LANDSCAPE MAINTENANCE AGREEMENT ECS FILE: JPA-79-05

ARIZONA PROJECT F-023-1-406

Gila Bend - East

THIS AGREEMENT, made this 4th day of June, 1979, 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 Gila Bend, a municipal corporation, thereunto duly authorized, hereinafter as City of Gila Bend.

WITNESSETH:

WHEREAS, it is to the mutual advantage of the Department of Transportation and the City of Gila Bend to landscape Highway B/8, Pima Street, from Roadway Station 5095+00.00 to Roadway Station 5170+00.00 in the City of Gila Bend, a distance of approximately 1.4 miles.

NOW, THEREFORE, it is hereby mutually agreed by and between the Department of Transportation and the City of Gila Bend, 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.

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

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

4. The City of Gila Bend 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 City of Gila Bend shall maintain the landscaping and irrigation system, including plant replacement and irrigation systems repairs as needed to maintain all areas within the right of ways of the above-mentioned project in an attractive manner.

NO. 5280
FILED WITH SECRETARY OF STATE
Date Filed 6-6-79
Secretary of State

6. The City of Gila Bend 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 Gila Bend, 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 Gila Bend 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 the date of such filing.

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

10. All parties are hereby put on notice that this contract (Agreement) is subject to cancellation by the Governor pursuant to Arizona Revised Statutes, Section 38-511.

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 GILA BEND

By _____
Jerry C. Roberson, Mayor

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 GILA BEND, 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 23rd day of January, 1979.

ELDON TOWNER
The City Attorney

Eldon Towner

Assistant City Attorney

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

ROBERT K. CORBIN
~~JOHN A. LEWIS~~
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 79-321 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 agreement.

DATED this 11th day of May, 1979.

ROBERT K. CORBIN
Attorney General

Albert Morgan
ALBERT MORGAN
Assistant Attorney General

STATE OF ARIZONA)
) SS
County of Maricopa)

I, David C. Haynes, Town Clerk

of the CITY OF GILA BEND, Arizona, do hereby certify that the following is a true and correct extract of the minutes of the City Council meeting held 23 January 1979:

4. ADOT requests the Town to sign a Landscape Maintenance Agreement for the new landscaping project along the East end of Pima Street. Town Attorney Towner has approved the Agreement as to form but noted that Town should be aware of the cost of maintenance that will be incurred with the project. Public Works Director Gilreath reported that 12 of the 18 new watering valves planned for the project must be turned on and off by hand. The other six will be automatic. Terry Evans asked if other types of planting were planned other than palm trees. Mrs. Evans stated that many of the palm trees planted along the West end of Pima are traffic hazards. Councilman Fuentes agreed and noted that he had pointed out several locations to the Town Office over the past several years where traffic pulling on to Pima Street had trouble seeing around these trees. Vice-Mayor Henry stated that Town crew could remove these trees and replace with other types of low planting at the time the new project is started at the East end of Town. Mrs. Mendoza requested planting similar to that done in Yuma and which is more compatible to the Gila Bend environment. She also noted that present palm trees have been planted too close to the street. Councilman Fuentes moved to sign the agreement with ADOT with the stipulation that Attorney Towner's warning about maintenance costs be taken into accoun t. Seconded by Vice-Mayor Henry. Unanimous.

In Witness Whereof, I have hereunto set my hand and affixed the Official Seal of the CITY OF GILA BEND, Arizona. Done in GILA BEND, Arizona, this 23rd day of January, 1979.

Town Clerk

R E S O L U T I O N

Be it resolved on this date, June 4, 1979, 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 GILA BEND, 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 CITY OF GILA BEND, 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