A. G. Contract No. KR02-1412TRN
ADOT ECS File: JPA 02-114
TRACS: G2129
Project: Rural Public Transportation
Federal Transit Administration (FTA)
FTA Grant No.: AZ-18-X021 FY 2003
Section 5311 Transit

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF COOLIDGE
P.O. Box 1498
Coolidge, AZ 85228

THIS AGREEMENT is entered into 4th September, 2002, pursuant to Arizona Revised Statutes Section 11-952 through 11-954 as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, through its Transportation Planning Division (the "State") and the CITY OF COOLIDGE, acting by and through its MAYOR and CITY COUNCIL or "the Contractor".

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 of Coolidge 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 of Coolidge.

3. The Federal Transportation Equity Act, Twenty First Century (TEA-21) has made funds available effective 1 October, 2002, through 30 September, 2003 to the State to obtain and provide such funds for recipients of Section 5311 Rural Public Transportation Program.

4. The State and the City of Coolidge desire to define their respective responsibilities relating to the transfer of up to $144,237, through the State to the City of Coolidge and the expenditure thereof, herein referred to as "the PROJECT".

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

NO. 25459
Filed with the Secretary of State
Date Filed: 09/04/02
Betsey Bayless
Secretary of State
By: Billy D. Graenewald

II. SCOPE OF WORK

1. The State will:

a. Provide the City of Coolidge federal funds on a monthly cost reimbursement basis, in an amount not to exceed $144,237, for activities performed relating to the Section 5311 Rural Public Transportation Program.

b. Have the authority to re-distribute funds, if this Agreement is not received, signed by the parties herein and executed with the Secretary of State, by 30 December, 2002.

2. The City of Coolidge will:

a. Apply funding to Project work activities in strict accordance with applicable community, federal and state laws, rules and regulations.

b. Conduct related work activities generally in accordance with Exhibits A, B and C attached hereto and made a part hereof. Be responsible for all costs of the program over and above the State contribution of $144,237.

c. Provide the required $58,411 match in funds or in-kind services and invoice the State for reimbursement no more often than monthly.

d. Undertake and complete the activities as proposed in the approved application for Section 5311 funds. Such activities of the Project, shall be accomplished as described in Exhibit A, Project Services.

i. The cost of the Project is estimated as indicated in Exhibit B, Project Budget. The State assumes no financial obligation or liability hereunder.

ii. The method of payment shall be reimbursement of eligible costs incurred, up to the limits described herein. In accordance with the payment and reporting schedules prescribed by this Agreement, the City of Coolidge shall submit reports and Project billings to the State for reimbursement of non-operating and operating expenses. Approved capital expenses may be billed for reimbursement as incurred using the criteria shown on Exhibit C, Criteria For Federal Funds. In no event shall the total amount reimbursed by the State exceed the federal share approved for the Project.

iii. Billings for reimbursement of eligible expenses and reports of contract activities shall be submitted preferably on a monthly basis, but no less than quarterly on forms provided by the State's Transit Section, or on a spreadsheet template.

III. MISCELLANEOUS PROVISIONS

1. The only interest of the State in this Agreement is to convey federal pass through funds for the use and benefit of the City of Coolidge by reason of state and federal law under which funds for the activities are authorized to be expended. The City of Coolidge 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, nonperformance or negligent performance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, the City of Coolidge, 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 said activities and reimbursements; provided, however, that this Agreement may be cancelled at any time prior to the commencement of performance, upon thirty (30) days written notice to the other party.

3. Should the work contemplated under this Agreement be completed at a lower cost than the reimbursed amount, or for any other reason should any of these funds not be expended, or expended in other than strict accordance with the terms and conditions of this Agreement, a proportionate amount of the funds provided shall be reimbursed to the State. Project vehicles may not be used for any other purpose than those directly meeting the terms and conditions of this Agreement.

4. The City of Coolidge shall not assign any portion of the work to be performed under this Agreement or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of State.

5. Should subcontractors be authorized by State, the subcontractors will be subject to all provisions of this Agreement. It will be the City of Coolidge's responsibility to duly inform the subcontractors by means of a contract or other legally binding document stipulating the subcontractors responsibility to comply with this Agreement.

