FS Agreement No. 01-CC-11030103-006
A G. Contract No. KR00 2329TRN
ADOT ECS File: JPA 00-198
Project No. NSB Az9-9(13)P
TRACS No. H5388 13D/13C
Section: US-191 Sheep Saddle
Day Use Area

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE APACHE-SITGREAVES NATIONAL FORESTS

THIS AGREEMENT is entered into 5 MARCH, 2001 pursuant to Arizona Revised Statues 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 APACHE-SITGREAVES NATIONAL FORESTS acting by and through its Forest Supervisor.

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 Forest Service is empowered by the Cooperative Funds Act of June 30, 1914, 16 U.S.C. 498 and the Intergovernmental Cooperative Act of 1968, Title III, 31 U.S.C. 6501-6508, Pub. L. 90-577, as amended, Pub. L. 97-258, September 13, 1982, and has delegated to the undersigned the authority to execute this agreement on behalf of the Forest Service.

3. The Transportation Equity Act for the 21st Century, PL105-178 (TEA-21) of 1998 includes provisions for Scenic Byways funding on the US-191 scenic byway which establishes a program providing State administered funds to be used for the development of scenic byways and related projects. State funds in the amount of $187,660.00 have been allocated to the Forest Service for the design and construction of a day use area on US-191 at the Sheep Saddle West trailhead.

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

==========

NO 24481
Filed with the Secretary of State
Date Filed: 03/05/01
Betsey Bayless
Secretary of State
By Vicky V. Groenewald

II. SCOPE OF WORK

1. The Forest Service will:

a. Complete environmental documentation in the ADOT format and submit for ADOT/FHWA approval. Provide design plans, specifications and such other documents and services required for the project, and submit them to the State for concurrence.

b. Invoice the State, in the form of Exhibit A, for the cost of the plans, specifications or other such design documents and services required for construction bidding, in a total amount not to exceed $17,060.00.

c. Call for bids and, upon the concurrence of the State, award one or more construction contracts for the project. Administer same and make all payments to the contractor. No more often than monthly, invoice the State, in the form of Exhibit A, for the reasonable direct actual cost of the project construction, with no profit or fee, in an amount currently estimated at $170,600.00. Be responsible for any contractor claims for extra compensation due to delays or whatever reason.

d. Upon completion, approve and accept the project on behalf of the parties hereto as complete. Maintain the facility in a safe, sanitary and attractive manner as designed. All construction and maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirement of the Arizona Department of Transportation "Uniform Traffic Control Manual".

e. The state and federal funding sources shall be prominently displayed on the building and interpretive displays.

2. The State will:

a. Take the right-of-way required for the improvement project into the State Highway system. Review and approve the design plans for SB funds.

b. Pay the Forest Service within 30 days after receipt and approval of an invoice, in a total amount not to exceed $17,060.00 for design.

c. Following approval of design, submit and obligate Scenic Byway Funds for construction.

d. Pay the Forest Service within 30 days after receipt and approval of monthly invoices for construction, in a total amount not to exceed $170,600.00.

III. MISCELLANEOUS PROVISIONS

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

2. This agreement shall remain in force and effect until completion of said improvements and payments; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the commencement of performance under this contract, upon thirty (30) days written notice to the other party.

3. This agreement may be cancelled in accordance with Arizona Revised Statues Section 38-511.

4. Pursuant to Section 22, Title 41, United States Code, no member of, or Delegate to, Congress shall be admitted to any share or part of this instrument, or any benefits that may arise therefrom.

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

6. Applicable laws of the State and Federal government shall govern the rights of the parties with respect to the performance of this agreement. The parties hereto shall select a process for the resolution of claims or disputes relating to this agreement, compliant with applicable laws and regulations of the State and Federal government, and acceptable to the State and Federal government. Such process will include a provision for arbitration.

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 222
Phoenix, AZ 85007

Forest Supervisor
P.O. Box 640
309 South Mountain Avenue
Springerville, AZ 85938

8. Attached hereto 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 the agreement is in proper form.

9. Improvements placed on National Forest System land at the direction of either of the parties, shall thereupon become the property of the United States, and shall be subject to the same regulations and administration of the Forest Service as other National Forest improvements of a similar nature.

10. This instrument in no way restricts the forest Service or the State from participating in similar activities with other public or private agencies, organizations, and individuals.

11. No part of this instrument shall entitle the State to any share or interest in the project other than the right to use and enjoy the same under the existing regulations of the forest Service, and the right to enforce all terms and conditions of this agreement.

12. Contributions authorized by the State for use by the Forest Service, which are not spent or obligated for project(s) approved under this instrument, will be refunded to the State or authorized for use for new projects as agreed with the State, pursuant to Part II (A) and (B) (amendments).

13. Any State contributions made under this instrument do not by direct reference, or implication convey forest Service endorsement of the State's products or activities.

14. The Principal Contacts for this instrument are:

Frank Hayes USDA Forest Service Apache-Sitgreaves NF Clifton District HC1 Box 733 Duncan, AZ 85534 520-687-1301	Arizona Department of Transportation Joint Project Administration 205 S. 17th Avenue MD 616E Phoenix, AZ 85007 602-712-8369

In witness whereof, the parties have executed this agreement the day and year first above written.

US DEPARTMENT OF AGRICULTURE
Apache-Sitgreaves National Forests

By Ray L. Kingston
for JOHN C. BEDELL
Forest Supervisor

STATE OF ARIZONA
Department of Transportation

By Catherine J. Hegel
CATHERINE J. HEGEL
Contract Administrator

00-198.doc
17jan

JPA 00-198

RESOLUTION

BE IT RESOLVED on this 22th day of November 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 US Forest Service Apache-Sitgreaves National Forest for the purpose of defining responsibilities for the design and construction of improvements to US-191 Sheep Saddle Day Use Area.

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 00-198

DETERMINATION

Arizona Contract No. JPA 00-198 which is an agreement between public agencies; to wit; the STATE OF ARIZONA, DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the UNITED STATES OF AMERICA, APACHE-SITGREAVES NATIONAL FOREST has been reviewed by the undersigned for the United States who has determined that it is in the proper form and within the powers and authority granted to the United States.

No opinion is expressed as to the authority of the State of Arizona to enter into said agreement.

DATED this 8 day of Feb, 2000.

THE UNITED STATES OF AMERICA

By Ray L Kingston
for John Bedell

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) 542-8855
Fax: (602) 542-3646

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

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR00-2329TRN, 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 26, 2001.

JANET NAPOLITANO
Attorney General

Susan Davis

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:ggt

Enc.

670542