

**PROJECT SPECIFIC MAINTENANCE AGREEMENT  
WITH CITY OF OAKLAND**

THIS AGREEMENT is made effective this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE" and the CITY of Oakland; hereinafter referred to as "CITY"; and collectively referred to as "PARTIES".

SECTION I

RECITALS

1. Encroachment Permit Number \_\_\_\_\_ was issued to CITY to construct a bike lane, sidewalk, bench, street lighting and decomposed granite paving on State Route (SR)880 at Fruitvale undercrossing, hereinafter referred to as "PROJECT", and
2. In accordance with said agreement, it was agreed by PARTIES that prior to issuing the Encroachment Permit, CITY and STATE will enter into a Maintenance Agreement, and
3. The PARTIES hereto mutually desire to identify the maintenance responsibilities of CITY for the improvements of PROJECT constructed within the STATE right of way under the Encroachment Permit Number \_\_\_\_\_, and
4. The degree or extent of maintenance work to be performed, and the standards, therefore, shall be in accordance with the provisions of Section 27 of the Streets and Highways Code and the then current edition of the State Maintenance Manual.
5. There is an existing Freeway Maintenance Agreement(s), with CITY date October 4, 1949 and December 22, 1958.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

SECTION II

AGREEMENT

1. PARTIES agree this Agreement shall supersede the portion of said Freeway Maintenance Agreement executed by PARTIES on October 4, 1949 and December 22, 1958 that are included in this Project Specific Maintenance Agreement.
2. Exhibit A consists of plan drawings, delineate and describe the areas within STATE right of way which are the responsibility of the CITY to maintain in accordance with this Agreement.

3. If there is mutual agreement on a change in the maintenance responsibilities between PARTIES, the PARTIES can revise the Exhibit A by a mutual written execution of the exhibit.
4. CITY must obtain the necessary Encroachment Permits from STATE's District 4 Encroachment Permit Office prior to entering STATE right of way to perform CITY maintenance responsibilities. This permit will be issued at no cost to CITY.
5. VEHICULAR UNDERCROSSINGS
  - 5.1. CITY will maintain the CITY roadway, including the traveled way, shoulders, curbs, sidewalks, wall surfaces (including eliminating graffiti), drainage installations, lighting installations and traffic service facilities that may be required for the benefit or control of pedestrians and traffic using the CITY roadway beneath the undercrossing structure.
  - 5.2. CITY will request STATE's District Encroachment Permit Engineer to issue the necessary Encroachment Permit for any proposed change in minimum vertical clearances between CITY roadway surface and the structure that results from modifications to the roadway (except when said modifications are made by STATE). If the planned modifications will result in a reduction in the minimum clearance within the traveled way, an estimate of the clearance reduction must be provided to STATE's Transportation Permit Engineer prior to starting work. Upon completion of that work, a vertical clearance diagram will be furnished to STATE's Transportation Permit Engineer that shows revised minimum clearances for all affected movements of traffic, both at the edges of the traveled way and at points of minimum clearance within the traveled way.
6. WALLS, SOUNDWALLS, AND COLUMNS - CITY is responsible for debris removal, cleaning and painting to keep CITY's side of any wall structure or column free of debris, dirt, and graffiti.
7. LANDSCAPED AREAS - CITY is responsible for the maintenance of any plantings or other types of roadside improvements of PROJECT lying outside of the fenced area restricting walk-on access to the freeway.
8. BICYCLE PATHS, LANES, AND CYCLE TRACKS constructed as permitted encroachments within STATE's right of way, CITY is solely responsible for all permitted improvements, including but not limited to the delineation, fencing, guard railing, drainage facilities, slope and structural adequacy. CITY will maintain, at CITY expense, a safe facility for bicycle travel along the entire length of the path/lane/cycle track by providing sweeping and debris removal when necessary; and all signing and striping, and pavement markings required for the direction and operation of that non-motorized facility.

