2151

A. G. Contract No. KR-88-[redacted]-TRD
ECS File: JPA-88-54
Project: F-063-2-507
Section: Swanson Avenue - Mesquite Avenue

# INTERGOVERNMENTAL AGREEMENT
# LANDSCAPE MAINTENANCE

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF LAKE HAVASU CITY

THIS AGREEMENT is entered into _____, 1988, pursuant to Arizona Revised Statutes Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF LAKE HAVASU CITY, acting by and through its City Council, (the "City").

## I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. It is to the mutual advantage of the State and the City to landscape certain areas within the right of way on State Route 95 at the following location:

> From centerline roadway station 1998+00 to centerline roadway station 2009+35, a net distance of approximately 0.21 miles.

NO. 13295
FILED WITH SECRETARY OF STATE
Date Filed 9-16-88
Secretary of State
By A Perdue

0261r

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will prepare plans for the landscaping and irrigation project and submit them to the City for approval.

2. After City approval of the plans, the project will be constructed by the State, using State funds. Upon completion of the work, the City shall reimburse the State 25 percent of the landscape contract costs.

3. The City shall furnish and install necessary water services from water mains to the designated locations within the right of way at the State's expense.

4. The City shall furnish all water for landscape installation during the construction phase, and all water hereafter necessary to properly maintain the landscape, all at City expense.

5. After construction, the City shall maintain the landscaping and irrigation system within the right of way and shall furnish all electrical power necessary to maintain the landscaping within the right of way.

6. The City hereby agrees to maintain the landscaping and irrigation system in an attractive manner, as it was designed and approved by the State; and the City will not make any changes, additions or deletions without written approval by the State. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the State's "Uniform Traffic Control Requirements."

III. MISCELLANEOUS PROVISIONS

1. This agreement shall become effective upon filing with the Secretary of State.

2. This agreement shall remain in full force and effect for a period of one (1) year from the effective date. Thereafter, this agreement will be automatically renewed for successive periods of one year unless terminated by either party upon ninety days' written notice to the other party. It is understood and agreed that, in the event this agreement is terminated by the City, the State shall in no way be obligated to maintain said landscaping.

3. This agreement may be cancelled by the Governor in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518(B) and (C).

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Roadside Development Services
205 South 17 Avenue, Room 228E
Phoenix, AZ 85007

City of Lake HAvasu City
City Manager
1795 Civic Center Blvd.
Lake Havasu City, AZ 86403

7. Attached hereto and incorporated herein by reference is a copy of the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

**CITY OF LAKE HAVASU CITY, a** municipal corporation

By James M Casey
James M. Casey
Title City Manager

**STATE OF ARIZONA**
Department of Transportation

By Gary K. Robinson
GARY K. ROBINSON
Chief Deputy State Engineer

ECS File: JPA-88-54
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Mesquite Avenue

**RESOLUTION**

BE IT RESOLVED on this 7th day of July, 1988, that I, CHARLES L. MILLER, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, enter into an agreement with the City of Lake Havasu City for the City to maintain landscaping on certain State highways.

THEREFORE, authorization is hereby given to draft said agreement which, upon completion, shall be submitted for approval and execution by the Chief Deputy State Engineer.

CHARLES L. MILLER, Director
Arizona Department of
Transportation

STATE OF ARIZONA )

: SS

County of Mohave )

I, Ann R. Sayne, City Clerk of the City of Lake Havasu City, Arizona, do hereby certify that the following is a true and correct extract of the minutes of the City Council meeting held August 10, 1988.

In Witness Whereof, I have hereunto set my hand and affixed the Official Seal of the City of Lake Havasu City, Arizona. Dated this 25th day of August, 1988.

Ann R. Sayne

Ann R. Sayne, City Clerk

01054

Lake Havasu City Council Reg r Meeting Minutes
Council Chambers, Municipal Offices
Wednesday, August 10, 1988, 7:30 P.M.

7:00 P.M. EXECUTIVE SESSION PURSUANT TO A.R.S. 38.431.03(A)(4) PENDING LITIGATION

CALL TO ORDER
Mayor Spezzano called the meeting to order at 7:30 P.M.

INVOCATION: REVEREND DAVID BAZAN, CHRISTIAN ASSEMBLY OF GOD CHURCH
The invocation was given by Reverend David Bazan of Christian Assembly of God Church.

