AG Contract No.KR02-1677TRN
ADOT ECS File No. JPA 02-058
Project No. H5697 01D, 01C
TRACS NO. TEA-077-A(2)A
Section: SR 77, MP 114.15 - MP 115.33

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF MAMMOTH

THIS AGREEMENT is entered into 2nd October, 2002, 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 TOWN OF MAMMOTH acting by and through its MAYOR and TOWN COUNCIL (the "Town).

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 Town 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 Town and the County.

3. The State and the Town desire to participate in the design, construction and maintenance of sidewalks and landscaping along SR 77, MP 114.15 to MP 115.33, hereinafter referred to as the Project, for the safety and benefit of the traveling public. The parties hereto agree that the State shall be the lead agency for the Project.

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

NO. 25529
Filed with the Secretary of State
Date Filed: 10/02/02
Betsey Bayless
Secretary of State
By: Lucy D. Graenewald

II. SCOPE OF WORK

1. The Town will:

a. Review the design documents and provide comments.

b. Provide electrical energy and water service for the contractor's convenience to install the landscape enhancements. Upon completion of the project, provide electrical energy and water service for the maintenance and operation of the landscape enhancements, all at Town expense. Upon completion, approve and accept the project on behalf of the parties hereto, the Town hereby agrees to maintain the landscaping. Maintenance shall consist of the care of all landscaping in accordance with accepted horticultural practices, keeping all areas free of weeds, undesirable grasses and litter, applying irrigation water, furnishing and applying insecticide/herbicide sprays and dust to combat diseases and other pests, pruning and replanting as required to maintain the landscaping as it was designed, and established at the completion of the project. The Town will not make any changes, additions or deletions without written approval of the State. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the Arizona Department of Transportation's "Uniform Traffic Control Manual." Grant the State perpetual right of entry access outside the State right-of-way as required to perform inspection of the maintenance work by Town forces of the project.

c. Provide Town matching funds of $4,275.00 for the cost of the design engineering work within 30 days from the receipt of the invoice from the State.

2. The State will:

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction. Incorporate or resolve Town and review comments.

b. Call for bids and award one or more construction contract(s) for the Project. Administer same, and make all payments to the contractor(s).

c. Be responsible for the cost of the construction of the pathway, in an amount currently estimated at $429,561.00, and for its proportionate share of any cost increases, and for any contractor claims for extra compensation due to delays or whatever reason attributable to the State.

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 project and reimbursements; provided, however, that this agreement, except any provisions for maintenance and electrical energy, which shall be perpetual, may be cancelled at any time prior to the award of a Project construction contract, upon thirty (30) days written notice to the other party.

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

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

5. 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.

6. 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

Town of Mammoth
Town Clerk
Box 130
Mammoth, AZ 85618

7. 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.

TOWN OF MAMMOTH

By _____
CARL FOSTER
Mayor

STATE OF ARIZONA
Department of Transportation

By _____
JOHN W. CARR
Acting Contract Administrator

ATTEST

By _____
PATSY L. LARGE
Town Clerk

G:02-058-Town of Mammoth

03Sept2002

JPA 02-058

RESOLUTION

BE IT RESOLVED on this 25th day of June, 2002, that I, the undersigned VICTOR M. MENDEZ, 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 Town of Mammoth, for the purpose of defining the responsibilities for the design, construction, and maintenance of sidewalks and landscaping along SR 77, MP 114.15 to MP 115.33, for the benefit and safety of the traveling public.

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

John W. Carr

JOHN W. CARR, Staff Engineer
Intermodal Transportation Division

for VICTOR M. MENDEZ, Director

TOWN OF MAMMOTH
MINUTES OF REGULAR MEETING
SEPTEMBER 17, 2002

MINUTES OF THE REGULAR COUNCIL MEETING OF THE TOWN OF MAMMOTH HELD SEPTEMBER 17, 2002, PURSUANT TO THE NOTICE REQUIRED BY LAW.

1. CALL TO ORDER

MAYOR FOSTER CALLED THE MEETING TO ORDER AT 6:05 P.M.

