AG Contract No. KR00 2178TRN
ADOT ECS File No. JPA 00-187
Project No. TEA-SUR-0(1)P
TRACS No. SS488 01C
Project: Pave Dirt Streets Citywide

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF SURPRISE

THIS AGREEMENT is entered into 8 February, 2001, pursuant to the provisions of Arizona Revised Statutes Section 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 SURPRISE, 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 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. Congress has authorized appropriations for, but not limited to, the design and construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.

4. Such project within the boundary of the City has been selected by the City; the field 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 approval.

NO 24450
Filed with the Secretary of State
Date Filed: 02/08/2001
Betsey Bayless
Secretary of State
By Vicky D. Gruenewald

5 The only interest of the State in this 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 work embraced by this agreement, to be constructed by City forces, and the estimated cost is as follows: Pave Dirt Streets Citywide.

Estimated Project Cost	$303,181.00
Federal Aid Funds @94.3%	$285,900.00
Surprise City funds @5 7%	$ 17,281.00

THEREFORE, in consideration of the mutual agreements 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 City with the aid and consent of FHWA and the State will proceed to construct the project; such project to be performed, completed, accepted and paid for in accordance with the approved plans and specifications. The State will enter into a Project Agreement with FHWA covering the work embraced in said construction 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 for any expenditure in excess of the estimates herein.

2. Prior to construction, the City shall set aside sufficient funds in the amount determined to be necessary to match federal funds.

3. The City shall acquire, without cost to the State, any necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

4. The City shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom, prior to the start of construction.

5. The City shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the City.

6. Upon completion of construction, the City shall provide maintenance unless assumed by another governmental entity.

7. The City will provide personnel to administer and supervise construction. All construction project change orders are to be copied to the State.

8. The City 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 City fails to comply with the plans, specifications or any relevant State or federal statutes, rules, or regulations, the City shall hold the State harmless from any claims or costs incurred by the State as a result of the City's failure to comply.

9. State employees may perform any inspections of the project or audit any books or records of the City in order for the State to assure 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 City 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 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 the work and related deposits or reimbursements.

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 Surprise
City Engineer
PO Box 1300
Surprise, AZ 85925

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 SURPRISE

By _____
JOAN SHAFER
Mayor

STATE OF ARIZONA
Department of Transportation

By _____
CATHERINE J. HEGEL
Contract Administrator

ATTEST

By _____
SHERRY AGUILAR
City Clerk

00-187.doc
27Nov2000

JPA 00-187

RESOLUTION

BE IT RESOLVED on this 24th day of October 2000, 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 Surprise for the purpose of defining responsibilities for the design, construction, maintenance and operation improvements to dirt street City wide and conveying federal funds for same.

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 99-187

APPROVAL OF THE SURPRISE CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF SURPRISE 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 16 day of January, 2000.

George (Ted) Marincel

City Attorney-Deputy

#24

CITY OF SURPRISE
COUNCIL AGENDA ACTION FORM

X **Regular Meeting**
Special Meeting
Workshop

MEETING SCHEDULED:
Time: **January 11, 2001**
Date: **6:00 P.M.**

THE FOREGOING INSTRUMENT IS A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL RECORD IN THE OFFICE OF THE CITY CLERK.
ATTEST BY: Linda B. Steele
DATE: January 4, 2001

Submitting Department: **ENGINEERING**
Contact Person: **ELLIS G. PERL, P.E./CE**

Consent X
Regular

Requesting Action X
Report Only O

Type of Document Needing Approval:

O Public Hearing
O Resolution
O First Reading/Ordinance
O Grant O Submission O Acceptance
O Agreement
O Final Reading/Ordinance
O Emergency Clause
O Special Consideration
X **Intergovernmental Agreement**

Council Priority (Check Appropriate Areas):

O Communications
O Cultural Diversity/Racial Equity
O Economic Development
O Growth Management
O Quality Service Delivery
O Neighborhoods
O Public Safety
X **Rebuild & Maintain** Infrastructure
O Human Service Needs

Neighborhood/Commission/Committee Notified by Submitting Department:

Action Taken: **Approval**
Agenda Wording: **IGA BETWEEN ADOT AND CITY OF SURPRISE TO OBTAIN FUNDS FROM ADOT TO PAVE CERTAIN DIRT ROADS – PM-10, RECENTLY ACCEPTED INTO THE CITY, BY THE CITY COUNCIL, FOR MAINTENANCE.**

Background (Attach separate sheet if necessary):
IGA, Resolution and memo of Dec. 4, 2000. Documents were submitted to ADOT including resolution, accepting roads into city system earlier this year.

Recommendation: **To be completed early in the Spring of 2001.**

Fiscal Impact: Yes X No
Budget Account Code: 8000-6997 **Amount Available:** $303,181
List Attachments as Follows:
On file for review in the City Clerk's Office: **IGA, RESOLUTION & MEMO OF DEC. 4, 2000**

Include in Council Packets:

Signatures of Submitting Officers (Sign Legibly):

Dept. Head — Supervisor — Finance Administrator

Legal Review — City Manager/Designee

Distribution After Council Action:
Ellis Perl
Pat White
- agenda file

City Clerk: Originals - agreement

Council Action:
Motion/Second
Shafer
Montoya
Villanueva
Johnson
Anderson
Smith
Allen

Results:
For 6
Against 0
Passed ✓
Failed
Deny
Continue
Tabled
Absent Johnson (late)
Other

STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

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JANET NAPOLITANO
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR00-2178TRN, 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 5, 2001.

JANET NAPOLITANO
Attorney General

Susan E. Davis

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:ggt

Enc.

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