PLEDGE OF ALLEGIANCE
Mayor Spezzano led in the Pledge of Allegiance.

ROLL CALL
PRESENT: Councilmembers James Spezzano, Peter Charno, Mary Ann Curry, David Gabler, Charles Langerveld and Robert Ramsdell.
ABSENT: Councilman Richard Muselman.

CONSENT AGENDA
*a. Approval of July 27, 1988 Regular Council Meeting Minutes
*b. Proclamation: Foster Care Review Awareness Week, September 5th-10th, 1988
*c. Request for Banner in Wheeler Park/L.H.C. Radio Control Model Airplane Club
Recommendation: Grant the Club's request to display banner in Wheeler Park from October 28th through November 13th noticing the London Bridge Seaplane Classic November 11th - 13th, 1988. Sketch of proposed banner attached.
*d. Call for Executive Session at 7:00 P.M., Wednesday, August 24, 1988
*e. Accounts Payable in the Total Amount of $344,209.14

Councilman Ramsdell moved for approval of the Consent Agenda, seconded by Member Charno and unanimously carried.

Mayor Spezzano introduced Mr. Jim Alexander, former City Auditor for the City of Phoenix, Assistant Manager and recently retired City Manager for the City of Tempe, who has offered to fill in and assist the City until a replacement could be recruited to replace former Management Services Director Vito Tedeschi.

Mayor Spezzano announced a change in the Agenda format to next hear Agenda Item #9 in order that C.I.A.I. consultants could begin their return to Phoenix earlier.

AUTHORIZE CONTRACT WITH C.I.A.I. FOR DESIGN PHASE OF THE NEW LAKE HAVASU CITY AIRPORT
City Manager, Jim Casey advised that the new Airport is a very large project costing in the neighborhood of $9 million. He provided Council with a lengthy memorandum to appraise them of the issues the Project Manager, Capital Improvement Associates, Inc. will be dealing with, and setting forth their processes and techniques. C.I.A.I. has now completed the pre-design phase of their work and have renegotiated Leedshill agreement at a great savings to the City. At this time it was Mr. Casey's recommendation that the City continue C.I.A.I.'s services by accepting their proposal to provide the design phase services for the Airport. Ab Hameed and Ernie Kaiser were present to answer any questions the Council may have about their proposal.

Mayor Spezzano noted that C.I.A.I.'s renegotiation of the contract with Leedshill and other areas had resulted in some $400,000 in real and potential savings. It was his opinion that it was a very wise decision to retain a project manager for the Airport.

Mr. Hameed advised that their proposal was to take the Airport project all the way through to the end of construction, however, they recommend at this time that only the design phase be considered because they felt that the firm will be able to save the

City more money by combining the construction of the airport and the terminal since they could be here to manage both at the same time if they were overlapping. Mayor Spezzano reviewed the Project Schedule and Schedule of Fees indicating design fees of $99,000 for the Airport and $37,000 for the Terminal.

Councilman Langerveld moved that the City Manager be authorized to enter into an agreement with Capital Improvement Associates, Inc. for services as outlined in the July 21, 1988 proposal and scope of work, for an amount not to exceed the firm's proposal of $136,000.00, seconded by Member Curry and unanimously carried.

PUBLIC HEARING: Z-88-010 ZONE CHANGE REQUEST, HOGAN LANE/WINDHOLZ/DUNCAN

Mayor Spezzano advised that Mr. Windholz has requested a postponement of the Public Hearing to the August 24th meeting. Member Ramsdell so moved, seconded by Member Langerveld and unanimously carried.

ORDINANCE NO. 88-240 AMENDING CHAPTER 9 OF THE CODE, PROHIBITING GLASS CONTAINERS

Interim Leisure Services Director, Dick Samp advised that the ordinance prohibiting glass containers in waterside recreational areas and City parks had been prepared by the City Attorney and reviewed by the Police Department and the Leisure Services Advisory Board as shown in the August 2, 1988 Board minutes, which also reflected detail and discussion of the problem. The Board was also privvy to a video tape and pictures showing the problems with glass containers in these areas. The Police Department and the Board recommend approval of the ordinance.

Members Curry and Charno asked how the ordinance would be enforced. Police Chief Wilkins explained the Department's enforcement methods and techniques. It was suggested that printed information on this ordinance, alcohol consumption in boats, and riding in boats and open trucks on the streets, be distributed to various retailers and hotel/motel establishments in an effort to increase public awarebess of such laws. Member Curry further suggested that Council encourage the State Legislature to pass similar statewide legislation. Mayor Spezzano agreed and suggested such a resolution be scheduled on a future agenda.