6. This Agreement shall become effective upon filing with the Arizona Secretary of State.

7. This Agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

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

9. 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.

10. Federal funds for the described Scope of Work are contingent upon availability of funding and approvals as appropriate by FTA and ADOT.

11. All notices or demands upon any party relating to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

For Contract Issues:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX 602-712-7424

City of Coolidge
Transit Manager
P.O. Box 1498
Coolidge, AZ 85228
520-723-6008

For Reimbursements:

Arizona Department of Transportation
Transportation Planning Division/Transit Section
206 South 17th Avenue, MD 340B
Phoenix, AZ 85007 Phone: 602-712-7463
FAX 602-256-7563

City of Coolidge
(same as above)

12. 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 that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

THE CITY OF COOLIDGE

By _____
WILBUR WUERTZ, Mayor

ATTEST:

By _____
LISA PANELLA, City Clerk

STATE OF ARIZONA
Department of Transportation

By _____
MARY LYNN TISCHER, Director
Transportation Planning Division

Cc: Sam Chavez

G:02-114-5311-Coolidge
02Aug2002

RESOLUTION

BE IT RESOLVED on this 13th 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 Transportation Planning Division, to enter into an agreement with various recipients for the purpose of defining responsibilities for conveying Section 5311 transit funds.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Transportation Planning Division Director for approval and execution.

MARY LYNN TISCHER, Division Director
Transportation Planning Division
for VICTOR M. MENDEZ, Director

RESOLUTION NO. 02-28

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF COOLIDGE, COUNTY OF PINAL, AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR FINANCIAL ASSISTANCE CONCERNING RURAL PUBLIC TRANSPORTATION SERVICES .

BE IT RESOLVED, by the Mayor and Common Council of the City of Coolidge, that the Mayor for the City of Coolidge is, hereby, authorized and directed to execute and deliver an Intergovernmental Agreement, contract # KR02-~~XXXX~~ 1412T RN, between the State of Arizona acting through the Department of Transportation and the City of Coolidge for financial assistance concerning the funding of public transportation in rural and small urban areas pursuant to the Federal 2002-2003 Rural Public Transportation Program.

PASSED AND ADOPTED by the Mayor and Common Council of the City of Coolidge this 12th day of August, 2002.

Wilbur Wisenty
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

JPA 02- 114

APPROVAL OF THE CITY OF COOLIDGE ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF COOLIDGE 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. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 12th day of August, 2002.

Attorney

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

JANET NAPOLITANO
ATTORNEY GENERAL

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

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

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR02-1412TRN, 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 26, 2002.

JANET NAPOLITANO
Attorney General

Susan Davis

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/srs

Att.

754742

.Exhibit A

FY 2002/ 2003

Arizona Governor's Award for Quality
2001 Award Recipient

Grant 21

Project Services

City of Coolidge

Section One

Service Area

The service area includes fixed and deviated routes within the Coolidge city limits.

Section Two

Project Summary

The Contractor shall provide public transportation service in the service area, on a demand response/curb-to-curb basis. Fixed service will be provided to a series of checkpoints located at key activity centers. Service will be Monday through Friday.

Section Three

Routes and Schedules

Routes and schedules shall be as described in the Contractor's approved application for funding.

Section Four

Fares

Fares are $1.00/one way for adults 12 years and older and $.50/one way for children 3 to 11years old. Children under 3 ride free with a paying adult.

Section Five

Cost Allocation

Since the PROJECT vehicles may also be used for non-PROJECT purposes, (with ADOT approval) the Contractor agrees to keep accurate vehicle mileage logs to distinguish between PROJECT and non-PROJECT mileage. ADOT will reimburse vehicle related operating expenses in proportion not to exceed the number of actually driven PROJECT miles as a percentage of the total miles.

Section Six

Equipment and Maintenance

The City of Coolidge transit system operates four mini-buses.

