written determination of each party's legal council 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 SIERRA VISTA

By _____
ETHEL H. BERGER
Mayor Pro Tem

STATE OF ARIZONA
Department of Transportation

By _____
~~PETER L. ENO~~ (CATHERINE J. Hegel)
Contract Administrator

ATTEST:

By _____
SANDRA L. KENNY
City Clerk

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RESOLUTION

BE IT RESOLVED on this 19th day of July 1999, 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 Sierra Vista for the purpose of defining responsibilities for transfer of enhancement funds for a Lenzner Avenue multi-use path.

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

JPA 99-109

APPROVAL OF THE SIERRA VISTA CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF SIERRA VISTA 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 _____, 1999.

_____

City 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. KR99-1563TRN, 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 November 1, 1999.

JANET NAPOLITANO
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:et/95214

Enc.