JPA-85-14
A.G. CONTRACT NO. 85-564

NO. 10737
FILED WITH SECRETARY OF STATE
Date Filed 10-30-85
Secretary of State

LANDSCAPE MAINTENANCE AGREEMENT

ARIZONA PROJECT I-IR-10-2(119)

EHRENBERG-PHOENIX HIGHWAY
(99th Avenue - 83rd Avenue)
City of Tolleson

THIS AGREEMENT, made this 23rd day of July, 1985, 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 Tolleson, 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-way on Interstate Route 10 from 99th Avenue median centerline roadway station 7051+65, to 83rd Avenue median centerline roadway station 7156+50, a net distance of approximately 1.98 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 State funds and federal funds apportioned to the State of Arizona.

3. The City shall furnish and install necessary water service mains to the designated project locations from 99th Avenue median centerline roadway station 7051+65 to 83rd Avenue median centerline roadway station 7156+50, all at City expense. The City shall furnish and install meter connections to City water service mains at normal City rates, all at Department of Transportation expense.

4. The City shall furnish all water for landscape installation during construction phase, and all water hereafter necessary to properly maintain the landscape between the right-of-way lines from 99th Avenue median centerline roadway station 7051+65 to 83rd Avenue median centerline roadway station 7156+50, all at City expense.

5. The Department of Transportation shall maintain the landscaping and irrigation system within the right-of-way from 99th Avenue median centerline roadway station 7051+65 to 83rd Avenue median centerline roadway station 7156+50.

6. The Department of Transportation shall furnish all electrical power necessary to maintain the landscaping within the right-of-way from 99th Avenue median centerline roadway station 7051+65 to 83rd Avenue median centerline roadway station 7156+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. In the event that a claim or suit is filed against the City and the Department of Transportation, then the City agrees to reimburse the Department of Transportation to the extent that the City's activities contributed to the loss.

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 Tolleson 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 TOLLESON, a municipal corporation

By _____
City Manager

STATE OF ARIZONA)
: SS
County of Maricopa)

I, Barbara C. Williams, City Clerk of the City of Tolleson, Arizona, do hereby certify that the following is a true and correct extract of the minutes of the City Council meeting held July 23, 1985 Aug 13, 1985 : Copy of Minutes Resolution # 471

In Witness Whereof, I have hereunto set my hand and affixed the Official Seal of the City of Tolleson, Arizona. Done in Tolleson, Arizona this 19th day of August, 1985.

Barbara C. Williams

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 TOLLESON 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 23d day of July, 1985.

DONALD J. KENNEY
The City Attorney

RESOLUTION

Be it resolved on this date, _____, I, CHARLES L. MILLER, 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 TOLLESON, acting by 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 Tolleson 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.

Charles L. Miller

CHARLES L. MILLER, Director
Department of Transportation

RESOLUTION NO. 471

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOLLESON AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BY AND BETWEEN THE DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, AN AGENCY OF THE STATE OF ARIZONA AND THE CITY OF TOLLESON, A MUNICIPAL CORPORATION, FOR THE CONSTRUCTION AND MAINTENANCE OF THE LANDSCAPING AND IRRIGATION SYSTEM WITHIN THE RIGHT-OF-WAY ON INTERSTATE ROUTE 10 FROM 99TH AVENUE TO 83RD AVENUE.

WHEREAS, it is to the mutual advantage of the Department of Transportation and the City of Tolleson to landscape certain areas within the right-of-way on Interstate Route 10 from 99th Avenue median centerline roadway station 7051+65, to 83rd Avenue median centerline roadway station 7156+50, a net distance of approximately 1.98 miles;

WHEREAS, it has been determined it is to the mutual advantage of the State of Arizona, that the Department of Transportation, acting through the Highway Division, and the City of Tolleson, acting through its City Council, to enter into an Intergovernmental Agreement for the purpose of entering in a landscaping maintenance agreement for certain projects which have been selected by the State and subject to the approval of the City of Tolleson as by law required.

NOW THEREFORE, it is mutually agreed by and between the Department of Transportation and the City of Tolleson, pursuant to the authority contained in Arizona Revised Statutes, Section 28-108 as contained in the attached Landscape Maintenance Agreement, Arizona Project I-IR-10-2 (119).