Section Seven

Schedule of Activities

The Contractor agrees to complete the following activities. Reports documenting the completion of these activities shall be submitted to ADOT by the dates shown below. ADOT may withhold reimbursements for administrative expenses if the schedule is not met by the Contractor.

ADOT

Exhibit A
Reports

Arizona Governor's Award for Quality
2001 Award Recipient

Activity	Due Date			
Transit Advisory Committee Minutes	Jan 2003	April 2003	July 2003	Oct 2003
Disadvantaged Business Enterprise Report (DBE) For applicants receiving in excess of $250,000 exclusion of vehicle purchase	July 2003			
Three Year Transit	Part of application package			
Private Sector Policies and Procedures	Part of application package			

EXHIBIT B
FY 2002/2003
Grant 21
Project Budget

City of Coolidge
Application for Section 5311 & Operating Assistance

ADMINISTRATION BUDGET

Position	% Time	Budget Amount
A. ADMINISTRATIVE EXPENSES		
Transit Manager	38%	10,397
Transit Supervisor		
Accounting Supervisor		
Office Clerk		
Total Fringe Benefits		3,625
Travel Expenses		250
Audit		
Utilities		
Telephone		600
Marketing/Advertising		1,000
Printing		500
Substance Abuse Program		600
Office Supplies		600
Computer Maintenance & Programs		500
Insurance		
Postage		
B. Administration Subtotal (Not to exceed 40% of the total federal share)		(1) **18,072**
C. Local Share (at least 20% of line 1)		(2) **3,615**
D. Federal Share Requested (no more than 80% of line 1)		(3) **14,457**

E. Local Share Source **	
LOCAL SHARE	**AMOUNT**
LTAF	**3,615**

* Federal share of Administration Budget plus federal share of Operating Budget divided by Administration subtotal (Box B) cannot exceed 40%.

** All in-kind contributions used as part of the local match must also be listed as cost items under part A above.

EXHIBIT B
FY 2002/2003
Grant 21
Project Budget

OPERATING BUDGET

A. OPERATING EXPENSES			Budget Amount
Driver/Dispatcher Salaries	3.50		69,355
Transit Manager - Driver/Dispatcher	0.16		4,326
Total Fringe Benefits			20,836
Fuel and Oil			10,000
Tires, Parts, Maintenance			10,000
Vehicle Insurance			6,000
Uniforms			500
Other Expenses (Specify below)			
Driver Medical Cert & CDL Renewal			250
TOTAL ELIGIBLE OPERATING COSTS		(1)	121,267
B. Fare Revenues (see explanation below)			23,688
"Other Operating Revenues"			-
TOTAL		(2)	23,688
C. Net Operating Costs (subtract line 2 from line 1)		(3)	97,580
D. Local Share (at least 50% of line 3)		(4)	48,791
E. Federal Share Requested (no more than 50 % of line 3)		(5)	48,790
Local Share Source *			**Amount**
LTAF			**48,791**

Be sure to include source and amount for fare differential, if any.

Explanation of Fare Revenues calculation - see Program Budget Section of Guidelines. Projects which do not expect to meet the minimum required farebox recovery ratio (22% for fixed route, 17% for demand responsive systems) must provide the difference from local funds. If "Other Operating Revenues" are expected to be utilized, total both fare revenues and other operating revenues must be subtracted from the gross operating expenses.
* All in-kind contributions used as part of the local matchmust also be listed as cost items under part A above.

EXHIBIT B
Project Budget
FY 2002/2003 - Grant 21

CITY OF COOLIDGE – BUDGET SUMMARY

	Capital	Operating	Administration	Training	Total
Fare Revenues	XXXXX	$ 23,688.00	XXXXX	XXXXX	$23,688.00
Other Operating Revenue	XXXXX		XXXXX	XXXXX	
Local Share	$ 6,005.00	$ 48,791.00	$ 3,615.00	XXXXX	$ 58,411.00
Federal	$ 79,790.00	$ 48,790.00	$14,457.00	$ 1,200.00	$144,237.00
TOTAL	$ 85,795.00	$121,269.00	$18,072.00	$ 1,200.00	$226,336.00

