ECS File: JPA-80-03

LANDSCAPE MAINTENANCE AGREEMENT

ARIZONA PROJECT F-028-1(16)

SUPERSTITION FREEWAY

(Dobson Road to Junction State Route 87)

THIS AGREEMENT, made this 10th day of July, 1980, 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.

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 the Superstition Freeway from Dobson Road, approximate Roadway Station 275+00 to Junction State Route 87, approximate Roadway Station 399+50, a net distance of approximately 2.34 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.

NO. 6512
FILED WITH SECRETARY OF STATE
Date Filed 7-16-80
Secretary of State

3. The City shall furnish and install necessary water services from existing water mains to be designated locations within the right of way from Dobson Road, approximate Roadway Station 275+00 to Junction State Route 87, approximate Roadway Station 399+50 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 Dobson Road, approximate Roadway Station 275+00 to Junction State Route 87, approximate Roadway Station 399+50, all at City expense.

5. The Department of Transportation shall maintain the landscaping and irrigation system within the right of way from Dobson Road, approximate Roadway Station 275+00 to Junction State Route 87, approximate Roadway Station 399+50.

6. The Department of Transportation shall furnish all electrical power necessary to maintain the landscaping within the right of way from Dobson Road, approximate Roadway Station 275+00 to Junction State Route 87, approximate Roadway Station 399+50.

7. 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 an 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.

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 authorizing both entities to enter into this agreement, and a written determination by the City Attorney of Mesa that this agreement is in proper form and within the powers and authority granted to the City under the laws of this State.

10. 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.

11. 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 _____
Acting State Engineer

CITY OF MESA

By _____

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. 4492, ENTITLED:

RESOLUTION NO. 4492

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A CERTAIN AGREEMENT

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 30th DAY OF May, 1980.

Dorthe Dana

DORTHE M. DANA, CITY CLERK

RESOLUTION

Be it resolved on this date, July 10, 1980, 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 City of Mesa 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.

WILLIAM A. ORDWAY, Director
Department of Transportation

JLS:jhw

RESOLUTION NO. 4492

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A CERTAIN AGREEMENT.

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

Section 1: That the City Manager and City Clerk are authorized and directed on behalf of the City of Mesa to execute and deliver a Landscape Maintenance Agreement known as "Arizona Project F-028-1(16) Superstition Freeway" between the Department of Transportation, Highways Division, an agency of the State of Arizona, and the City of Mesa.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 19th day of May, 1980.

APPROVED:

Vice-Mayor

ATTEST:

Acting Deputy City Clerk

STATE OF ARIZONA)
: SS
COUNTY OF MARICOPA)

I, Dorthe Dana, City 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 19, 1980.

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 30th day of May, 1980.

Dorthe Dana

CITY OF MESA, ARIZONA

COUNCIL MINUTES

May 19, 1980

The City Council of the City of Mesa met in Regular Session in the Council Chambers, 57 East First Street, on May 19, 1980, at 5:30 p.m.

MEMBERS PRESENT	MEMBERS ABSENT
Vice-Mayor Cordon W. Driggs	Mayor Wayne C. Pomeroy
Sumner Al Brooks	
Don Cooper	
Elma Milano	
L. Alton Riggs	
Warren Steffey	

Vice-Mayor Driggs stated that Mayor Pomeroy was excused from the meeting due to another commitment.

The Mayor-elect, Don Strauch, and Councilmembers-elect, Dave Guthrie and Murray Woods were introduced, and the Vice-Mayor welcomed everyone present to the first Regular Council Session in the Council Chambers since its dedication on Saturday, May 17th.

The invocation was given by Reverend Magee Wilkes of Grace Methodist Church.

The Pledge of Allegiance was led by Senior Patrol Leader Brett Black of Boy Scout Troop 159.

1. Approval of mintues of previous meetings as written.

It was moved by Councilmember Cooper, seconded by Councilmember Riggs, that the minutes of the meetings of May 2 and 5, 1980, be approved as written.

Carried unanimously.

