LANDSCAPE MAINTENANCE AGREEMENT

ECS FILE: JPA-78-01

ARIZONA PROJECT F-042-3-502

(Flagstaff City Streets)

THIS AGREEMENT, made this 18TH day of July, 1978, 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 Flagstaff, a municipal corporation, thereunto duly authorized, hereinafter designated as City of Flagstaff.

WITNESSETH:

WHEREAS, it is to the mutual advantage of the Department of Transportation and the City of Flagstaff to enhance the highway in the City at the intersections of U.S. 66 and U.S. 89A and U.S. 66 and Santa Fe Avenue and Sitgreaves Street. This will include the installation of landscaping and landscape irrigation systems in certain median islands at the aforementioned locations.

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

1. The Department of Transportation will prepare plans with reviews and concurrence by the City for the landscaping and irrigation project.

2. Upon approval, the project will be constructed by the Department of Transportation using State and Federal funding.

3. The City of Flagstaff shall furnish and install necessary water services including taps and meters from existing water to designated locations within the right of way at no cost to the Department.

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

NO. 4573
FILED WITH SECRETARY OF STATE
Date Filed 8-22-78
Secretary

5. The City of Flagstaff shall maintain the landscaping and irrigation systems, at the locations indicated for construction, including plant replacement and irrigation systems repairs as needed to maintain the landscaped areas of the aforementioned project, in the same manner as on the date of project acceptance.

6. The City of Flagstaff 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 Flagstaff, 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 costs, damage or other damage occurs as aforesaid, the City of Flagstaff 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 become effective on the date of such filing.

9. Attached hereto are resolutions of the Department of Transportation and the City of Flagstaff authorizing both entities to enter into this agreement, and a written determination by the City Attorney of Flagstaff that this agreement is in proper form and within the powers and authority granted to the City of Flagstaff under the laws of this State.

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

ARIZONA DEPARTMENT OF TRANSPORTATION	CITY OF FLAGSTAFF
By _____	By _____

OFFICE OF THE
Attorney General
1801 WEST JEFFERSON STREET
FOURTH FLOOR
PHOENIX, ARIZONA 85007

John A. LaSota, Jr.
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 78-634 which is 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 proper form and is within the powers and authority granted to the State or its agencies under the laws of 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 contract.

DATED this 16th day of August, 1978.

JOHN A. LaSOTA, JR.
The Attorney General

Albert Morgan
ALBERT MORGAN
Assistant Attorney General

APPROVAL OF THE CITY ATTORNEY

I hereby state that I have reviewed the proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, STATE ENGINEER and the CITY OF FLAGSTAFF 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 1st day of August, 1978.

Fred W. Croxen II

Fred W. Croxen II
The City Attorney

Assistant City Attorney

STATE OF ARIZONA)
: SS
County of Coconino)

I, Linda Butler, City Clerk

of the City of Flagstaff, Arizona, do hereby certify that the following is a true and correct extract of the minutes of the City Council meeting held July 18, 1978:

Agreement for Traffic Island Maintenance - Arizona Department of Transportation:

Councilman Lee moved that the Mayor be authorized to execute the agreement with the Arizona Department of Transportation for traffic island maintenance. The motion was seconded by Councilman Robinson, which unanimously carried.

In Witness Whereof, I have hereunto set my hand and affixed the Official Seal of the City of Flagstaff, Arizona. Done in Flagstaff, Arizona, this 27th day of July, 1978.

Linda Butler

R E S O L U T I O N

Be it resolved on this date, August 21, 1978, 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 FLAGSTAFF, 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 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