EXHIBIT B
FY 2002/2003
Grant 21
Project Budget

PROJECT SUMMARY STATISTICS

	Actual ridership (FY 00-01) (if in operation)	Increase Expected in = (FY 01-02)	Total Expected In FY 2002-2003	
Annual ridership	22,522	2,252	24,774	(1)
Annual Mileage	54,373	3,627	58,000	(2)
Annual Vehicle Service Hours	3,517	-	3,517	(3)
Annual Fair Receipts:			23,688	
Other Operating Revenue:				
Total Operating Revenues:			23,688	(4)
Total Non-Capital Costs (Administration Plus Operating Costs)			139,339	(5)
Administration as a percent of Non-Capital Costs (Administration divided by #5 above)			13%	(6)
Farebox/Other Oper. Revenue Recovery Ratio (#4 divided by #5)			17%	(7)
Cost per passenger trip (#5 divided by #1)			5.62	(8)
Cost per Passenger Mile (#5 divided by #2)			2.40	(9)
Cost per Vehicle Service Hour (#5 divided by #3)			39.62	(10)
Federal Share of Non-Capital costs Federal Share of Admin. Plus federal share of Operations)			63,247	(11)
Federal Cost per Passenger Trip (#11 divided by #1)			2.55	(12)
Federal Cost per Mile (#11 divided by #2)			1.09	(13)
Federal Cost per Vehicle Service Hour (#11 divided by #3)			17.98	(14)

NOTE: Systems operating in more than one mode must calculate the above statistics separately for each mode. Systems operating fixed route must calculate the above for each route.

Exhibit C
FY 2002 / 2003
Grant 21

Criteria For Federal Funds

The term Contractor(s) in this Exhibit is referencing the City of Coolidge.

1. The Federal share payable for Project Budget expenses shall be subject to the following limits:

- Capital expenses shall not exceed 80% of the net cost.
- Administrative expenses shall not exceed 80% of the net cost.
- Operating expenses shall not exceed 50% of the net operating costs or deficit.
- Anti-drug compliance costs shall not exceed 80% of the net cost.
- Training costs shall not exceed 100% of the net cost.

2. At least half of the Contractor's share for all expenses must be provided from sources other than federal funds or from approved in-kind expenses. The remaining half of the Contractor's share may be made up of unrestricted funds from other federal programs as described in Attachment B, Project Budget.

3. All donation and advertising revenues received in excess of the budgeted local match shall be used to reduce the federal share of the Project budget.

4. Each activity report shall include, but not be limited to data regarding ridership, mileage, operating hours, fare recovery ratio, cost per passenger trip, cost per mile, non capital cost per service hour, passengers per service hour, passengers per mile. State may impose a penalty of a 5% reduction of total federal reimbursement per billing period for all billings submitted more than 90 calendar days, per II. Scope of Work, Paragraph.2.d.iii. An exception will be made for the final billing, which may be submitted up to 60 calendar days after the end of the final billing period, before becoming subject to the late penalty.

5. Eligible costs are those costs attributable to the Project and allowable under the approved Project budget and the provisions of:

a) Office of Management and Budget (0MB) Circular A-87, "Cost Principles Applicable to Grants and Contracts with State and Local Government."

b) 0MB Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments."

c) 0MB Circular A-102, Attachment O, "Standards Governing State and Local Grantee Procurement."

d) 0MB Circular A-133, "Audit Requirements."

6. All costs charged to the Project shall be supported by properly executed payrolls, time records, invoices, vouchers, warrants, and any other support evidencing that those costs were specifically incurred in the performance of the Project.

7. Lien on Project Equipment - To the extent of financial assistance provided, State shall hold a first lien on all capital equipment acquired under this agreement in the amount of the federal share of the equipment cost. State shall also hold a first lien on any computer hardware, software or office equipment provided to the Contractor and paid for by State.