## 9. LEGAL RELATIONS AND RESPONSIBILITIES

- 9.1. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or to affect the legal liability of a PARTY to the Agreement by imposing any standard of care with respect to the operation and maintenance of STATE highways and local facilities different from the standard of care imposed by law.
- 9.2. Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by, under or in connection with any work, authority or jurisdiction conferred upon STATE under this Agreement. It is understood and agreed that STATE shall fully defend, indemnify and save harmless CITY and all of their officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.
- 9.3. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction conferred upon CITY under this Agreement. It is understood and agreed that CITY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including section but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CITY under this Agreement.

## 10. PREVAILING WAGES:

- 10.1. Labor Code Compliance- If the work performed under this Agreement is done under contract and falls within the Labor Code section 1720(a)(1) definition of a "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code section 1771. CITY must conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, Articles 1-7. CITY agrees to include prevailing wage requirements in its contracts for public works. Work performed by CITY'S own forces is exempt from the Labor Code's Prevailing Wage requirements.
- 10.2. Requirements in Subcontracts - CITY shall require its contractors to include prevailing wage requirements in all subcontracts when the work to be performed by the subcontractor under this Agreement is a "public works" as defined in Labor

Code Section 1720(a)(1) and Labor Code Section 1771. Subcontracts shall include all prevailing wage requirements set forth in CITY's contracts.

## 11.INSURANCE

11.1. SELF-INSURED - CITY is self insured. CITY agrees to deliver evidence of self-insured coverage providing general liability insurance, coverage of bodily injury liability and property damage liability, naming STATE, its officers, agents and employees as the additional insured in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. Coverage shall be evidenced by a certification of self-insurance letter ("Letter of Self-Insurance"), satisfactory to STATE, certifying that CITY meets the coverage requirements of this section. This Letter of Self-Insurance shall also identify the PROJECT location as depicted in EXHIBIT A. CITY shall deliver to STATE the Letter of Self-Insurance with a signed copy of this AGREEMENT. A copy of the executed Letter of Self-Insurance shall be attached hereto and incorporate as Exhibit B.

11.2. SELF-INSURED using Contractor - If the work performed under this AGREEMENT is done by CITY's contractor(s), CITY shall require its contractor(s) to maintain in force, during the term of this AGREEMENT, a policy of general liability insurance, including coverage of bodily injury liability and property damage liability, naming STATE, its officers, agents and employees as the additional insured in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE with a signed copy of this Agreement.

12.TERMINATION - This Agreement may be terminated by mutual written consent by PARTIES or by STATE for cause., CITY's failure to comply with the provisions of this Agreement may be grounds for a Notice of Termination by STATE.

13.TERM OF AGREEMENT - This Agreement shall become effective on the date first shown on its face sheet and shall remain in full force and effect until amended or terminated as set forth in Article 12 above.

PARTIES are empowered by Streets and Highways Code Section 114 and 130 to enter into this Agreement and have delegated to the undersigned the authority to execute this Agreement on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this Agreement.

IN WITNESS WHEREOF, the PARTIES hereto have set their hands and seals the day and year first above written.

