

**[AGREEMENT TYPE] MAINTENANCE AGREEMENT
WITH
CITY OF OAKLAND**

This [Agreement Type] Maintenance Agreement ("AGREEMENT") is made effective this _____ day of _____, 20____, by and between the State of California, acting by and through the Department of Transportation ("STATE"), and the City of Oakland ("LOCAL AGENCY"); each may be referred to individually as a "PARTY" and jointly as "PARTIES."

RECITALS

1. WHEREAS, Encroachment Permit No. _____ dated _____ was executed between LOCAL AGENCY and STATE to document the understanding between PARTIES regarding the planned improvement of the State Highway Route (SR) _____ and the adjustments of the local street and road system required for the development of that portion of SR _____ within the jurisdictional limits of the LOCAL AGENCY.
2. WHEREAS, the PARTIES hereto mutually desire to identify the maintenance responsibilities for the features and improvements, as defined herein, constructed or installed within the STATE right of way.
3. WHEREAS, the PARTIES executed prior Freeway Maintenance Agreement(s) dated March 20, 1987. This AGREEMENT shall not supersede prior Freeway Maintenance Agreement(s) or any other maintenance agreements if any exist within the same limits as this AGREEMENT.
4. Categories of State Highway System (SHS) facilities covered under this AGREEMENT may include but are not limited to the following, which are specifically identified in Exhibit A:
 - A. **Complete Street Features and/or Enhancements** – These may include, Bikeways (Class I, Class II, Class II with Buffer, Class III, and Class IV), pedestrian paths, bus lanes, parking spaces, sidewalks, crosswalks, textured surfaces, street furniture, roundabouts, signage, roadway lighting, trash enclosures, street trees, tree wells, planters, planter boxes, landscaping, and irrigation.

- B. **Drainage Facilities** – Systems or structures designed to manage and direct the flow of water, typically to prevent flooding or waterlogging. Drainage Facilities include a variety of infrastructure components, such as: stormwater drains, sewers, ditches and channels, catch basins, retention or detention ponds, and culverts, inlets and outlets.
 - C. **Landscaped Areas** – These areas include hardscaping, planting, vegetation, and related landscaping improvements.
 - D. **Vehicular and Non-Vehicular Undercrossing within STATE RIGHT OF WAY (ROW)** – These undercrossings are roadway(s) crossing under STATE ROW and appurtenant structures situated within STATE ROW.
 - E. **Walls, Retaining Walls, Columns, and Soundwalls** – These improvements include structural components of embankments and noise reduction structures constructed within STATE ROW.
5. Definitions of SHS facilities components.
- A. **Bikeway Class I** – Provides a completely separated right-of-way designated for the exclusive use of bicycles and pedestrians with crossflows by motorists minimized.
 - B. **Bikeway Class II** – Provides a restricted right-of-way designated for the exclusive or semi-exclusive use of bicycles with through travel by motor vehicles or pedestrians prohibited, but with vehicle parking and crossflows by pedestrians and motorists permitted.
 - C. **Bikeway Class III** – Provides a right-of-way on-street or off-street, designated by signs or permanent markings and shared with pedestrians and motorists.
 - D. **Bikeway Class IV** – Promotes active transportation and provides a right-of-way designated exclusively for bicycle travel adjacent to a roadway and which are separated from vehicular traffic. Types of separation include, but are not limited to, grade separation, flexible posts, inflexible physical barriers, or on-street parking.
 - E. **Crosswalk** – Designated locations for pedestrians who are crossing roadways by defining and delineating paths on approaches to and within signalized intersections, and on approaches to other intersections where traffic stops.
 - F. **Lighting** – Electrical lamps and light posts installed within STATE ROW.
 - G. **Overcrossing** – A roadway not used as a state highway or state freeway that goes over a SHS facility.
 - H. **Pedestrian Paths** – A path or walkway, other than a sidewalk, that is owned by the City, County, or another public entity and is specifically designed for pedestrian travel. The path is usually constructed of concrete, pavers, brick, stone, or asphalt, and it is designed for pedestrian use.
 - I. **Sidewalk** – A paved path along the side of a road.
 - J. **Signage** – Signs installed or approved by STATE.