2. PLEDGE OF ALLEGIANCE

MAYOR FOSTER LED THE PLEDGE OF ALLEGIANCE

3. ROLL CALL

COUNCIL MEMBERS PRESENT

COUNCILWOMAN BAILEY
COUNCILMAN GOFF
COUNCILMAN BUSTAMANTE
COUNCILMAN TAMAYO
COUNCILWOMAN RAMIREZ
MAYOR FOSTER

STAFF PRESENT

PATSY LARGE, TOWN CLERK
MILDRETHA TAYLOR, LIBRARIAN
MICHAEL BALLARD, POLICE CHIEF
JOSEPH R. GEORGINI, ATTORNEY
JUAN PONCE, PW DIRECTOR

COUNCIL MEMBERS ABSENT

VICE MAYOR BARCELO

4. CONSENT AGENDA

A. APPROVAL OF MINUTES

1. MINUTES OF THE REGULAR MEETING OF AUGUST 20, 2002

B. APPROVAL OF STAFF RECOMMENDATIONS AND REPORTS

1. TOWN CLERK/TREASURER'S REPORT
2. POLICE REPORT
3. MAGISTRATE REPORT
4. PUBLIC WORKS DIRECTOR
5. LIBRARY REPORT
6. ATTORNEY'S REPORT

C. APPROVAL OF ACCOUNTS PAYABLE FOR PAYMENT AND FILING

COUNCILWOMAN RAMIREZ STATED THAT SHE NOTICED THAT THERE WAS NO REPORT FROM THE PUBLIC WORKS DEPARTMENT AND THE LIBRARY, ARE WE SUPPOSED TO GET ONE?

MAYOR FOSTER STATED THAT WE SHOULD REQUIRE THE DEPARTMENT HEADS TO SUBMIT REPORTS.

COUNCILMAN GOFF MOTIONED TO APPROVE THE CONSENT AGENDA. SECONDED BY COUNCILMAN TAMAYO. MOTION PASSED UNANIMOUSLY.

5 NEW BUSINESS – DISCUSSION AND/OR ACTION ON THE FOLLOWING:

A TRANSWORLD SYSTEMS – ROBIN MILLER

MS. MILLER DID NOT SHOW FOR THE MEETING. NO ACTION.

B. CHILI COOK OFF – FRED VERDUGO

JUDY PARSONS REPRESENTED FRED VERDUGO IN REQUESTING GARBAGE CANS, USE OF THE TEMPORARY FENCE, AND BLOCKING OFF THE SOME OF THE STREETS FOR THE PARADE. THE CHAMBER OF COMMERCE WILL BE SPONSORING THE CHILI COOK OFF ON OCTOBER 5, 2002

COUNCILMAN GOFF MOTIONED TO ALLOW THE CHAMBER OF COMMERCE TO USE THE TEMPORARY FENCE, GARBAGE CANS, AND WORK WITH THE POLICE DEPARTMENT ON GETTING THE STREETS BLOCKED OFF. SECONDED BY COUNCILWOMAN RAMIREZ. MOTION PASSED UNANIMOUSLY.

C. LITTLE HOLLYWOOD PROPERTY – TRACY GONZALES

MS. GONZALES ADVISED THE COUNCIL THAT A PORTION OF THE FENCE AND BUILDING AT THE WATER TANK IS ON HER PROPERTY, WHEN THE TOWN DRAINS THE TANK THE WATER DRAINS ON HER PROPERTY, THE TOWN USES THE DRIVEWAY THAT IS ON HER PROPERTY. AND THERE ARE CABLE AND WATERLINES CROSSING HER PROPERTY. SHE WANTED TO KNOW WHAT THE TOWN IS GOING TO DO BECAUSE SHE WILL BE USING THE PROPERTY SOON.

COUNCILMAN BUSTAMANTE MOTIONED TO TABLE THIS ITEM UNTIL THE PLANNING AND ZONING COMMITTEE AND THE ATTORNEY HAD A CHANCE TO LOOK IT OVER. SECONDED BY COUNCILMAN TAMAYO. MOTION PASSED UNANIMOUSLY.