Councilman Langerveld moved for approval of ORDINANCE NO. 88-240, prohibiting glass containers on waterside recreation areas and City parks, seconded by Member Ramsdell and unanimously carried. Mr. George Pfaff stated that as Chairman of the Havasu Round Table he would contact other statewide committees for support of this legislation.

AUTHORIZE LANDSCAPE MAINTENANCE AGREEMENT WITH ARIZONA DEPT. OF TRANSPORTATION

City Engineer, Pete Manderfield advised that the City and the Arizona Department of Transportation have been working together for several years on installation of landscaping and irrigation along State Route 95 from Swanson to Mesquite Avenue. The Agreement will require the City to reimburse the State twenty-five percent of the costs and to maintain the area after construction has been completed. Staff recommends the City Manager be authorized to execute the Landscape Maintenance Agreement with A.D.O.T. on behalf of Lake Havasu City. Member Curry asked if it is possible to receive more assistance of this type from A.D.O.T. in the future. Mr. Manderfield advised that normally cities are limited to two projects. Member Ramsdell asked about the City's cost and if work done on the site by the City would be considered as a contribution toward that cost. Mr. Manderfield advised the total cost estimate is $80,000 so the City's share is $20,000 which has been budgeted. The work the City did was to provide a specific grade for the installation and was not work in lieu of funds.

Councilman Gabler moved that the City Manager be authorized to execute the Landscape Maintenance Agreement with A.D.O.T., seconded by Member Langerveld. Ms. Swart asked who would pay for watering the landscaping and was advised the City would. Member Gabler's motion was then unanimously carried.

AUTHORIZE SERVICE AGREEMENT F PARK DEVELOPMENT/LEISURE SERVI ' PROJECTS

Mr. Samp advised that it is necessary to secure recent and proper data on park development. He recommended that the City secure a qualified landscape and parks planner to advise on current development costs and price estimates relating to those items necessary to be accomplished. It was his recommendation that the firm of Cella Barr Associates be retained to assist staff in establishing estimates for those projects being considered prior to entering into any contracts or design phases. He recommended that the City enter into service agreement with Cella Barr not to exceed $1,200. Mr. Samp explained that they would estimate costs for all concepts being considered, from placement of a restroom on an existing site all the way up to complete construction of a facility. Councilman Charno moved to authorize the City Manager to enter into a service agreement with Cella Barr Associates, to be coordinated with the Leisure Services Director, for cost estimates not to exceed $1,200 for park development and leisure services' projects, seconded by Member Langerveld.

Upon question from the audience Mayor Spezzano indicated that these services would include cost estimates for Jack Hardie Park. Member Curry advised she had seen the development of a park that this firm had been involved with and it is becoming a very beautiful complex. Member Gabler noted that Cella Barr had also done some work on the City's Industrial Park. Member Charno's motion was unanimously carried.

AUTHORIZE MEMBERSHIP IN THE ARIZONA STATE PARKS AND RECREATION ASSOCIATION

Mr. Samp advised that staff is recommending annual membership for the Leisure Services Advisory Board members at $25 each, and the Leisure Services Department at $40, in the Arizona State Parks and Recreation Association. He explained the advantages to both staff and individual Board Members of membership in the Association. The total membership costs of $265 would be paid from the Leisure Services Department's budget. Councilman Ramsdell moved that the Leisure Services Department and members of the Leisure Services Advisory Board be authorized to become members of the Arizona State Parks and Recreation Association, seconded by Member Curry and unanimously carried.

RESOLUTION NO. 88-522, AUTHORIZING ISSUANCE OF ARIZONA BANK MASTER CHARGE CARDS

City Manager Casey explained there were two reasons for this request. Foremost, the City recently changed its banking services to Arizona Bank which necessitates issuance of the new bank's cards; secondly, he and Mr. Darbo are the only signers on the card and Mr. Darbo, having to travel extensively, has been pushing the limit. Councilman Ramsdell moved to authorize the issuance of Arizona Bank Master Charge cards to James M. Casey, City Manager and Richard S. Darbo, Industrial development Director, with a maximum credit limit of $2,000 each, thereby adopting RESOLUTION NO. 88-522, seconded by Member Curry and unanimously carried. Mr. Strohman asked the current limit on the two Master Cards and was advised that it was $2,500 total for both cards.