WHEREAS, the immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety, an Emergency is hereby declared to exist, and this Resolution shall be in full force and effect from and after its passage by the Council as required by the City Charter and is hereby exempt from the referendum clause of said Charter.

PASSED AND ADOPTED by the City Council of the City of Tolleson this 13th day of August, 1985.

APPROVED:

Charles P. Hayes

CHARLES P. HAYES, MAYOR

ATTEST:

Barbara C. Williams

BARBARA C. WILLIAMS, CITY CLERK

APPROVED AS TO FORM:

Donald Kenney

DONALD KENNEY, CITY ATTORNEY

REGUALR COUNCIL MEETING
JULY 23, 1985

I. CALL TO ORDER

This regular council meeting was called to order at 7:30 P.M. by Mayor Charles P. Hayes.

II. INVOCATION/PLEDGE OF ALLEGIANCE

The Invocation was led by City Attorney Donald Kenney and the Pledge of Allegiance was led by Vice Mayor Gamez.

III. ROLL CALL

Present: Mayor Charles P. Hayes and Vice Mayor Adolfo Gamez. Also present: Councilmen: Laura Arnold, James Cardona, Samuel Quezada and Mario Herrera. Absent: Councilman Raul Castaneda. Staff Present: City Manager Ralph Velez, City Clerk Beckie Williams and City Attorney Donald Kenney.

Department Heads Present: Lt. Moreno, Police Dept; Ralph Moreno, Director of Public Works; Sterling Dillow, Director Wastewater Treatment Plant; Chief Barrowclough, Fire Dept.; Ed Ferrang, Head Librarian. Absent: Diana Quezada, Magistrate; Chief Davis, Police Dept.; Bruce Johnson, Controller.

IV. APPROVAL OF MINUTES

At this time a Motion was made by Councilman Quezada to approve the Minutes as mailed. This Motion was seconded by Vice Mayor Gamez, carried unanimously, Councilman Castaneda being absent, and so ordered.

V. SCHEDULED PUBLIC APPEARANCES

None

VI. BUSINESS FROM THE FLOOR

None

VII. ACTION ITEMS

1. Adopt Ordinance No. 247, N.S. - An Ordinance of the City Council of the City of Tolleson, Maricopa County, Arizona, Amending the Tolleson Zoning Code by Amending Section 15-1606 and by adding new section 15-1607 Pertaining to the Planning and Zoning Commission Quorum, Voting, Board of Adjustment and declaring and emergency.

   At this time a Motion was made by Councilman Herrera to adopt Ordinance No. 247, N.S. as read by the City Attorney.

   This Motion was seconded by Councilman Quezada, carried unanimously, Councilman Castaneda being absent, and so ordered.

2. Grant authorization for City Manager to enter into Landscape Maintenance Agreement with Arizona Department of Transportation for proposed land-

scaping project I-IR-10-2 (119), 99th Avenue to 83rd Avenue, on Interstate 10.

At this time a Motion was made by Vice Mayor Gamez to grant authorization for the City Manager to enter into a Landscape Maintenance Agreement with Arizona Dept. of Transportation for proposed landscaping project I-IR-10-2 (119), 99th Avenue to 83rd Avenue.

This Motion was seconded by Councilman Herrera, carried unanimously, Councilman Castaneda being absent, and so ordered.

3. Award bid for vehicle lease for Human Resources Department.

At this time a Motion was made by Vice Mayor Gamez to award the bid for vehicle lease for the Human Resources Department to Joe Gambino for a monthly payment of $169.13, to be paid by Maricopa County Human Resources and Area Agency on Aging. City will pick up insurance.

This Motion was seconded by Councilman Cardona, carried unanimously, Councilman Castaneda being absent, and so ordered.

4. Request authorization for City of Tolleson to enter into Contract with Anderson Nichols for engineering services for Improvement District No. 2, N.S.

At this time a Motion was made by Vice Mayor Gamez to grant authorization for the City of Tolleson to enter into contract with Anderson Nichols for engineering services for Improvement District No. 2, N.S.

This Motion was seconded by Councilman Cardona, carried unanimously, Councilman Castaneda being absent, and so ordered.

5. Approval of Peoria Addendum No. 9.

At this time a Motion was made by Councilman Cardona to approve the Peoria Addendum No. 9.

This Motion was seconded by Councilman Herrera, carried unanimously, Councilman Castaneda being absent, and so ordered.