- K. **Street Furniture** – Refers to various elements and structures placed along roadways (e.g., benches, trash bins, bicycle racks, lighting, bus stops/bus shelters, signage) to enhance pedestrian experience, improve safety, and contribute to the overall functionality and aesthetic of the street. These elements are designed to support active transportation, such as walking and cycling, while making the public space more comfortable and inviting for people.
- L. **Structural/Roadway Drainage Facilities** – Any facility that provides drainage to any location, including, but not limited to, culverts, wing walls, drains, drain inlets, gutters, curbs, and inlet grates.
- M. **Substructure** – Structural components of a Bridge that support the Superstructure and distribute the load to bridge footings and foundations.
- N. **Superstructure** – Structural portions of a Bridge supported by bridge columns/piers which are located below the Deck.
- O. **Undercrossing** –A roadway not used as a state highway or state freeway that goes under a SHS facility.

OPERATIVE PROVISIONS

1. **Prior Freeway Maintenance Agreements.** This AGREEMENT shall not terminate the PARTIES' prior Freeway Maintenance Agreement(s) or any other maintenance agreements, if any exist within the same limits as this AGREEMENT. In case of inconsistency between prior maintenance agreements and this AGREEMENT, the terms of this AGREEMENT will prevail with regard to the scope of this AGREEMENT.
2. **Maintenance Standards.** PARTIES shall perform all maintenance in compliance with the standards set forth in Streets and Highways Code section 27, and in accordance with California laws, regulations, and STATE standards, including STATE'S Maintenance Manual, Code of Safe Operating Practices, policies, procedures, and specifications in effect and as amended. "Maintain" or "Maintenance" under this AGREEMENT includes routine inspections, repairs, cleaning, and State approved replacements.
3. **Maintenance Service Schedule.** Upon approval of the necessary Encroachment Permit to perform maintenance, LOCAL AGENCY shall provide STATE's District Area Maintenance Superintendent, as shown in Exhibit C, at least twenty-four (24) hour prior telephone or email notice before performing any maintenance services under this AGREEMENT. LOCAL AGENCY shall notify the STATE of the frequency of its maintenance services. Maintenance services shall be performed between the hours of 9:00 AM and 3:00 PM or otherwise authorized by STATE and may be performed on weekends and holidays if necessary.

4. **Revising Exhibits.** When another planned future improvement has been constructed and/or a revision to SHS facilities has been affected within the limits of the improvement covered by this AGREEMENT, PARTIES can revise this AGREEMENT by mutually amending, replacing, or providing additional pages to the Exhibits that must be signed by authorized representatives of PARTIES. No formal amendment to the body of this AGREEMENT will be necessary. The revised exhibit will thereafter supersede the previous Exhibit and become part of this AGREEMENT.
5. **Amendment to Agreement.** Except as provided in the preceding section concerning Exhibit amendments, the terms of this AGREEMENT can be changed only by a formal written amendment executed by all PARTIES.
6. **Successors.** This AGREEMENT shall be binding upon and inure to the benefit of each of the PARTIES and their respective successors-in-interest including, any subsequently incorporated city or other municipality established within the LOCAL AGENCY's jurisdictional limits. If the successor city or municipality fails to enter into a new agreement with STATE to accept the obligations of the LOCAL AGENCY, LOCAL AGENCY shall continue to be contractually bound to STATE by the terms of this AGREEMENT.
7. **Encroachment Permits.** Before LOCAL AGENCY may enter STATE ROW to install any encroachment or perform any maintenance or work in the areas covered by this AGREEMENT, LOCAL AGENCY must first apply for and obtain an encroachment permit(s) from the STATE's District 4 Encroachment Permit Office as per STATE's EP policy. An encroachment permit issued by the STATE will be at no cost to LOCAL AGENCY.
8. **Undercrossing (Vehicular and Non-Vehicular).** STATE and LOCAL AGENCY shall maintain Undercrossing(s) respectively as follows:
 - A. STATE shall inspect and maintain, at STATE's expense, the structural components of the Undercrossing(s), which includes the Deck, Superstructure, Substructure, structural drainage facilities and undercrossing facilities and improvements. State shall also remove any unsheltered encampments that could affect the structural integrity of the components listed in this section(8A).
 - B. LOCAL AGENCY, at LOCAL AGENCY's expense, shall inspect, maintain, repair, replace, or complete other improvements necessary to maintain the safety of the facilities noted below:

1. LOCAL AGENCY's improved and unimproved roadway sections, including, but not limited to, roadway surfaces, shoulders, curbs, sidewalks, gutters, and wall surfaces;
2. Roadway drainage facilities;
3. All portions above the LOCAL AGENCY's improved and unimproved roadway facilities, except for features listed in Section 8A, including, but not limited to, lighting, traffic controls, traffic lights, sidewalks, signs, bike paths, pavement markings, bridge rails and posts, fences, delineation, striping, and improvements for compliance with the ADA; and
4. Other improvements that may be constructed on the improved or unimproved roadway section(s) with STATE's prior written approval.

