JP4-77-04

18204

LANDSCAPE MAINTENANCE AGREEMENT

ARIZONA PROJECT I-10-3(107)

(40th St. to 48th St.)

THIS AGREEMENT, made this 31st day of March, 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 Phoenix, a municipal corporation, thereunto duly authorized, hereinafter designated as City of Phoenix.

WITNESSETH:

WHEREAS, it is to the mutual advantage of the Department of Transportation and the City of Phoenix to landscape the Maricopa Freeway from 40th Street to 48th Street in the City of Phoenix, a distance of approximately .77 miles.

NOW, THEREFORE, it is hereby mutually agreed by and between the Department of Transportation and the City of Phoenix, pursuant to the authority contained in A.R.S. Sec. 28-108(18), 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 Phoenix shall furnish and install water meters, and the cost of which shall be paid by the Department of Transportation.

4. The City of Phoenix 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 systems repairs as needed.

6. The City of Phoenix 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 Phoenix, 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 Phoenix 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 Phoenix 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 OF TRANSPORTATION

By _____

CITY OF PHOENIX

By _____

ATTEST:

CITY CLERK

PREAUDITED IN ACCORDANCE WITH A.D.O.T. PROCEDURES
APR 19 1976
BY: _____
EXTERNAL AUDIT SECTION

APPROVED AS TO FORM

City Attorney

APPROVAL OF THE ATTORNEY GENERAL

I hereby state that I have reviewed the proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, STATE ENGINEER and the CITY OF PHOENIX, and declare the agreement to be in proper form and within the powers and authority granted under the laws of the State of Arizona.

DATED this 12th day of April, 1976.

BRUCE E. BABBITT
The Attorney General

Albert Morgan

Assistant Attorney General

NO. 3560
FILED WITH SECRETARY OF STATE
Date Filed 4-4-77
Secretary of State

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

I, Deborah Paglia, the duly appointed, qualified and acting Deputy City Clerk of the City of Phoenix, County of Maricopa, State of Arizona, do hereby certify and attest the attached to be a true and correct copy of an excerpt of the minutes of the Council of the City of Phoenix, held on the 15th day of February, 1977, adopting Resolution Number 14777

all as appears of record in the office of the City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the City of Phoenix to be affixed hereunto this 21st day of March, 1977.

CITY CLERK

(SEAL)

MOTION was made by Mr. Goode, SECONDED by Mrs. Worthen, that Ordinance S-9680 be adopted.

Roll Call: Ayes: Donahue, Goode, O'Dell, Worthen, Carter and Mayor Hance
Nays: None
Absent: Gutierrez

MOTION CARRIED. Ordinance adopted.

SALE OF NDP LAND FOR REDEVELOPMENT - NDP - F-4289

Ordinance S-9681 authorizing the offer for sale of Reuse Parcels D, FF, GG, HH, Z-1, Z-2 and Z-3, located in the Booker T. Washington Neighborhood Development Program Area, for redeveloping pursuant to the General Urban Redevelopment Plan of the Booker T. Washington Neighborhood Development Program; establishing the methods and conditions of such sales; and declaring an emergency, was presented to the Council and read by title only.

MOTION was made by Mrs. Worthen, SECONDED by Mrs. Carter, that Ordinance S-9681 be adopted.

Roll Call: Ayes: Donahue, Goode, O'Dell, Worthen, Carter and Mayor Hance
Nays: None
Absent: Gutierrez

MOTION CARRIED. Ordinance adopted.

LANDSCAPE MAINTENANCE AGREEMENT - MARICOPA FREEWAY (INTERSTATE 10) - 40TH THROUGH 48TH STREETS - CONTRACT NO. 18204 - F-3809

Resolution 14777 authorizing the City Manager to enter into an agreement with the Arizona Department of Transportation for the purposes of providing necessary water to the landscaping project on the Maricopa Freeway from 40th to 48th Streets; and declaring an emergency, was presented to the Council and read by title only.

MOTION was made by Mr. Goode, SECONDED by Mr. Donahue, that Resolution 14777 be adopted.

Roll Call: Ayes: Donahue, Goode, O'Dell, Worthen, Carter and Mayor Hance
Nays: None
Absent: Gutierrez

MOTION CARRIED. Resolution adopted.

ABANDONMENT OF RIGHT OF WAY V-48-76 - F-1486

Resolution 14778 authorizing the abandonment of the West 7 feet of 23rd Avenue from approximately 178 feet south of Glendale Avenue southward for a distance of approximately 162 feet, no longer necessary for public use; and declaring an emergency, was presented to the Council and read by title only.

R E S O L U T I O N

Be it resolved on this date, March 30, 1977, 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 PHOENIX, 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.

W A Ordway

WILLIAM A. ORDWAY, Director
Department of Transportation