6. Grant authorization for City of Tolleson to enter into Agreement for Engineering Services Between the City of Tolleson, Arizona, and Brown and Caldwell for Design of Wastewater Treatment Plant Expansion.

At this time a Motion was made by Councilman Quezada to grant authorization for the City of Tolleson to enter into Agreement for Engineering Services Between the City of Tolleson, Arizona and Brown and Caldwell for Design of Wastewater Treatment Plant Expansion.

This Motion was seconded by Councilman Herrera, carried unanimoulsy, Councilman Castaneda being absent, and so ordered.

7. Grant authorization for Robert Gomez, AIA, to provide architectural services for Police Department Expansion.

This item was tabled at the request of the City Manager.

8. Award bid for janitorial services for City of Tolleson.

Great Western Maintenance Company	$1,196.00/month
Paradise Building Maintenance	$1,014.39/month

At this time a Motion was made by Councilman Herrera to award the bid for janitorial serivces to Paradise Building Maintenance for the cost of $1,014.39 per month, effective August 1, 1985 thru July 30, 1986.

This Motion was seconded by Vice Mayor Gamez, carried unanimously, Councilman Castaneda being absent, and so ordered.

9. Grant approval for issuance of beer permit for Annual October Fiesta at Blessed Sacrament Church, October 18-20, 1985.

This item was tabled at the request of the City Manager.

10. Appointment of David Dorsey as Assistant City Manager.

At this time a Motion was made by Councilman Herrera to appoint David Dorsey as Assistant City Manager effective July 24, 1985. Duties were to remain the same, i.e. manage human resources department and special projects as assigned, there would be no increase in salary.

This Motion was seconded by Councilman Quezada, carried unanimously, Councilman Castaneda being absent, and so ordered.

VIII. REPORTS AND DISCUSSION ITEMS

The City Attorney requested that the Council review the abandoned vehicle amendment to the City Code for discussion at the next Council Meeting.

Mayor Hayes requested the City Manager to notify Art Valenzuela by letter of his appointment to the Planning and Zoning Commission and to write Mr. Hintz a letter of thanks.

IX. FOLLOW UP ITEMS

Mr. Velez stated that we would need an action item on the next agenda to hold only one meeting in August.

X. APPROVAL OF CLIAMS OVER $500

At this time a Motion was made by Vice Mayor Gamez to approve all claims over $500. This Motion wa seconded by Councilman Herrera, carried unanimously, Councilman Castaneda being absent, and so ordered.

XI. EXECUTIVE SESSION

At this time 8:00 P.M., Mayor Hayes stated that there had been a request for an Executive Session and said, "Let the Minutes reflect that pursuant to the authority of ARS 38-401.01, an Executive Session of the Tolleson City Council has been requested for the purpose of legal matters and would require a Motion, a second and a vote of the majority of those present. The Chair will entertain a Motion."

A Motion was made by Vice Mayor Gamez for an Executive Session. This Motion was seconded by Councilman Quezada, carried unanimously, Councilman Castaneda being absent, and so ordered.

At this time, 8:09 P.M., a Motion was made by Vice Mayor Gamez and seconded by Councilman Herrera to adjourn the Executive Session and reconvene into the regular session.

At this time the Council addressed Action Item No. 7, Grant authorization for Robert Gomez, AIA, to provide architectural services for the Police Department Expansion.

A Motion was made by Councilman Herrera to authorize Mr. Gomez to provide architectural services for the Police Dept. Expansion. The City Attorney requested that the Minutes reflect that Mr. Velez had discussed his business relationship with Mr. Gomez with the Council and the Council felt there was no conflict of interest.

This Motion was seconded by Councilman Quezada, carried unanimously, Councilman Castaneda being absent, and so ordered.

XII. ADJOURNMENT

At this time, 8:13 P.M., a Motion was made by Vice Mayor Gamez and seconded by Councilman Quezada to adjourn this regular council meeting of July 23, 1985.

APPROVED

Charles P. Hayes
CHARLES P. HAYES

ATTEST:

Barbara C. Williams
BARBARA C. WILLIAMS, CITY CLERK

Attorney General
1275 WEST WASHINGTON
Phoenix, Arizona 85007
Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 85-564, 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 the proper form and is within the powers and authority granted to 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 October, 1985.

ROBERT K. CORBIN
Attorney General

Albert Moya
Assistant Attorney General
Transportation Division

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