RESOLUTION 40-79

WHEREAS, Navajo County desires to repair and replace damages casused by recent flooding within the County, and

WHEREAS, it is deemed to be in the best interest of the citizens of Navajo County to make said repairs and restorations, and

WHEREAS, Federal Funds are available to participate in the replacement and restoration of flood damages, and

WHEREAS, Federal regulations require that the State Department of Transportation act as liaison between the Federal Goverment and Navajo County,

BE IT RESOLVED, that Navajo County enter into an inter-govermental agreement with the State of Arizona, Arizona Department of Transportation, Highway Division, Contract No. 79-14, Papermill Road at Cottonwood Wash, project no. ER-626(2).

BE IT FURTHER RESOLVED, that the County Administrator be authorized to execute the intergovermental agreement for and in on behalf of Navajo County.

DATED this 24th day of July, 1979.

Norman W. Jerley
Chairman of the Board

Attest:

Connie J. Mazon
Clerk of the Board

NAVAJO CO. COUNTY SEAL STATE OF ARIZONA

Contract No. 79-14
AFE 00531
Project No. ER-626(2)

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made and entered into on July 24, 1979 pursuant to Arizona Revised Statutes 11-951 through 11-954, by and between the State of Arizona, Arizona Department of Transportation, Highways Division, acting by and through the Director, hereinafter called STATE, and Navajo County, acting by and through its Board of Supervisors, hereinafter called COUNTY.

The description and location of the PROJECT are as follows:

Description: Project No. ER-626 (2)

Location: Paper Mill Road (Navajo County)
(Paper Mill Road at Cottonwood Wash)

RECITALS

WHEREAS, COUNTY desires to obtain the services of a qualified engineering firm, hereinafter called CONSULTANT, to design a low level crossing for the location listed above, this work hereinafter called PROJECT, and

WHEREAS, the PROJECT is deemed to be in the interest of public safety and convenience, and

WHEREAS, COUNTY is empowered by Arizona Revised Statute 11-251 to enter into this Agreement, and

WHEREAS, STATE is empowered by Arizona Revised Statute 28-108 to enter into this Agrement, and

WHEREAS, COUNTY, in order to obtain Federal funds for the PROJECT, is willing to provide funds to match Federal funds in the ratio required or as finally fixed and determined by the Federal Highway Administration, and

WHEREAS, Federal regulations require that state level transportation agencies act as liaison agents between the federal agency involved and the local agency, and

WHEREAS, STATE has no interest whatsoever in the PROJECT except the acquisition of Federal funds for the use and benefit of COUNTY by reason of Federal Law and Regulations under which funds for the PROJECT are authorized to be expended, and

WHEREAS, STATE, being willing to act as Agent for COUNTY will submit a program to the Federal Highway Administration for preliminary engineering and related work.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants hereinafter to be kept by all parties, it is mutually agreed as follows:

STATE SHALL:

1. Prepare and execute contract with CONSULTANT in accordance with State and Federal laws and regulations.

2. Direct CONSULTANT to perform design services in accordance with State and Federal regulations.

3. Administer CONSULTANT contract, including but not limited to, performing cost audits as needed, processing CONSULTANT payment requests, monitoring for compliance with contract requirements, and processing supplemental agreements to contract as may be required.

4. Return to COUNTY any excess funds that may be deposited by COUNTY with the STATE as the COUNTY'S share of the STATE'S administrative costs and have not been used by the STATE for that purpose.

COUNTY SHALL:

1. Select CONSULTANT, in compliance with State and Federal laws and regulations.

2. Provide review and comments of CONSULTANT'S work as may be required.

In consideration of these premises, it is mutually agreed that:

1. The Project Agreement to be entered into by and between the STATE and the Federal Highway Administration shall be incorporated in and made a part of this Agreement by reference and shall have the same force and effect as though fully written herein.

2. The STATE assumes no financial obligation or liability hereunder; the COUNTY assumes full responsibility for the PROJECT. It is understood and agreed that STATE'S participation is confined solely to securing of Federal Aid.

3. Any damages arising from the carrying out, in any respect, of this Agreement or any modification thereof, shall be solely the liability of COUNTY. COUNTY hereby agrees to save and hold harmless and indemnify from loss 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 provision of this Agreement by STATE, any of its departments, agencies, officers and employees, or by COUNTY, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by STATE, any of its departments, agencies, officers or employees shall include in the event of any action, but not limited to, court costs, expenses of litigation and attorneys' fees incurred. COUNTY assumes the burden of proof that the above activity, condition, or event did not cause such cost, damage, or other damage.

4. This Agreement shall remain in force and effect until the work embraced in the PROJECT is completed, approved, and accepted by the Federal Highway Administration. In the event this PROJECT is terminated prior to its completion, then this Agreement shall terminate when an accounting has been approved and accepted by the Federal Highway Administration, and the STATE has received all of its costs due under this Agreement.

5. This Intergovernmental Agreement shall be filed with the Secretary of State and shall become effective on the date provided herein, but in no event prior to the date it is filed with the Secretary of State.

6. Attachments A and B are authenticated copies of the resolutions of the Arizona Department of Transportation and Navajo County, authorizing said parties to enter into this Agreement.

7. Attachments C and D are the written determinations of the attorneys for said parties that this Intergovernmental Agreement is in proper form and within the powers and authority granted to said parties under the laws of the State of Arizona.

8. All parties hereby are put on notice that this Agreement is subject to cancellation by the Governor pursuant to Arizona Revised Statutes 38-511, the provisions of which are incorporated herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first herein written.

ARIZONA DEPARTMENT OF TRANSPORTATION

By: _____
Chief Deputy State Engineer

_____
Date

NAVAJO COUNTY

By: Norman W. Turley

Chairman Board of Supervisors
Title

July 31, 1979
Date

ATTACHMENT "A"

R E S O L U T I O N

BE IT RESOLVED on this the _____ day of _____ that I, WILLIAM A. ORDWAY, the below undersigned Director, Department of Transportation, have determined that it is in the best interest of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, enter into an Intergovernmental Agencies Agreement with Navajo County, Arizona for acquiring available Federal funds for the design work to repair culverts and roadway damaged by the storm in the December, 1978 disaster.

_____

WILLIAM A. ORDWAY, Director
ARIZONA DEPARTMENT
OF
TRANSPORTATION

ATTACHMENT C

Insert Attorney General's
Written Determination

OFFICE OF

NAVAJO COUNTY ATTORNEY

JAY V. FLAKE
COUNTY ATTORNEY
WARNER G. LEPPIN
CHIEF DEPUTY

NAVAJO COUNTY GOVERNMENTAL CENTER
HOLBROOK, ARIZONA 86025
TELEPHONE (602) 524-6161

THOMAS L. WING
DEPUTY
MICHAEL G. PROST
DEPUTY

July 13, 1979

Mr. Jim Bruce
Navajo County Engineer
Navajo County Govermental Complex
Holbrook, Arizona

RE: Contract No. 79-14 Papermill Road at Cottonwood Wash
Project No. ER-625 (2)

Dear Jim:

I have reviewed the intergovermental agreement between Navajo County and the State of Arizona, Arizona Department of Transportation, Highways Division, for the above project and find the same to be within the authorized powers of the County.

Very truly yours,

Jay V. Flake

JAY V. FLAKE
NAVAJO COUNTY ATTORNEY