C. **Graffiti Removal.** LOCAL AGENCY, at LOCAL AGENCY's sole cost and expense, shall remove all graffiti from Undercrossing(s). LOCAL AGENCY is solely responsible for ensuring that any graffiti that in any way resembles a mural, artwork, painting, or other similar elements shall not be removed without the written authorization of STATE. Graffiti removal must protect air and water quality as required by law. LOCAL AGENCY shall conform to the terms stated in STATE's Maintenance Manual, Volume 1, Chapter, D1.06.

D. **Unsheltered Encampments.** LOCAL AGENCY shall remove Persons Experiencing Homelessness (PEH) and any structures, personal property, debris, and/or other items related to the encampment from the locations shown in Exhibit A, subject to STATE's Maintenance Policy Directive 1001 R1, as amended, and applicable State and Federal law.

Nothing in this AGREEMENT grants or waives the right of California Highway Patrol (CHP) and other law enforcement agencies having jurisdiction over the Undercrossing(s).

10. **Walls, Retaining Walls, Columns, and Soundwalls.** LOCAL AGENCY shall remove debris, trash, and graffiti and clean and paint any walls, soundwalls and similar structures on the sides facing LOCAL AGENCY's streets/roadways. Any graffiti that resembles or is on a mural, artwork, painting, or other similar elements may not be removed without prior consultation with and approval from the STATE's District 4 Transportation Art Coordinator.
11. **Complete Streets Features and/or Enhancements.**

- A. The list of elements including, but not limited to, those provided in Exhibit A, were added to the SHS as part of a Complete Streets Project. PARTIES shall be responsible for the maintenance of each of the elements of the Complete Streets Features and/or Enhancements as identified in Exhibit A and shall perform routine structural inspections, maintenance, repair and replace or complete other improvements necessary to ensure the respective features retain their integrity for the safety of the public using these features and travelers using STATE ROW.
 - B. The PARTY identified as responsible in Exhibit A for the respective bikeway shall provide a safe facility for bicycle and pedestrian travel along the entire length of the said bikeway by providing sweeping and debris removal, when necessary, as deemed by STATE.
 - C. The PARTY identified as responsible in Exhibit A shall maintain all signing and striping, electrical facilities (solar or otherwise), and pavement markings required for the direction and operation of that non-motorized facility.
12. **Landscaped Areas.** LOCAL AGENCY is responsible for the maintenance of any plantings or other types of roadside improvements installed by LOCAL AGENCY as permitted encroachments lying inside and outside of STATE ROW as shown in Exhibit A. LOCAL AGENCY shall restrict walk-on access to the STATE ROW.
13. **Street Lightings.** LOCAL AGENCY is responsible for the maintenance of all streetlights installed by LOCAL AGENCY as permitted encroachments within the STATE ROW including, but not limited to, ground mounted poles, conduits, and pull boxes. Responsibility of payment for electricity costs of the streetlights shown on Exhibit A shall lie with LOCAL AGENCY.

ELECTRICAL ASSETS- LOCAL AGENCY is responsible for the maintenance of all Internally Illuminated Street Name Sign (IISNS), bike video detection, and emergency vehicle per-emption, at LOCAL AGENCY's expense.

14. **Legal Relations and Responsibilities.**

A. No Third-Party Beneficiaries.

This AGREEMENT is not intended to create duties, obligations, or rights of third parties beyond the PARTIES to this AGREEMENT. Nor does this AGREEMENT affect a PARTY's legal liability by imposing any standard of care for the operation and maintenance of STATE highways and

LOCAL AGENCY facilities different from the standard of care imposed by law.

B. Indemnification.

Neither LOCAL AGENCY nor any of its officers or employees is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE in connection with any work, authority or jurisdiction conferred upon STATE pursuant to this AGREEMENT. To the fullest extent permitted by law, STATE, shall fully defend, indemnify, and save harmless LOCAL AGENCY and its officers and employees from all claims, suits or actions of every kind occurring by reason of anything done or omitted to be done by STATE, its contractors, sub-contractors, and/or its agents pursuant to this AGREEMENT.