PD-88-002 FINAL SUBDIVISION PLAT: VILLAGE PARC CONDOS, INJO & MESQUITE/KUERNER

Community Development Director Todd Dugdale advised that PD-88-002 is a request by Kuerner Development Corporation for final subdivision plat approval for a 36 unit condominium project on 1.3 acre site located on Querio between Injo Drive and Mesquite Avenue. The Planning Commission approved the preliminary plat and design review with the conditions that a more detailed landscape plan be submitted and that the driveways be redesigned. Staff has found that the final plat conforms to the approved preliminary plat and the provisions of the City Subdivision Code, and recommends approval of the final subdivision plat with the condition that the applicant submit a performance guarantee in the amount of the required off-site improvements for approval by the City Engineer prior to recordation of the final plat. Councilman Charno moved for approval of the final subdivision plat for SD-88-002 with the staff's recommended condition, seconded by Member Ramsdell and unanimously carried.

ZUP-88-025 ZONING USE PERMIT FOR CAR RENTAL BUSINESS/PIONEER HOTEL & DEL RIO RENT-A-CAR

Mr. Dugdale advised that ZUP-88-025 is a request from Del Rio Rent-A-Car to establish a car leasing business in conjunction with the Pioneer Hotel on their 5.26 acre site on Lake Havasu Avenue. The proposal requires parking area for up to 8 lease vehicles.

The applicant will occupy counter space in the hotel lobby. A conceptual site sketch has been submitted indicating that the leased vehicles are to be parked along the rear of the hotel parking lot where the trash dumpsters are currently located. The dumpsters are to be relocated along the hotel building. A design review will be required for this proposal if this zoning use permit is granted. Staff's findings are contained in the staff report provided to Council. Based on those findings, staff recommends denial of the request principally due to the fact that the hotel and related uses currently provide only 62% of the parking which would be required of such a development if it were developed today. However, based upon evaluation of the actual parking demand during most times of the year the Planning Commission has recommended approval with the conditions that a maximum of eight cars be kept on the site; no on-site service of the cars be allowed; the existing parking lot be restriped to provide the extra ten spaces that the hotel manager indicated were available; the zoning use permit be brought back before the Commission in one year for review.

Mayor Spezzano suggested that the applicant get with Mr. Dugdale and make sure the lot restriping meets the standards. Member Gabler was inclined to accept the Planning Commission's recommendation and stipulations since the Hotel had been at this location for some time prior to adoption of parking standards which now indicate only 62% compliance. He thought the Hotel had covered as much property as they have available to them to provide the maximum parking. Member Gabler moved the zoning use permit be granted. Member Ramsdell seconded the motion, agreeing with Member Gabler and noting that the Hotel had offered ten spaces instead of only the eight required for the rental cars, thereby adding two extra spaces. Member Charno expressed concern relative to the relocation of the dumpsters. Hotel Manager John Peranzi advised that he was trying to obtain rolling dumpsters that could be placed in the enclosure and be rolled out only on pick-up day. Mr. Ernest Michel suggested a six-month review instead of one year recalling that the Hotel parking lot used to be quite crowded when they had entertainment downstairs. He felt the Hotel's situation and activities could change frequently and should be reviewed frequently. After further discussion, Member Gabler's motion was unanimously carried.

<u>REQUEST FOR SALE OF CITY PROPERTY AND ABANDONMENT OF PU&DE, PATIO SIMPATICO DR/STEELE</u>

Mr. Dugdale advised that PP-88-001 and A-88-011 is a dual request for the sale of City-owned property and abandonment of a public utility and drainage easement. Chris Steele, on behalf of Gordon Brown, the owner of Lot 3, Block 1, Tract 2315A is requesting the City auction a 38 foot wide portion of Lot B which adjoins his property, and abandon a walkway, utility and drainage easement on the property in order to combine them with Lot 3 which is zoned R1-C and is developed with a single family dwelling. Lot B is zoned Residential Estates and is vacant. A twelve foot portion of Lot B was quit claimed to the then owner of Lot 3 in 1974 by the I.D.D. provided it was used for landscaping purposes only. In 1982 the Council authorized the sale of 28 feet of the remaining 38 feet at not less than the appraised value of $9,600. The owner offered only $2,500 so the matter was dropped.