8. Use and Disposal of Project Equipment

a. Contractor shall observe the property management standards as set forth in OMB Circular A-102, Attachment N. The Contractor further agrees that the Project equipment shall be used for the provision of transportation service within the described service area and in the manner described in Attachment A, Project Description. If, at anytime, the contract with State for the described service is terminated or Project equipment is not used in this manner, or is withdrawn from transportation service whether by planned withdrawal or casualty loss, the Contractor shall notify State within 72 hours of such event, and shall remit to State a proportional amount of the fair market value, if any, of the property, which shall be determined on the basis of the ratio of federal financial assistance to the actual cost of the equipment. Fair market value shall be deemed to be the value of the property as determined by competent appraisal at the time of such misuse or withdrawal from use, and as approved by State. In the event of loss due to theft, casualty or fire, the damages paid by the insurance carrier or payable from a self-insured reserve account shall be considered fair market value. In no event is salvage value to be considered fair market value. Upon State's receipt and approval of said payment, State's lien shall be released.

b. Records

1) The Contractor shall keep satisfactory records with regard to the use of equipment purchased under this contract and shall submit to State upon request such information as is required in order to assure compliance with this clause. The Contractor shall submit to State during the period of required use of Project equipment, a certification that the equipment is still being used in accordance with the terms of this agreement.

2) Project vehicles may be used for non-Project purposes with ADOT approval.

c. The Project equipment shall at all times be operated in a safe, prudent, lawful manner and within the limitations established by the manufacturer. The Contractor shall maintain the Project equipment in safe and mechanically sound condition and shall keep accurate records of such maintenance. The State shall have the right to conduct periodic inspections or site visits of Contractor's records and the Project equipment to verify compliance with this requirement.

d. The Contractor agrees to conduct a persistent and visible promotional program in order to insure that all facets of the service are known by and available to the general public, and in order to increase ridership on all trips. The Contractor shall provide State with copies or samples of promotional materials used. The Contractor shall submit to State on an annual basis, a plan describing marketing activities including, but not limited to, the following:

e. As part of the annual marketing plan, the Contractor is required to conduct formal and/or informal market analysis to determine what improvements can be made to the Project to better serve the general public.

f. The Contractor shall display, in a manner acceptable to State, a decal or similar sign on the exterior of the Project vehicles indicating that this device is open to the general public.

g. Changes to fares, routes, schedules, and the schedule of activities in Attachment A, Project Description, may be made with prior written approval from State without requiring a written amendment to this agreement.

h. Changes to budget line items may be made in accordance with the following rules:

1) Changes in and between operating and administration budget line items that are not in excess of 5% of the total Project cost, may be made with States prior written approval.

2) Administrative funds may be re-budgeted for operating expenses with State's prior written approval. Operating funds shall not be reprogrammed for administrative expenses.

3) The capital contingency line item shall be used only for cost overruns of capital line items named in the Project budget.

4) No anti-drug compliance cost line items shall be reprogrammed for other expenses.

5) No training funds shall be reprogrammed for other expenses.

6) Any issues that relate to capital, operating, fare recovery, administration, training, substance abuse should be discussed with ADOT to determine if any adjustments are possible.

i. All other changes mutually agreed upon shall be incorporated by written amendments to this agreement.

j. The Contractor **shall furnish certificates** to State showing motor vehicle liability insurance in force for the use of Project equipment for the following minimum amounts:

1) Collision and Comprehensive Insurance – (as applicable).

2) Personal Injury, Medical, and Uninsured Motorist – $300,000

3) Public Liability and Property Damage – $1,000,000.

Insurance Certificates **shall name the State as additional insured**. If the State holds liens on any Project equipment, insurance certificates shall also name State as loss payee. Insurance policies shall be occurrence form unless otherwise approved in writing by State. Such certificates are to be delivered to State concurrently with execution of this contract.

9. Procurement Requirements

a. The Contractor shall make purchases of any equipment, materials or services for the Project in compliance with the following:

1) Federal Management Circular A-87
2) OMB Circular A-102, Attachment O
3) UMTA Circular 7010.1, Capital Cost of Contracting.