D TRIANGLE AT THE NORTH END OF TOWN – DEBBIE FOSTER

DEBBIE FOSTER REQUESTED THE COUNCIL TO ALLOW HER TO LEVEL THE MOUNDS AND ASKED THE PUBLIC WORKS DEPARTMENT IF THEY COULD MOVE THE SIGN FOR BETTER VISIBILITY. AFTER LEVELING THE GROUND SHE WOULD DONATE THE SEE TO REPLANT GRASS

NO ACTION TAKEN.

E. SWIMMING POOL – PAT BROWN

PAT BROWN REQUESTED THE COUNCIL TO ALLOW THE SENIOR SWIMS TO CONTINUE FOR ONE MORE WEEK. THE LAST DAY WOULD BE SEPTEMBER 27, 2002

THE COUNCIL AGREED TO ALLOW THE SENIOR SWIM TO CONTINUE FOR ANOTHER WEEK PROVIDED THE COSTS OF THE LIFEGUARD WAGES IS PAID.

F AUTHORIZE PURCHASE OVER $4250.00 – JUAN PONCE

MR. PONCE, PUBLIC WORKS DIRECTOR, EXPLAINED TO THE COUNCIL THAT OSHA REQUESTED THAT THE PURCHASE AN OXYGEN MONITOR FOR CLOSED SPACES. THE

COST WOULD BE APPROXIMATELY $988 00; WHICH INCLUDES THE INSTRUMENT, TUBE, AND PUMP.

COUNCILMAN BUSTAMANTE MOTIONED TO ALLOW THE PURCHASE OF THE OXYGEN MONITOR FOR APPROXIMATELY $988.00. SECONDED BY COUNCILWOMAN RAMIREZ. MOTION PASSED UNANIMOUSLY.

G. PURCHASE JACK HAMMER – JUAN PONCE

MR. PONCE REQUESTED THE APPROVAL TO ALLOW HIM TO PURCHASE A JACKHAMMER BETWEEN COSTS OF $900-$1200

COUNCILWOMAN BAILEY MOTIONED TO ALLOW MR. PONCE GET QUOTES FOR THE PURCHASE OF A JACKHAMMER, PRESENT THEM TO THE MAYOR AND VICE MAYOR FOR APPROVAL TO PURCHASE A JACKHAMMER. SECONDED BY COUNCILWOMAN RAMIREZ. MOTION PASSED UNANIMOUSLY.

H. ALLOW MAYOR TO SPEAK ON TOWN'S BEHALF – MAYOR KARL FOSTER

MAYOR FOSTER EXPLAINED TO THE COUNCIL THAT HE IS INTERESTED IN TRYING TO GET A TAX RELIEF FOR THE RESIDENTS IN THIS AREA. THE RESIDENTS OF SAN MANUEL RECEIVED A TAX RELIEF WHEN BHP CLOSED DOWN AND HE WOULD LIKE MAMMOTH TO RECEIVE THE SAME. HE ASKED FOR THE COUNCIL'S APPROVAL TO SPEAK ON THEIR BEHALF.

COUNCILWOMAN BAILEY MOTIONED TO ALLOW MAYOR FOSTER SPEAK ON THE COUNCIL'S BEHALF IN THE ATTEMPT TO GET A TAX RELIEF. SECONDED BY COUNCILWOMAN RAMIREZ. MOTION PASSED UNANIMOUSLY

I. ADOT AG CONTRACT #KRO2-1677TRN – PATSY LARGE

PATSY LARGE, TOWN CLERK, REQUESTED THE COUNCIL TO APPROVE THE ENCLOSED INTERGOVERNMENTAL AGREEMENT WITH ADOT, SO THEY MAY SEND IT ON TO THE SECRETARY OF STATE FOR FILING. THIS WOULD INCLUDE THE REQUIREMENT OF MATCHING FUNDS FROM THE TOWN IN THE AMOUNT OR $4275.00 FOR DESIGN ENGINEERING WORK.

