LANDSCAPE MAINTENANCE AGREEMENT

ECS File: JPA-77-02

ARIZONA PROJECT F-028-1-503

Superstition Freeway

(Mesa Drainage Channel to Dobson Road)

THIS AGREEMENT, made this 27th day of June, 1977, pursuant to A.R.S. Sec. 11-951 through Sec. 11-954, by and between the Department of Transportation, Highways Division, an agency of the State of Arizona, thereunto duly authorized, hereinafter designated Department of Transportation and the City of Mesa, a municipal corporation, thereunto duly authorized, hereinafter designated as City of Mesa.

WITNESSETH:

WHEREAS, it is to the mutual advantage of the Department of Transportation and the City of Mesa to landscape the Superstition Freeway from the Mesa Drainage Channel, approximate Roadway Station 266+89.25 to Dobson Road, approximate Roadway Station 275+00, in the City of Mesa, a distance of approximately .15 miles.

NOW, THEREFORE, it is hereby mutually agreed by and between the Department of Transportation and the City of Mesa, pursuant to the authority contained in A.R.S. Sec. 28-108, as follows:

1. The Department of Transportation will prepare plans for the landscaping and irrigation project and submit them to the Federal Highway Administration for approval.

2. Upon approval, the project will be constructed by the Department of Transportation using federal funds apportioned to the State of Arizona.

3. The City of Mesa shall furnish and install water meters, and the cost of which shall be paid by the Department of Transportation.

4. The City of Mesa shall furnish all water during construction phase, and all water hereafter necessary to properly maintain the landscaping between the right of way lines, all at city expense.

5. The Department of Transportation shall maintain the landscaping and irrigation system, including plant replacement and irrigation system repairs as needed.

6. The City of Mesa hereby agrees to save and hold harmless the Department of Transportation, or any of its departments, agencies, officers or employees from all cost and 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 non-performance of any provision of this agreement by the City of Mesa, any of its agents, or any of its independent contractors. The above cost incurred by the Department of Transportation or any of its departments, agencies or employees shall include in the event of an action, court costs, expenses of litigation and reasonable attorneys' fees. When any above cost, damage or other damage occurs as aforesaid, the City of Mesa assumes the burden of proof that the activity, condition, or event did not cause such cost, damage or other damage.

7. This agreement will remain in effect until such time that the State relinquishes ownership of the right of way or discontinues the landscaped areas.

8. This agreement shall be filed with the Secretary of State and shall not become effective until ten days after the date of such filing.

9. Authenticated copies of the resolution of the Department of Transportation and the City of Mesa authorizing both entities to enter into such agreement are attached.

IN WITNESS WHEREOF the parties have executed two copies of this agreement on the day and year herein written.

ARIZONA DEPARTMENT
TRANSPORTATION

By Frank A Bord

CITY OF MESA

By J. A. Pitts

OFFICE OF THE

Attorney General

BRUCE E. BABBITT
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 77-309 which is an agreement between public agencies has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General who has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

DATED this 3rd day of June, 1977.

BRUCE E. BABBITT
The Attorney General

Albert Morgan
ALBERT MORGAN
Assistant Attorney General

NO. 3673
FILED WITH SECRETARY OF STATE
Date Filed 6-28-77
Secretary of State

JLS:rc

RESOLUTION NO. 4178

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE MANAGER AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR LANDSCAPING THE SUPERSTITION FREEWAY FROM DOBSON ROAD TO THE WEST CITY LIMITS.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That the Manager and City Clerk are authorized and directed on behalf of the City of Mesa to enter into an agreement with the Arizona Department of Transportation, Arizona Project F-028-1-503, for the landscaping of the Superstition Freeway from Dobson Road to the West City Limits.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 16th day of May, 1977.

APPROVED:

Wayne C. Pomeroy
Mayor

ATTEST:

Martha Lana
City Clerk

CITY OF MESA

ARIZONA

Certificate of City Clerk

I, DORTHE M. DANA, THE DULY APPOINTED AND QUALIFIED CITY CLERK OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, DO HEREBY CERTIFY THAT THE ATTACHED COPY OF RESOLUTION NO. 4178, ENTITLED:

RESOLUTION NO. 4178

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE MANAGER AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR LANDSCAPING THE SUPERSTITION FREEWAY FROM DOBSON ROAD TO THE WEST CITY LIMITS

IS A TRUE, CORRECT AND COMPARED COPY OF THE ORIGINAL OF RECORD, AND ON FILE IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MESA, ARIZONA.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF THE CITY OF MESA, MARICOPA COUNTY, STATE OF ARIZONA, THIS 17th DAY OF May, 1977.

CITY OF MESA CORPORATE SEAL MARICOPA COUNTY ARIZONA

Dorthe Dana

DORTHE M. DANA, CITY CLERK

R E S O L U T I O N

Be it resolved on this date, 6/27/77, I, WILLIAM A. ORDWAY, the below undersigned Director, Department of Transportation, have determined that it is to be to the advantage of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, and the CITY of MESA, acting by and through its CITY COUNCIL, enter into the intergovernmental agency agreement for the purpose of entering in a landscape maintenance agreement for certain projects which have been selected by the State and subject to the approval of the Federal Highway Administration, as by law required; and request the City to perform certain work and supply necessary materials required to maintain the specified areas in the manner specified in the attached agreement.

Francis A. Beck
for WILLIAM A. ORDWAY, Director
Department of Transportation

STATE OF ARIZONA)
: SS
County of Maricopa)

I, Dorthe Dana, duly appointed Clerk of the City of Mesa, Arizona, do hereby certify that the following is a true and correct extract of the minutes of the City Council meeting held May 16, 1977:

6. Consider the following resolution.

a. Authorize the execution of an agreement with the Arizona Department of Transportation for landscaping the Superstition Freeway from Dobson Road to the west City limits - Resolution No. 4178.

The agreement provides for Mesa to furnish water for the landscaping.

It was moved by Councilmember Strauch, seconded by Councilmember Cooper, that Resolution No. 4178, entitled:

RESOLUTION NO. 4178

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE MANAGER AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR LANDSCAPING THE SUPERSTITION FREEWAY FROM DOBSON ROAD TO THE WEST CITY LIMITS

be adopted. Upon tabulation of votes, it showed the motion carried unanimously.

In Witness Whereof, I have hereunto set my hand and affixed the Official Seal of the City of Mesa, Arizona. Done in Mesa, Arizona, this 21st day of June, 1977.

Dorthe Dana
DORTHE DANA, City Clerk