EX. A to City of ucson Res. 11305
City of Tucson Contract No. 0228-81

JPA-81-14

LANDSCAPE MAINTENANCE AGREEMENT

ARIZONA PROJECT I-10-4(50)

(Prince Road - Speedway Blvd.)

THIS AGREEMENT, made this 5th day of January, 1981, 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 Tucson, 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 10 from Eastbound Roadway Station 5241+00.00 Southeasterly to Eastbound Roadway Station 143+00.00, a net distance of approximately 4.15 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 from existing water mains to the designated locations within the right-of-way from Eastbound Roadway

NO. 6932
FILED WITH SECRETARY OF STATE
Date Filed 1-7-81
Secretary of State

Station 5241+00.00 to Eastbound Roadway Station 143+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 Eastbound Roadway Station 5241+00.00 to Eastbound Roadway Station 143+00.00, all at City expense.

5. The Department of Transportation shall maintain the landscaping and irrigation system within the right-of-way from Eastbound Roadway Station 5241+00.00 to Eastbound Roadway Station 143+00.00.

6. The Department of Transportation shall furnish all electrical power necessary to maintain the landscaping within the right-of-way from Eastbound Roadway Station 5241+00.00 to Eastbound Roadway Station 143+00.00.

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.

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 TUCSON 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 30th day of September, 1980.

FREDRICK S. DEAN
The City Attorney

Louise B. Stratton
Assistant City Attorney

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 Tucson 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 _____
Chief Deputy State Engineer

CITY OF TUCSON

By George Miller
MAYOR PRO-TEMPORE OCT 14 1980

ATTEST:
_____
CITY CLERK

RESOLUTION

Be it resolved on this date, January 5, 1981, 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 TUCSON, 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 Tucson 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

ADOPTED BY THE
MA R AND COUNCIL

OCT 1 4 1980

RESOLUTION NO. 11305

RELATING TO PUBLIC TRANSPORTATION; REPEALING RESOLUTION NO. 11245; APPROVING AND AUTHORIZING THE EXECUTION OF A REVISED INTER-GOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION AND MAINTENANCE OF LANDSCAPING ALONG A PORTION OF INTERSTATE 10.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. That Resolution No. 11245, approving an Intergovernmental Agreement with the Arizona Department of Transportation for the landscaping of a portion of Interstate 10, is hereby repealed.

SECTION 2. That a revised Intergovernmental Agreement between the Arizona Department of Transportation and the City of Tucson relating to the construction and maintenance of landscaping along a portion of Interstate 10, a copy of which revised agreement is attached hereto as Exhibit A, is approved.

SECTION 3. That the Mayor is hereby authorized and directed to sign for and on behalf of the City of Tucson the aforementioned revised agreement and such counterparts as may be necessary or desirable, and the City Clerk is authorized and directed to attest the same.

SECTION 4. That the various city officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this resolution and the above-mentioned agreement.

SECTION 5. WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this resolution become immediately effective, an emergency is hereby

CERTIFIED

Certificate of Clerk

City of Tucson

State of Arizona }
County of Pima } ss

I, Donald L. De Ment, the duly appointed and qualified City Clerk of the City of Tucson, Arizona, do hereby certify that the foregoing is a true, correct, and compared copy of Resolution No. 11305, *which was passed and adopted by the Mayor and Council of the City of Tucson, Arizona, at a meeting held on the* 14th *day of* October, *19* 80, *at which a quorum was present, by the affirmative vote of not less than five-sixths of the Council, taken by ayes and noes.*

In Witness Whereof, *I have hereunto set my hand and affixed the seal of the City of Tucson, Arizona, this* 17th *day of* October, *19* 80.

Total of 2 pages
certified.
(does not include
exhibit)

Donald L. De Ment
City Clerk

EXTRACT FROM ~~THE MINUTES OF~~ A MEETING OF THE
MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA

The Mayor and Council of the City of Tucson met in regular session in the Council Chamber in the City Hall of the City of Tucson, Arizona, at 7:30 o'clock p. m., on the 14th day of October, 19 80, all members having been notified of the time and place hereof.

Present: Council Members Rodolfo C. Bejarano, Brent L. Davis, Charles Ford, Roy B. Laos and Tom Volgy; Vice Mayor/Mayor Pro Tem George Miller; and City Clerk Donald L. De Ment

Absent:/Excused: Mayor Lewis C. Murphy

The Mayor declared a quorum present.

ITEM 3: CONSENT AGENDA, ITEMS A THRU I

Item 3D

REVISED INTERGOVERNMENTAL AGREEMENT: ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION AND MAINTENANCE OF LANDSCAPING ALONG A PORTION OF INTERSTATE 10, REPEALING RESOLUTION NO. 11245

(1) Report from City Manager OC14-80-827

(2) Resolution No. 11305 relating to public transportation; repealing Resolution No. 11245; approving and authorizing the execution of a Revised Intergovernmental Agreement with the Arizona Department of Transportation for the construction and maintenance of landscaping along a portion of Interstate 10.

The items on the consent agenda were received into and made a part of the record. It was moved by Council Member Volgy and duly seconded that the matters on the consent agenda be approved and/or adopted and the proper action taken.

Upon roll call, the results were:

Aye: Council Members Bejarano, Davis, Ford, Laos and Volgy; and Vice Mayor/Mayor Pro Tem Miller

Nay: None

Absent/Excused: Mayor Murphy

The matters on the consent agenda were declared approved and/or adopted by a roll call vote of 6 to 0.

I, Donald L. De Ment, the duly appointed, qualified, and acting City Clerk of the City of Tucson, Arizona, do hereby certify that the foregoing is a true and correct extract from the ~~official minutes of the~~ meeting of the Mayor and Council of said City held on the 14th day of October, 19 80, insofar as said minutes relate to matters set forth in the extract above and that a quorum was present at said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said City this 17th day of October, 19 80.

Donald L. De Ment
City Clerk

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declared to exist, and this resolution shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, OCT 14 1980.

MAYOR PRO-TEMPORE

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

for CITY ATTORNEY

REVIEWED BY:

CITY MANAGER

LBS:lbs
9/30/80
LGS

CERTIFIED

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. 80-592, 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 19th day of November, 1980.

ROBERT K. CORBIN
Attorney General

Albert Morgan
Assistant Attorney General
Transportation Division