MR. JOSEPH GEORGINI, TOWN ATTORNEY, STATED THAT HE HAD REVIEWED THE DOCUMENT AND HAD NO PROBLEMS WITH THE CONTENTS.

J. LAND ACQUISITION – PATSY LARGE

PATSY LARGE STATED THAT SHE HAD BEEN IN CONTACT WITH SUSAN BERNAL WITH BUREAU OF LAND MANAGEMENT REGARDING THE PROPERTY ABOVE THE CEMETERY. THE BUREAU OF LAND MANAGEMENT HAD INDICATED IN THEIR LETTER DATED MARCH 28, 2002 THAT THE TOWN IS REQUIRED TO SUBMIT A $5000 CHECK FOR APPRAISAL COSTS AND FOR SURVEYING THE PROPERTY.

COUNCILMAN BUSTAMANTE MOTIONED TO PAY THE $5,000 TO THE BUREAU OF LAND MANAGEMENT FOR THE COSTS INVOLVED IN PURCHASING THE 80 ACRES. SECONDED BY COUNCILWOMAN RAMIREZ. MOTION PASSED UNANIMOUSLY

K. APPOINT PLANNING AND ZONING COMMITTEE – PATSY LARGE/COUNCIL

MAYOR FOSTER ASKED THE COUNCIL TO VOTE FOR FIVE PEOPLE OUT OF THE SEVEN LETTERS OF INTEREST TO CREATE THE PLANNING & ZONING COMMITTEE. MAYOR FOSTER RE-APPOINTED PREVIOUS MEMBERS LEE TAYLOR AND RAYMOND LEYBAS BECAUSE THEY WERE SERVING WHEN THE COMMITTEE WAS ABOLISHED NEARLY TWO YEARS AGO. EACH COUNCIL MEMBER WAS GIVEN A LIST OF THE REMAINING NAMES SUBMITTED THE VOTING WAS DONE BY CASTING SECRET BALLOTS.

THE RESULTS WERE AS FOLLOWS:

THERESA THROOP – 5 VOTES
RUDY ROMO - 3 VOTES
DEBORA FOSTER - 4 VOTES
FRANCES RODRIGUEZ WICKHAM – 2 VOTES
JERRY ROMERO – 3 VOTES

A RUN OFF BETWEEN RUDY ROMO AND JERRY ROMERO WAS HELD. THE RESULTS WERE:

JERRY ROMERO – 4 VOTES
RUDY ROMO – 4 VOTES

THE FIVE MEMBER PLANNING AND ZONING COMMITTEE AND THEIR APPOINTED TERM WILL BE:

LEE TAYLOR - 2 YEAR TERM
RAYMOND LEYBAS - 2 YEAR TERM
THERESA THROOP - 3 YEAR TERM
DEBORA FOSTER - 1 YEAR TERM
JERRY ROMERO - 3 YEAR TERM

L PURCHASE OF A NEW COMPUTER – MIKE BALLARD

POLICE CHIEF BALLARD ADVISED THE COUNCIL THAT HIS COMPUTER HAD GONE DOWN AND HE REQUESTED AUTHORIZATION FROM THE COUNCIL TO REPLACE IT THE COST WOULD BE APPROXIMATELY $1120.00 PLUS TAX. HE WOULD PURCHASE FROM INTERSTATE SYSTEMS.

COUNCILWOMAN BAILEY MOTION TO APPROVE THE PURCHASE A COMPUTER FOR THE POLICE DEPARTMENT FOR APPROXIMATELY $1120.00 SECONDED BY COUNCILMAN GOFF MOTION PASSED UNANIMOUSLY

6 COUNCIL COMMENTS

COUNCILMAN GOFF COMMENTED HE WORKS LONG HOURS AND REQUESTED THE MAYOR, VICE MAYOR AND PATSY WOULD SEND MEMOS AS TO WHAT IS GOING ON IN TOWN; ITS NOT THAT HARD. AND HE REQUESTED THAT THE WATER QUALITY ITEM TABLED FROM THE LAST MEETING GET PLACED ON THE NEXT AGENDA.