Neither STATE nor any of its officers or employees is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by LOCAL AGENCY in connection with any work, authority or jurisdiction conferred upon LOCAL AGENCY pursuant to this AGREEMENT. To the fullest extent permitted by law, LOCAL AGENCY, shall fully defend, indemnify, and save harmless STATE and its officers and employees from all claims, suits or actions of every kind occurring by reason of anything done or omitted to be done by LOCAL AGENCY, its contractors, sub-contractors, and/or its agents pursuant to this AGREEMENT.

C. Prevailing Wages and Labor Code Compliance. LOCAL AGENCY shall comply with any and all applicable labor and prevailing wage requirements in Labor Code Sections 1720 through 1815 and implementing regulations for any public works or maintenance contracts and subcontracts executed for the LOCAL AGENCY's work under this AGREEMENT.

D. Insurance

Self-Insured- LOCAL AGENCY is self-insured. LOCAL AGENCY shall deliver evidence of self-insured coverage providing general liability insurance, coverage of bodily injury and property damage liability, in an amount of \$1 million per occurrence, \$2 million in aggregate, and \$5 million in excess, as may be amended as the minimum liability coverage limits codified in the State's Standard Specifications, by delivering a Letter Certifying Self-Insurance. The Letter of Self-Insurance must be substantially in the form of Exhibit B, and identify the AGREEMENT number, and location as depicted in Exhibit A. LOCAL AGENCY shall provide the original Letter Certifying Self-

Insurance as a condition to STATE's execution of this AGREEMENT. A copy of the original letter shall be attached to this AGREEMENT as Exhibit B.

Self-Insured using Contractor- If the work performed under this AGREEMENT is done by LOCAL AGENCY's contractor(s), LOCAL AGENCY 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 and property damage liability, naming STATE, its officers, agents and employees as the additional insured in an amount of \$1 million per occurrence, \$2 million in aggregate, and \$5 million in excess, as may be amended as the minimum liability coverage limits codified in the State's Standard Specifications. LOCAL AGENCY will provide a certificate of insurance evidencing this insurance in a form satisfactory to STATE as a condition to STATE's execution of this AGREEMENT.

15. **Default.** If LOCAL AGENCY fails to perform obligations assumed under this AGREEMENT, STATE may by written notice request that the default be remedied within thirty (30) calendar days. If LOCAL AGENCY fails or refuses to do so, STATE may complete the obligations and seek reimbursement from the LOCAL AGENCY who shall pay the invoice within thirty (30) calendar days.
16. **Complete Agreement.** This AGREEMENT, along with any attachments, is the full and complete integration of the PARTIES' agreement with respect to the maintenance of the locations identified in Exhibit A. This AGREEMENT supersedes any previous written or oral agreements between the PARTIES with respect to the locations identified in Exhibit A. Unless otherwise stated, to the extent there is any conflict between this AGREEMENT and any other agreement (written or oral) regarding maintenance of the area identified in Exhibit A, the terms of this AGREEMENT shall control.
17. **Severability.** The unenforceability, invalidity, or illegality of any provision(s) of this AGREEMENT shall not render the other provisions unenforceable, invalid, or illegal.
18. **Waiver.** Waiver by any PARTY of any portion of this AGREEMENT shall not constitute a waiver of the same or any other portion hereof.
19. **Governing Law.** This AGREEMENT shall be governed by and interpreted in accordance with California law.

20. **Notice.** If either PARTY shall desire or is required to give notice to the other, such notice shall be given in writing, via email, and concurrently delivered by: (a) personal delivery, in which case, notice is effective upon delivery; (b) overnight courier (i.e., Federal Express) with charges prepaid or charged to the sender's account, in which case, notice is effective when delivered; (c) priority U.S. Mail, in which case, notice shall be deemed delivered on the second business day after the deposit thereof with the U.S. Postal Service.
21. **Cost.** Any PARTY who is assigned obligation under this AGREEMENT shall complete them at their own costs, unless expressly stated otherwise in this AGREEMENT.
22. **Termination.** This AGREEMENT may be terminated by the mutual written consent of each PARTY. The STATE may terminate this AGREEMENT, should the LOCAL AGENCY fail to perform the requirements of this AGREEMENT at the time and in the manner provided herein.
23. **Effective Date.** This AGREEMENT shall become effective on the last of the dates each PARTY's authorized representative has executed this AGREEMENT.
24. **Authority.** Each individual executing this AGREEMENT on behalf of each PARTY represents and warrants that he/she is duly authorized to execute this AGREEMENT. LOCAL AGENCY represents and certifies that it has, through its regular political process, authorized the execution of this AGREEMENT by appropriate resolution, delegation, or plenary authority, as required. A true and correct copy of the local resolution or ordinance has been provided to the STATE.