THE CITY OF OAKLAND

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
Mayor



TOKS OMISHAKIN  
Director of Transportation

Initiated and Approved

By: \_\_\_\_\_  
CITY Manager

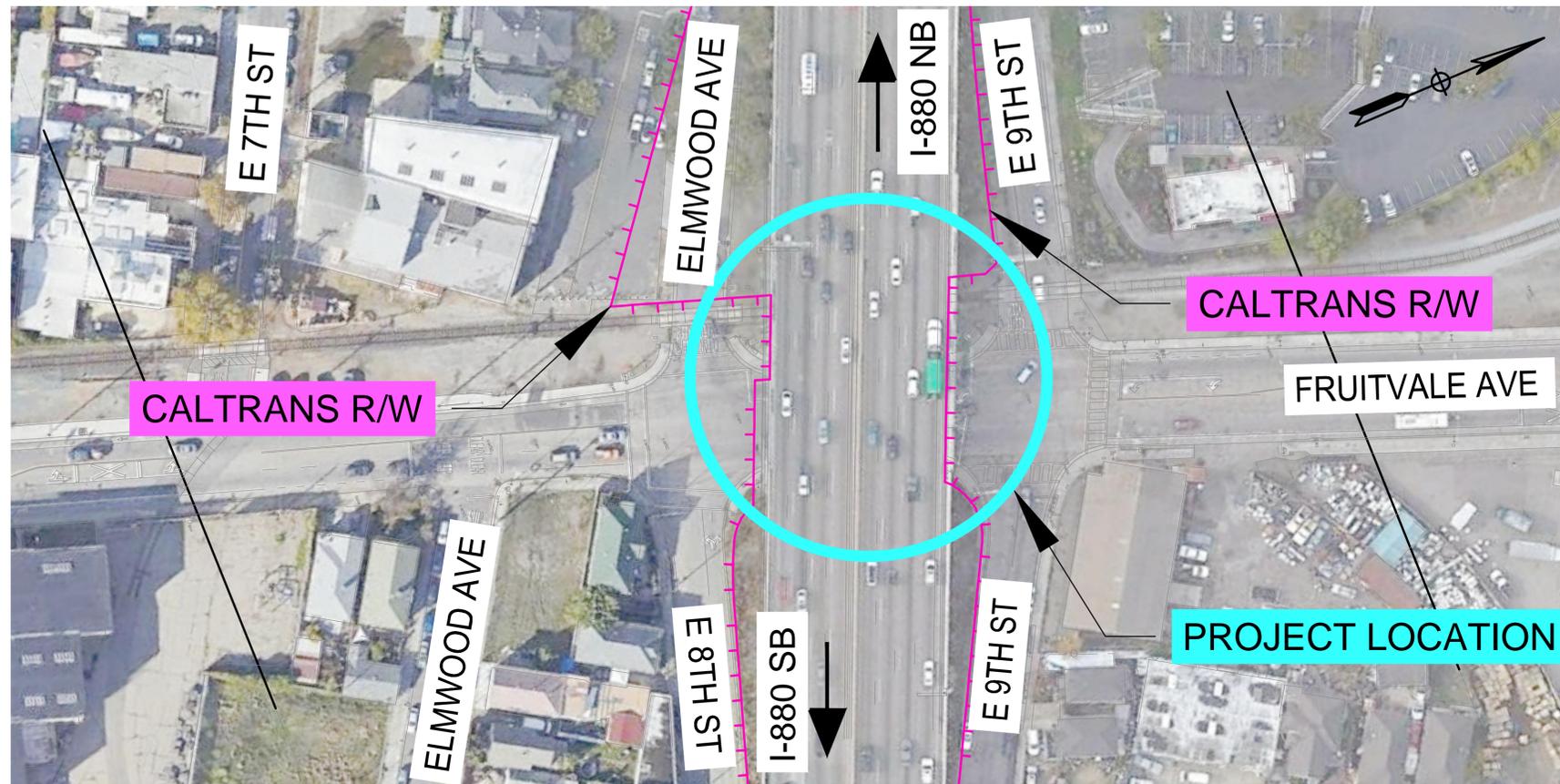
By: \_\_\_\_\_  
DAVIDE AMBUEHL      Date  
Deputy District Director  
Maintenance District 4

ATTEST:

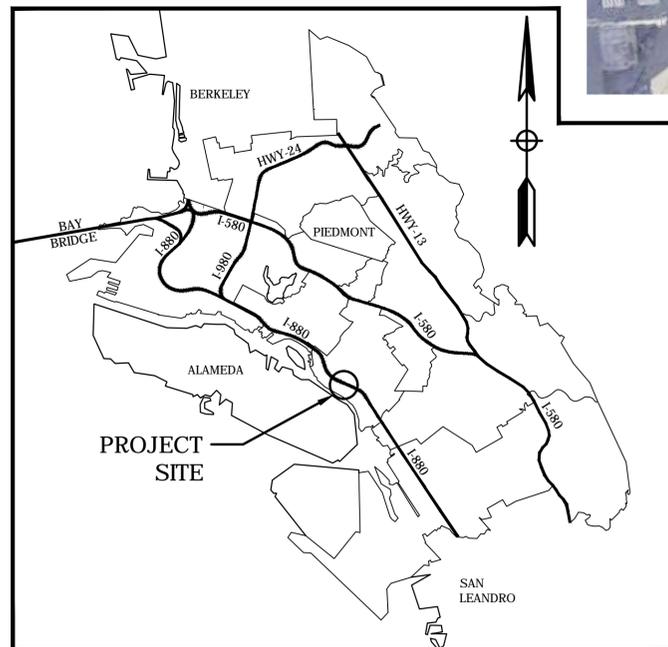
By: \_\_\_\_\_  
CITY Clerk

By: \_\_\_\_\_  
CITY Attorney

# EXHIBIT A



## LOCATION MAP



<b>BKF 100+</b> 300 FRANK OGAWA PLAZA SUITE 380 OAKLAND, CA 94612 916-556-5800 916-556-5899 (FAX)	
CHECKED BY: M. COSENTINO	CONSULTANT'S JOB No.
DESIGNED BY: B. SILKWOOD	181151-05
DRAWN BY: A. LARA	

**CITY OF OAKLAND**  
 DEPARTMENT OF TRANSPORTATION  
 250 FRANK H. OGAWA PLAZA, SUITE 4314  
 OAKLAND, CA 94612  
 (510) 238-3437  
 FAX (510) 238-7227

**EXHIBIT A - MAINTENANCE AGREEMENT WITH CITY OF OAKLAND**  
 CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA  
 04-ALA-880 28.4

No.	DATE	BY	REFERENCE

PROJECT NO.  
**1000724**  
 FEDERAL PROJECT NO.  
 ATPL 5012(153)

SCALE: 1"=50'  
 HOR: 1"=50'  
 VERT: N/A

DATE: FEBRUARY 9, 2021

SHEET NO.  
**MA-1**  
 1 OF 2

DRAWING NAME: 04-ALA-880 28.4  
 PLOT DATE: 02-10-21  
 PLOTTED BY:



**EXHIBIT B – LETTER OF CERTIFICATE OF CITY OF OAKLAND STATEMENT OF SELF INSURANCE**

Department of Transportation  
PO Box 23660 MS4A  
Oakland, CA 92623  
ATTN: Waddah Al- Zireeni,

\_\_\_\_\_20\_\_

City of Oakland  
Department of Finance

RE: Statement of Self Insurance for City of Oakland Related to Project Specific Maintenance Agreement with State of California Department of Transportation ("STATE") for the PROJECT along Highway 880 at Fruitvale Undercrossing

Dear Mr. Al-Zireeni

The purpose of this letter is to certify that the CITY is self-insured and self-funded covering third-party claims arising out of its general operations (for example, commercial general liability and automobile liability insurance). Further the CITY is self-insured covering workers' compensation claims and has received the consent of the State Department of Industrial Relations to do so.

Each fiscal year, as a part of its budgetary process, the CITY appropriates funds specifically to satisfy valid third-party claims and workers' compensation claims, which may be brought against the CITY.

The CITY certifies its self-insured, general liability coverage for bodily injury liability and property damage liability, meets the required coverage amounts in section 11.1 (INSURANCE) of the Maintenance Agreement, specifically general liability insurance, coverage of bodily injury liability and property damage liability in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. The CITY further represents that regarding any claims made in connection with the Maintenance Agreement by the STATE, the STATE will be first-in-line regarding the reserved, self-insured amounts.

If you need any additional information regarding this letter, please direct those inquires through my office.

Sincerely,

FINANCE MANAGER