4) Title 49, Code of Federal Regulations, 49USC 5323(l) 49CFR Part 661, 'Buy America Requirements"

5) Title 49, CPR Part 23, "Participation by Minority Business Enterprise in Department of Transportation Programs", as amended

6) UMTA Circular 4716.1, the UMTA Disadvantaged Business Enterprise Women Business Enterprise requirements for Recipients and Transit Vehicle Manufacturers

7) State 'DBE" Program Plan

8) UMTA Order 4220.1A, "Third-Party Contracting Guidelines" dated 6-8-82.

9) State 'Section 5311 Required Purchasing Procedures."

10) Pre-award and Post Delivery Audit Requirements, 49USC 5323, 49CFR Part 663.

11) Bus Testing Certification of compliance 49USC 3323 (c), 49 CFR Part 665.

12) Debarment Suspension Certification.

b. The Contractor shall submit its bid specifications to State for approval prior to release of the specifications to possible bidders. State shall concur in the bid award prior to any agreement or contract being executed for the purchase of services or capital equipment for the Project exceeding
$5,000.

OTHER PROVISIONS

1. Retention of Records, Audit, and Reimbursement for Audit Exceptions.

a. The Contractor, and any subcontractor, shall retain all books, accounts, reports, files and other records relating to this contract for a period of five years from completion of the contract. Such records shall be subject to audit and inspection at any reasonable time during the term of the contract or within five years after completion thereof, as provided by ARS Section 35-214.

b. The final audit of this Project will be conducted pursuant to OMB Circular A-133, the "Guidelines for Financial and Compliance Audits of Federally Assisted Programs," and generally accepted auditing standards established by the American Institute of Certified Public Accountants. The Contractor also agrees to provide State with a copy of the final audit report.

c. The Contractor agrees to reimburse State for any expenditure under this agreement for which it received payment or reimbursement, as applicable, which is disallowed by an audit exception by State, the State or federal government.

d. If federal or state audit exceptions are made relating to this contract, the Contractor shall reimburse all costs incurred by the State of Arizona and State associated

with defending against the audit exceptions or performing an audit or follow-up audit including but not limited to: audit fees, court costs, attorney fees based upon a reasonable hourly amount for the Assistant Attorney General based upon reasonable charges in the community, travel costs, penalty assessments, and all other costs of whatever nature.

e. Immediately upon notification from State, the Contractor shall reimburse the amount of the audit exception and any related costs directly to the appropriate federal agency or State as specified by State in the notification. The Contractor shall indemnify the State and hold them, their officers, agents, and employees harmless against any and all liability or damages in regard to audit exceptions.

f. The Single Audit Act requires: All sub-recipients which receive less than $300,000 will no longer be required to submit single audit reports, however, the State shall have an audit made IAW Circular A-133. The audit shall cover the entire operations of the State and the sub-recipient.

The auditor shall determine whether (1) the financial statements of the government department, agency or establishment present fairly its financial position and results of its financial operations IAW generally accepted accounting principles; (2) the organization has internal accounting and other control systems to provide reasonable assurance that it is managing federal financial assistance programs IAW applicable laws and regulations; and (3) The organization has complied with laws and regulations.

2. If, during the course of this agreement, situations arise which prevent its completion within the time allotted, an extension of the contract time may be granted by mutual agreement of the parties hereto.

3. If this contract is terminated, Contractor will be compensated for work performed up to the effective date of termination.

4. Failure to perform any and all of the terms and conditions of this contract, including the schedule of work, shall be deemed a substantial breach thereof. The State shall give the Contractor written notice thereof. After receipt of such notice, the Contractor shall have five working days in which to respond. In the event the Contractor does not cure such failure to the satisfaction of State, the State may terminate this Contract without further consideration by so notifying the Contractor in writing. In the event of cancellation of this Contract, Contractor shall not be entitled to damages and agrees not to sue State for damages therefor. After notice of cancellation, Contractor agrees to perform the terms and conditions of this contract up to and including the date of cancellation, as though no cancellation had been made.