COUNCILMAN TAMAYO STATED THAT HE DIDN'T THINK BALLARD DOING HIS JOB BECAUSE THE TRAILER PARK ACROSS THE STREET WAS NOT BEING CLEARED OUT, ALL HE'S HEARD IS EXCUSES AND NOTHING IS BEING DONE ABOUT IT.

MAYOR FOSTER ADVISED THE COUNCIL THAT THE OWNER HAD BEEN CITED AND IS BEING SUMMONED TO APPEAR IN COURT NEXT FRIDAY.

COUNCILMAN BUSTAMANTE THANKED ALL PARTICIPANTS WHO SUBMITTED LETTERS OF INTEREST IN THE PLANNING AND ZONING COMMITTEE.

COUNCILMAN GOFF STATED THAT THE STREETLIGHT LOCATED ON HIGHWAY 77 AS YOU COME INTO MAMMOTH STAYS ON 24 HOURS A DAY.

MAYOR FOSTER STATED THAT HE WOULD CONTACT BIA REGARDING THE LIGHTS.

7. CALL TO PUBLIC

TINO SAIZ THANKED COUNCILMAN GOFF FOR BRINGING UP THE CONCERNS OF THE WATER QUALITY.

RICARDO ROMO QUESTIONED THE ATTEMPT TO GET THE PROPERTY TAXES LOWERED FOR THE RESIDENTS IN MAMMOTH AND THE EFFECTS IT WOULD HAVE ON THE TOWN HE ALSO QUESTIONED THE PURCHASE OF A JACKHAMMER VERSES RENTAL. MR ROMO QUESTIONED THE USE OF AN OXYGEN MONITOR FOR CONFINED SPACE AND QUALIFIED PERSONNEL HAVING PROPER TRAINING. HE ALSO REQUESTED THAT THE MAYOR RE-READ THE ORDINANCE PERTAINING TO THE PLANNING AND ZONING COMMITTEE

TINO SAIZ STATED THAT HE REQUESTED A WASH CLEANED OUT NEAR HIS HOUSE AND THE PUBLIC WORKS DEPARTMENT CLEANED IT OUT BUT LEFT THE GARBAGE IN A CULVERT.

ROY ROMO HAD A COMPLAINT ABOUT THE WASTE MANAGEMENT TRUCK DRIVER WHO DUMPS GARBAGE ON THE STREETS AND DO NOT STOP TO PICK IT UP.

8. ADJOURN

COUNCILWOMAN BAILEY MOTIONED FOR ADJOURNMENT SECONDED BY COUNCILWOMAN RAMIREZ. MOTION PASSED UNANIMOUSLY.

MEETING WAS ADJOURNED AT 7:25 P.M.

I HEREBY CERTIFY THAT THE FOREGOING MINUTES ARE A TRUE AND CORRECT COPY OF THE MINUTES OF THE TOWN OF MAMMOTH COUNCIL MEETING HELD SEPTEMBER 17, 2002. I FURTHER CERTIFY THAT THE MEETING WAS CALLED AND DULY HELD.

Patty L. Lara
TOWN CLERK

MAYOR

ATTEST:

TOWN ATTORNEY

JPA 02-058

APPROVAL OF THE TOWN OF MAMMOTH ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF MAMMOTH and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 17TH day of September, 2002.

Attorney

JANET NAPOLITANO
ATTORNEY GENERAL

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL
TRANSPORTATION SECTION
1275 WEST WASHINGTON STREET, PHOENIX, AZ 85007-2926

TRN Main: (602) 542-1680
Direct: (602) 542-8855
Fax: (602) 542-3646

MAIN PHONE : (602) 542-1680
FACSIMILE : (602) 542-3646

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR02-1677TRN, 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 September 25, 2002.

JANET NAPOLITANO
Attorney General

Susan Davis

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

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