EXHIBIT A TO RESOLUTION NO. 13177

A.G. CONTRACT NO. 85-044

CITY of TUCSON

A.G. CONTRACT NO. 85-734

CONTRACT NO. 0489-85

LANDSCAPE MAINTENANCE AGREEMENT
ARIZONA PROJECT I-10-4-936
Congress Street Traffic Interchange

JPA-86-14

THIS AGREEMENT, made this 24th day of February, 1986, 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.

W I T N E S S E T H:

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 10 at the Congress Street Traffic Interchange from roadway station 0+00 at the center of the Congress Street Traffic Interchange to roadway station 2+50, west of roadway station 0+00 and to roadway station 1+50, east of roadway station 0+00, a net distance of approximately 0.08 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 will construct the project using State funds.

2. The Department of Transportation shall furnish and install necessary water services from the existing irrigation system on Congress Street to the designated locations within the right-of-way from roadway station 0+00 at the center of the Congress Street Traffic Interchange to roadway station 2+50, west of roadway station 0+00 and to roadway station 1+50, east of roadway station 0+00, all at Department of Transportation expense.

3. The City shall furnish all water for landscape installation during the construction phase, and all water hereafter necessary to properly maintain the landscape between the right-of-way lines from roadway station 0+00 at the center of the Congress Street Traffic Interchange to roadway station 2+50, west of roadway station 0+00 and to roadway station 1+50, east of roadway station 0+00, all at City expense.

4. The Department of Transportation shall maintain the landscaping and irrigation system within the right-of-way from roadway station 0+00 at the center of the Congress Street Traffic Interchange to roadway station 2+50, west of roadway station 0+00 and to roadway station 1+50, east of roadway station 0+00.

5. The City shall furnish all electrical power necessary to maintain the landscaping within the right-of-way from roadway station 0+00 at the center of the Congress Street Traffic Interchange to roadway station 2+50, west of roadway station 0+00 and to roadway station 1+50, east of roadway station 0+00.

6. Each party shall be solely liable for, and shall indemnify, defend, and hold the other party, or any of its departments, agencies, officers or employees, harmless 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

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Date Filed 2-26-86
Secretary of State

an activity, condition, or event arising out of the performance or non-performance of any provision of this Agreement by the indemnifying party, any of its agents, ~~or any of its independent contractors~~. The above cost incurred by either party 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 a claim is filed against the parties jointly, each party shall contribute its pro-rata share of any judgment or settlement.

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

8. 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.

9. 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.

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: _____
STATE ENGINEER

CITY OF TUCSON, a municipal corporation,

BY: _____
MAYOR

COUNTERSIGNED:

BY: _____
CITY CLERK

RESOLUTION

Be it resolved on this date, February 24, 1986, I, CHARLES 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 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.

Charles T. Miller

CHARLES MILLER, Director
Department of Transportation

ADOPTED BY THE
MAYOR AND COUNCIL

JUN 10 1985

RESOLUTION NO. 13177

RELATING TO TRANSPORTATION; APPROVING AND AUTHORIZING EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE I-10/CONGRESS STREET INTERCHANGE LANDSCAPING.

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

SECTION 1. The Intergovernmental Agreement with the Arizona Department of Transportation, attached hereto as Exhibit A and incorporated herein by reference, for the I-10/Congress Street Interchange Landscaping, is approved.

SECTION 2. The Mayor is authorized and directed to execute the said Intergovernmental Agreement for and on behalf of the City of Tucson, and the City Clerk is directed to countersign the same.

SECTION 3. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this resolution.

SECTION 4. 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 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, JUN 10 1985.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

REVIEWED BY:

CITY MANAGER

FWK:jt
5/31/85
FWK

EXTRACT FROM THE 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 7:39 o'clock p.m., on the 10th day of June, 1985, all members having been notified of the time and place hereof.

Present: Council Members Rodolfo C. Bejarano, George Miller, Eva Colunga and Tom Volgy; Vice Mayor Charles Ford; Mayor Lewis C. Murphy; and City Clerk Donald L. De Ment

Absent/Excused: Council Member Brent L. Davis

The Mayor declared a quorum present.

CONSENT AGENDA, ITEM 3 A THRU P

D. INTERGOVERNMENTAL AGREEMENT: ARIZONA DEPARTMENT OF TRANSPORTATION FOR I-10/CONGRESS STREET INTERCHANGE LANDSCAPING

(1) Report from City Manager JUNE10-85-481

(2) Resolution No. 13177 relating to transportation; approving and authorizing execution of an Intergovernmental Agreement with the Arizona Department of Transportation for the I-10/Congress Street Interchange Landscaping.

City Manager's Communication No. 481 was received into and made a part of the record. It was moved by Vice Mayor Ford and duly seconded that the matters on the consent agenda item A through P with the exception of items K and O be approved and/or adopted and the proper action taken.

Upon roll call, the results were:

Aye: Council Members Bejarano, Miller, Colunga and Volgy; Vice Mayor Ford; and Mayor Murphy

Nay: None

Absent/excused: Council Member Davis

Resolution No. 13177 was declared 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 meeting of the Mayor and Council of said City Held on the 10th day of June, 1985, 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 14th day of June, 1985.

Donald L. De Ment

City Clerk

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

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 85-734, 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 13 day of February, 1986.

ROBERT K. CORBIN
Attorney General

Albert Morales
Assistant Attorney General
Transportation Division

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