5. It is not the intent of this agreement to place the State in the role of guarantor for protections in instances where a legally and financially responsible Contractor defaults on its obligations. The State enters into this agreement to absolve itself of financial liability for the terms and conditions of the Section 13(c) Special Warranty, included herein by reference, assigning liability to the Contractor through this agreement between the State and Contractor. The Contractor agrees to assume said liability and agrees that the terms and conditions of the Section 13(c) Special Warranty shall apply for the protection of the transportation related employees of any employer providing transportation services assisted by the Project, and transportation related employees of any other surface public transportation providers in the transportation service area of the Project. An appeal under Section 13(c) shall not void or suspend the terms of this Agreement.

6. No member of the Arizona Legislature nor any member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom. The provisions of this clause shall be extended to all public employees, officers, or tribal council members.

7. The Contractor shall comply with all federal, state and local laws, ordinances, rules and regulations applicable to the performance of this contract and the work hereunder.

8. The Contractor shall comply with all applicable requirements of the following regulations relative to nondiscrimination:

a. Title VI of the 1964 Civil Rights Act.

b. Executive Order 83-5.

c. 49 CFR Part 23, "Participation by Minority Business Enterprises in Department of Transportation Programs"

d. 49 CFR Part 23, 45 CFR 45281 (7/3/80), "Guidance for Implementing DOT Rules Creating a Minority Business Enterprises Program in DOT Financial Assistance Programs

e. 9 CFR Part 23, 48 CFR 141 (7/21/83), "Participation by Minority Business Enterprises in Department of Transportation Programs'

f. 49 CFR 27, Parts 37 and 38 Transportation for Individuals with Disabilities; Final Rule.

g. 49 CFR 21, "Nondiscrimination in Federally Assisted Programs of the Department of Labor Regulations (41 CFR Part 60).

9. The Contractor agrees to comply with State's 'Program Plan for Participation of Disadvantaged Business Enterprises."

10. <u>Other Regulations</u>

a. The Contractor shall address the needs of the elderly and disabled persons, pursuant to Section 504 of the Rehabilitation Act of 1973 (20 USC 794).

b. The Contractor shall comply, as applicable, with the labor protection provisions of Section 13(c) of the Urban Mass Transportation Act of 1964, as amended.

c. The Contractor shall comply, as applicable, with the Guidelines relative to charter bus and school bus operations.

11. General Requirements for Recipients

a. Policy. It is the policy of the Department of Transportation that minority business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with federal funds under the MBE requirements of 49 CFR Part 23 applicable to this agreement.

b. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

c. Each DOT financial assistance agreement shall include the following: If as a condition of assistance the recipient has submitted and the Department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference, This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program the Department shall impose such sanctions as noted in 49 CFR Part 23, Subpart E, which sanctions may include termination of the agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

d. The recipient shall advise each sub-recipient, contractor, or subcontractor that failure to carry out the requirements set forth in 49 CFR, Part 23 breach of contract and, after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

e. Recipients required to submit affirmative action programs under § 23.41 (a)(2) or (a) (3) that have business opportunities for lessees shall submit to the Department for approval with their programs overall goals for the participation as lessees of firms owned and controlled by minorities and firms owned and controlled by women. These goals shall be for a specified period of time and shall be based on the factors listed in § 23.45(g)(5).

f. Except as provided in this section, recipients are not required to include lessees in their affirmative action programs. Lessees themselves are not subject to the requirements of this part, except for the obligation of § 23.7 to avoid discrimination against MBE's.

12. Required MBE Program Components.

a. The MBE liaison officer shall be responsible for developing, managing, and implementing the MBE program on a day-to-day basis; for carrying out technical assistance activities for MBEs; and for disseminating information on available business opportunities so that MBEs are provided an equitable opportunity to bid on the applicant's contracts.

b. Procedures to ensure that MBEs have an equitable opportunity to compete for contracts and subcontracts. The recipient shall develop and use affirmative action techniques to facilitate MBE participation in contracting activities. These techniques include;

(1) Arranging solicitations, time for the presentation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of MBEs.

(2) Providing assistance to MBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance.

(3) Carrying out information and communications programs on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate.

c. Recipients subject to the disadvantaged business enterprise program requirements of 49 CFR Part 23 shall compile and update their directories annually. The directories shall include the addresses of listed firms.