2. Consider the following liquor license application.

a. Transfer person-to-person from Carleene K. Arrick to Robert E. Miller, agent, and location-to-location from 3542 West Glendale No. 10 to 6225 East Main, Series 9, off-sale only all liquors for Fry's Food Stores.

Mr. Nicholas C. Guttilla, attorney for Fry's Food Stores, represented this transfer application, stating that Fry's plan to open a new 46,000-square-foot store at 6225 East Main in July, 1980.

After discussion, it was moved by Councilmember Brooks, seconded by Councilmember Riggs, that this transfer application be approved. The Vice-Mayor declared the motion carried by majority vote, with Councilmember Milano opposed.

d. Ordering the sale of $11,000,000 principal Amount of City of Mesa Utility Systems Revenue Bonds Project of 1979 Series A (1980) and declaring an emergency - Resolution No. 4491.

It was moved by Councilmember Milano, seconded by Councilmember Riggs, that an emergency be declared to exist, that the rules be suspended, and that Resolution No. 4491, entitled:

RESOLUTION NO. 4491

RESOLUTION ORDERING THE SALE OF $11,000,000 PRINCIPAL AMOUNT OF CITY OF MESA UTILITY SYSTEMS REVENUE BONDS, PROJECT OF 1979 SERIES A (1980); AND DECLARING AN EMERGENCY

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

✓ e. Authorize the City Manager to execute an agreement with the Arizona Department of Transportation providing for the maintenance of landscaping on the Superstition Freeway from Dobson Road to Country Club Drive - Resolution No. 4492.

Mesa will provide the water for sprinkler irrigation of the planting.

It was moved by Councilmember Cooper, seconded by Councilmember Brooks, that Resolution No. 4492, entitled:

RESOLUTION NO. 4492

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A CERTAIN AGREEMENT

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

f. Authorize public utility easements to serve two parcels of property at Falcon Field - Resolution No. 4493.

It was moved by Councilmember Steffey, seconded by Councilmember Brooks, that Resolution No. 4493, entitled:

RESOLUTION NO. 4493

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, DEDICATING CERTAIN PROPERTY AS A PUBLIC UTILITY EASEMENT

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

be adopted. Upon tabulation of votes, it showed:

AYES - Brooks-Cooper-Driggs-Milano-Riggs-Steffey
NAYS - None
ABSENT - Pomeroy

The Vice-Mayor declared the motion carried unanimously and Ordinance No. 1337 adopted.

10. Consider appointment of Library Director.

Upon the recommendation of the City Manager and the Library Advisory Board, it was moved by Councilmember Cooper, seconded by Councilmember Milano, that the Council concur with this recommendation and approve the appointment of Mr. Herschel Anderson as Library Director.

Carried unanimously.

11. Modification of assessments.

None.

12. Miscellaneous and items from citizens present.

a. Citizen comments.

Mr. Steve Modla, 235 West Southern Avenue, stated that he feels the use of desert landscaping along Arizona freeways would conserve water. Mr. Modla stressed the importance of water conservation in Arizona and invited the Council to his home to view his lawn which is done in that manner.

Mr. Modla then discussed his feeling that American citizens are subjected to undue harassment and surveillance by the FBI and CIA. He sited instances where both he and Dr. Martin Luther King were subjected to this type of treatment.

b. Council comments.

Members of the Council stated that Vice-Mayor Driggs had done an excellent job of presiding over the meeting in the absence of Mayor Pomeroy.

13. Adjournment.

It was moved by Councilmember Milano, seconded by Councilmember Steffey, that the meeting adjourn at 8:18 p.m.

Carried unanimously.

CORDON W. DRIGGS, VICE-MAYOR

ATTEST:

Dorthe Dana, City Clerk

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 MESA and declare this agreement to be in proper form and within the powers and authority granted under the laws of the State of Arizona.

DATED this 28th day of May, 1980.

J. La Man Shelley

J. LAMAN SHELLEY
The City Attorney

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

ROBERT K. CORBIN
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 80-443 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 2nd day of July, 1980.

ROBERT K. CORBIN
Attorney General

Albert Morgan
Assistant Attorney General
Transportation Division