ADOT ECS File No. JPA 79-23

LANDSCAPE MAINTENANCE AGREEMENT

ARIZONA PROJECT I-8-1(67)

(Yuma Interstate Freeway)

THIS AGREEMENT, made this 5th day of November, 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 Yuma, a municipal corporation, thereunto duly authorized, hereinafter designated as City.

WITNESSETH:

WHEREAS, it is to the mutual advantage of the Department of Transportation and the City to landscape certain areas within the right of ways on Interstate 8 from California Roadway Station 367+51.89 Southeasterly to Arizona Roadway Station 178+00.00, a net distance of 2.47 miles.

NOW, THEREFORE, it is hereby mutually agreed by and between the Department of Transportation and the City, 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 shall furnish and install necessary water services, not exceeding 2" in size, from existing water mains to designated locations within the right of way from California Roadway Station 367+51.89 to Arizona Roadway Station 178+00.00 at the City established water service schedule rates, all at Department of Transportation expense.

4. The City shall furnish all water during construction phase, and all water hereafter necessary to properly maintain the landscape between the right of way lines from California Roadway Station 367+51.89 to Arizona Roadway Station 178+00.00, all at City expense.

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5. The City shall maintain the landscaping and irrigation system from the termination date of plant establishment, including plant replacement and irrigation system repairs as needed to maintain the landscaped areas within the right of way from California Roadway Station 367+51.89 to California Roadway Station 382+00.00 and landscaped areas between the control of access and the right of way from California Roadway Station 382+00.00 to Arizona Roadway Station 178+00.00 in the same manner as on the date of project acceptance.

6. The Department of Transportation shall maintain the landscaping and irrigation system within the control of access from California Roadway Station 382+00.00 to Arizona Roadway Station 178+00.00.

7. The City shall furnish all electrical power necessary to properly maintain the landscaping within the right of way from California Roadway Station 367+51.89 to California Roadway Station 382+00.00. The Department of Transportation shall furnish all electrical power necessary to maintain the landscaping within the right of way from California Roadway Station 382+00.00 to Arizona Roadway Station 178+00.00.

8. The City 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, 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 assumes the burden of proof that the activity, condition, or event did not cause such cost, damage or other damage.

9. This agreement shall be filed with the Secretary of State and shall become effective on the date of such filing.

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

11. The effective date of this agreement shall be upon filing with the Secretary of State and shall remain in full force and effect for a period of five (5) years from the effective date unless terminated earlier by mutual consent of the parties hereto or unless this agreement violates any Arizona law, rule or regulation, either now enacted or which may be enacted in the future. This agreement will be automatically renewed for successive periods of five (5) years unless the parties hereto mutually agree by formal amendment reflected herein to this agreement not less than one (1) month prior to the initial or renewed expiration date.

12. 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 _____
Chief Deputy State Engineer

CITY OF YUMA

By _____
Acting City Administrator

RESOLUTION NO. 2105

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING SAID CITY TO ENTER INTO AN AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION TO PERFORM WORK AND SERVICES ON BEHALF OF THE CITY OF YUMA, ARIZONA AUTHORIZING THE CITY ADMINISTRATOR AND CITY RECORDER TO EXECUTE SUCH AGREEMENT FOR AND ON BEHALF OF SAID CITY.

WHEREAS, the Arizona Department of Transportation, hereinafter referred to as "ADOT" is authorized to develop landscaping along certain portions of Interstate Highway 8 (I-8) at Yuma and whereas it is deemed in the best interest of the citizens of Yuma to participate in this beautification project;

THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF YUMA AS FOLLOWS:

SECTION 1. That the City of Yuma enter into an agreement with ADOT that authorizes Landscape development and a joint maintenance policy for the beautification of certain portions of Interstate Highway 8 (I-8) adjacent to the City of Yuma.

SECTION 2. That the City Administrator and the City Recorder be hereby authorized and directed to execute said certain agreements for and on behalf of the City of Yuma.

PASSED AND ADOPTED this 7th day of February, 1979.

APPROVED:

Mayor

ATTEST:

Marjorie Olivier
City Recorder

APPROVED AS TO FORM:

Maureen R. George
City Attorney

REVIEWED BY:

William R. McGuire
City Administrator

CERTIFICATION

I, MARJORIE OLIVER, CERTIFY THAT I AM THE DULY APPOINTED RECORDER OF THE CITY OF YUMA, AND THAT THE ATTACHED IS A TRUE AND CORRECT COPY OF A RESOLUTION PASSED IN THE PROPER FORM BY THE CITY COUNCIL OF SAID CITY OF YUMA ON THE 7th DAY OF February 1979.

Marjorie Oliver
RECORDER

RESOLUTION

Be it resolved on this date, 11-5-79 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 YUMA, enter into the intergovernmental landscape agreement for the purpose of landscaping the areas within the right of ways on Interstate 8, from California Roadway, Station 367+51.89, Southeasterly to Arizona Roadway, Station 178+00.00, a net distance of 2.47 miles.

W A Ordway

WILLIAM A. ORDWAY, Director
Arizona Department of Transportation

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

ROBERT K. CORBIN
~~BRUCE E. BABBITT~~
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 79-454 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 25th day of September, 1979.

ROBERT K. CORBIN
Attorney General

Albert Morgan
Assistant Attorney General