ATTACHMENT B

[STATE HIGHWAY LOCATION]

25. **Electronic Signatures.** Electronic signatures of the PARTIES, whether digital or encrypted, are intended to authenticate this written AGREEMENT, and shall have the same force and effect as manual signatures for this AGREEMENT.

CITY OF OAKLAND

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

City Administrator

ATTEST:

By: _____

LEAH BUDU DATE
Deputy District Director
Maintenance District 4

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

Complete Street Features	Local Agency	N/A
Standard sidewalks	X	
Decorative sidewalks		
Class I Bikeway (in STATE R/W)		
Class II Bikeway (with buffered curb or vertical element)		
Class II Bikeway (without buffered)		
Class III Bikeway (Shared Lanes and Shared Shoulders)		
Class IV Separated Bikeway in STATE R/W (Raised island with planting or buffer with vertical element)	X	
Standard crosswalks (including continental or pia key)	x	
Decorative crosswalks (brick thermoplastic, colored concrete, n-standard plan)		
Colored Driveway	x	
Pedestrian control signal pole (standard)		
Pedestrian control signal pole (decorative)		
Bicycle detection	x	
Pedestrian signal indication and push button APS?	x	
Pedestrian hybrid beacons		
In-Roadway Warning Lights at Crosswalks		
Roadway Rapid Flashing Beacons (RRFBs) solar		
Roadway Rapid Flashing Beacons (RRFBs) hardwired		
Street Trees and Greenery (beautification) including irrigation system, improves aesthetics	x	
Street Lighting	x	
Decorative lighting with decorative pole		
Lighting with standard pole		
Wayfinding signage (standard CA MUTCD)		
Wayfinding signage (Transportation Art)		
Bicycle parking (secure bike racks or bike lockers)		

ATTACHMENT B

EXHIBIT B

LETTER CERTIFYING CITY'S SELF-INSURED STATUS (TEMPLATE)

On Local Agency letterhead

Department of Transportation
PO Box 23660 MS4A
Oakland, CA 92623
ATTN: Jonathan Chi

_____20__

Re: Statement of Self-Insurance for City of Oakland for Maintenance Agreement with California Department of [Location] along Route ____ post mile ____.

Dear Mr. Chi:

This letter certifies that the CITY of Oakland is self-insured and self-funded covering third-party claims arising out of its general operations (i.e.; 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 and property damage liability, meets the required coverage amounts in section 14 D (Insurance) of the Project Specific Maintenance Agreement, specifically general liability insurance, coverage of bodily injury and property damage liability in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess.

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

Sincerely,

Finance Manager/Risk Manager/Authorized Representative's Title

EXHIBIT C

Exhibit C

PARTY Representatives Contact information.

LOCAL AGENCY

Attn: Name of Project Manager: _____

Address: _____

City, Zip: _____

Contact Number: _____

STATE

Attn: Name of DMAC: Sheila Wong- Buczek

Address: 111 Grand Avenue

City, Zip: Oakland, CA 94623

Contact Number: (510) 847-9004

STATE AREA MAINTENANCE REGIONAL MANAGER

Attn: State Maintenance Regional Manager: Neil Hayes

Email: neil.hayes@dot.ca.gov

Phone: (510)701-4828

HQ MTCE REVIEW REQUIRED; PENDING LEGAL APPROVAL

EXHIBIT C

TRAFFIC SIGNAL AND LIGHTING
Caltrans and CITY of Oakland

Effective _____, 20____

Electrical Facility-Owned and Maintained
By City of Oakland

<u>Route and PM</u>	<u>Location</u>	<u>Type of Facility</u>	<u>Cost Distribution (%) Including electrical energy</u>	
			<u>State</u>	<u>CITY</u>
Rte ___ PM R ___	[Location]	[Facility Type]	0	100
Rte ___ PM R ___	[Locaion]	[Facility Type]	0	100

HQ MTCE REVIEW REQUIRED; PENDING LEGAL APPROVAL

DRAFT