A recent administrative policy requires that a request for sale of City property be made upon application to the Community Development Department together with a deposit of $150 to defray the cost of a current appraisal. A local appraiser reviewed the subject property and determined that since it was too small for a building lot no market value could be determined, however, he advised it did have "use value" to the adjoining landowner seeking the purchase. Based on a comparable selling price of $2.68 per square foot, the 5,069 square foot parcel would have a full market value of $13,585.

Affected City Departments and utility companies have reviewed the companion request for easement abandonment and recommended all but the 15 feet adjacent to Lot 4 be abandoned. Based upon these findings, staff recommends that Council authorize the City Attorney to initiate auction procedures for the 38 foot wide portion of lot with a specified minimum acceptable bid of $13,585, and prepare abandonment documents for all but the southernmost 15 feet of walkway, utility and drainage easement on the property pending award of the bid.

Mr. Dugdale advised that he had contacted the applicant and she indicated she would not be present at for this hearing. She also indicated they would only be willing to offer would be $11,000 for the property.

Member Langerveld asked how the appraiser came up with a "use value". Mr. Dugdale advised it was not an easy process, but basically it is what the adjoining property owner has use for. Mr. Langerveld didn't agree with the appraisal and felt $13,585 was too high. Mr. Iannone explained the procedure and agreed that $13,585 was too high, as did Members Gabler and Ramsdell, particularly since the property was of use to no one other than the adjacent property owner who was trying to purchase it. Councilman Ramsdell moved to authorize the City Attorney to initiate auction procedures for the 38 foot wide portion of Lot B, Block 1, Tract 2315A, with a specified minimum acceptable bid of $10,000 and prepare abandonment documents for all but the southernmost 14 feet of walkway, utility and drainage easement pending award of bid, seconded by Member Langerveld. Member Charno disagreed with setting the minimum at $10,000 when the prospective buyer had offered $11,000. Member Curry noted that the sale of the parcel will add to the assessed valuation and place it on the tax rolls, bringing in tax money to the City which is not being received now. Member Gabler expressed concern that perhaps adjoining property owners were not aware of the proposed sale and he felt they should be given adequate notice. Mr. Dugdale suggested that perhaps the property should be posted noticing the sale of the parcel. Member Gabler agreed.

Councilman Ramsdell's motion was unanimously carried.

ACCEPTANCE OF RECOMMENDATIONS OF THE LEISURE SERVICES ELEMENT TO THE GENERAL PLAN

Mr. Samp advised that this presentation was not an attempt to bypass the normal procedure of any changes to the General Plan going to the Planning Board, but to obtain input from Council on the Leisure Services Board and staff's concepts of the leisure services element to the General Plan. The goals and objectives presented revolve around the concept of developing the existing schools as a network of neighborhood parks within the City. It is proposed to divide the community in nine sectors, each sector having a school site or a proposed park within that sector. Mr. Samp stressed that it is fortunate that the Lake Havasu Unified School District has attempted to maintain as much open space as possible in developing their schools. By utilizing this space at the schools as a network of neighborhood parks the City will exceed the national recommended standards of four acres per 1,000 population at the projected population of 2010. Staff feels the need to update the General Plan to meet the future growth of the community. All that is asked is Council's general approval of this concept. Mr. Iannone advised that any amendments to the General Plan would go before the Planning Commission for public hearing and recommendation to the Council, and then to the Council for public hearing and approval.

Councilman Ramsdell moved that the Council give the Leisure Services Advisory Board general approval of the concept presented by Mr. Samp to move forward in developing recommendations to update the Leisure Services Element to the General Plan, seconded by Member Charno and unanimously carried.

FUTURE MEETINGS: WEDNESDAY, AUGUST 24, 1988, 7:00 P.M. - EXECUTIVE SESSION
WEDNESDAY, AUGUST 24, 1988, 7:30 P.M. - REGULAR MEETING

CALL TO THE PUBLIC There were no requests to address the Council.

ADJOURN

Upon motion by Member Curry, seconded by Member Gabler and unanimously carried, the meeting was adjourned at 9:00 P.M.

Ann R. Sayre, 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 LAKE HAVASU CITY 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 2nd day of August, 1988.

Vincent A. Iannone

Vincent A. Iannone

City Attorney

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

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. KC88-2151-TRD, 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 15th day of September, 1988.

ROBERT K. CORBIN
Attorney General

Assistant Attorney General
Transportation Division

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