



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Ryan Russo
Director, Oakland
Department of
Transportation

SUBJECT: Acquisition and Maintenance
Agreement with City of San Leandro
for MacArthur Roundabout Project

DATE: February 13, 2022

City Administrator Approval

Date:

Feb 17, 2022

RECOMMENDATION

Staff Recommends That the City Council Adopt a Resolution Authorizing The City Administrator To (1) Execute An Acquisition And Maintenance Agreement With The City Of San Leandro For The Macarthur Roundabout Project, (2) Approving The Construction Plans For The Project, (3) Waiving The Project Construction Permit Fees, And (4) Make Required California Environmental Quality Act (CEQA) Findings.

EXECUTIVE SUMMARY

The City of San Leandro is moving forward to construct a project on MacArthur Boulevard at the border with the City of Oakland (see **Attachment A** for a Site Map). The project is the construction of a roundabout at the five-legged intersection of MacArthur Boulevard/Foothill Boulevard/Superior Avenue. The intersection straddles property in both cities, as well as a portion of the Interstate 580 (I-580) Freeway offramp, owned by the State of California, Department of Transportation (Caltrans). The purpose of the project is to improve safety for drivers, pedestrians and cyclists, reduce speeds and generally calm vehicular traffic at a location that has been a high priority for San Leandro for many years.

Staff recommends that City Council approve the Resolution 1) authorizing the City Administrator to enter into an Acquisition and Maintenance Agreement with San Leandro, 2) approving the project construction plans, and 3) waiving the permit fees, for the MacArthur Roundabout Project, and 4) make the required CEQA finding that the project is Categorically Exempt.

BACKGROUND / LEGISLATIVE HISTORY

The MacArthur Roundabout Project is a traffic safety and circulation project, managed by the City of San Leandro. The location has been the source of many community complaints and collisions and is a priority project for San Leandro. The proposed roundabout is at the five-

City Council
March 1, 2022

legged intersection of MacArthur Boulevard/Foothill Boulevard/Superior Avenue, at the border between the cities of San Leandro and Oakland, and near the I-580 freeway.

The estimated cost of construction is \$2.3 million, including contingencies and the total project cost is \$2.9 million. The project is fully funded by San Leandro from several sources.

ANALYSIS AND POLICY ALTERNATIVES

Approval of the proposed Resolution would support the Citywide priorities of 1) **holistic community safety**, 2) **vibrant, sustainable infrastructure**, and 3) **responsive, trustworthy government** as the project proposes needed infrastructure upgrades that meet City design standards and San Leandro will construct and maintain the facilities in a negotiated acquisition and maintenance agreement.

San Leandro has completed the design of the MacArthur Roundabout Project, and Oakland Department of Transportation (OakDOT) staff have reviewed and approved the plans. San Leandro has not yet completed the property acquisition and transfer with Caltrans but anticipates beginning construction near the end of 2022. Since a portion of the project will be situated within the City of Oakland boundaries, the proposed Resolution seeks City Council approval of the project design.

Further, since San Leandro will enter into a construction contract and manage the construction work, including the portion within Oakland, a permit will be required. San Leandro has requested that Oakland waive its permit and inspection fee, estimated at \$5,000.00. The proposed Resolution seeks City Council approval of this fee waiver.

To implement the MacArthur Roundabout Project, San Leandro needs to acquire property rights from Caltrans and seek Oakland's approval to accept this property after the project is completed, since that portion of Caltrans property lies within Oakland city limits. After construction of the project, Oakland will accept the newly configured roadway, and San Leandro will maintain the new roundabout and associated features, including sidewalks, paving, pavement striping and markings, streetlights, street signage, retaining wall, and landscaping. In addition, the proposed acquisition and maintenance agreement describes Oakland's agreement to accept a portion of land currently owned by Caltrans at the I-580 offramp after the project is completed, which land will become part of the MacArthur Boulevard. The agreement also spells out San Leandro's responsibility for maintaining all features associated with construction of the new roundabout, including sidewalks, paving, pavement striping and markings, streetlights, street signage, retaining wall, and landscaping within the City of Oakland.

To document the above terms, both cities need to execute an Acquisition and Maintenance Agreement (see **Attachment B**, Draft Acquisition and Maintenance Agreement). Therefore, the proposed Resolution seeks approval to authorize the City Administrator, who is authorized per Oakland Charter Section 504(I), to represent the City in its intergovernmental contracts, to enter into the agreement.

Staff recommends approval of the proposed Resolution. Delaying the signature of the agreement would delay San Leandro's negotiations with Caltrans for needed property, and delay construction of the project.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The proposed MacArthur Roundabout Project is exempt under CEQA (Section 15301, Class 1: Existing Facilities). A Notice of Determination/Notice of Exemption was filed by San Leandro, the responsible agency, December 20, 2017 with Alameda County.

FISCAL IMPACT

There is no significant fiscal impact to the proposed Resolution. San Leandro has proposed to maintain all features associated with construction of the MacArthur Roundabout project, including those in Oakland, so there would be a small reduction of roadway infrastructure that would need to be maintained by Oakland.

Waiving the construction permit fee has an estimated impact of \$5,000 to the Development Services Permit Fund (Fund No. 2415). No additional fiscal impact is anticipated from approving the proposed Resolution.

COORDINATION

OakDOT staff have been in constant contact with San Leandro with respect to the review and approval of the design of the roundabout project. The Office of the City Attorney and reviewed and made revisions to the draft Acquisition and Maintenance Agreement, as well as reviewing this report and attached Resolution. The Budget Bureau has also reviewed this report.

SUSTAINABLE OPPORTUNITIES

Economic: The City of Oakland benefits from the construction of San Leandro's roundabout project without any substantial outlay of capital, other than waiving its permit fee. Safety will be improved for all roadway users, and San Leandro will provide the ongoing maintenance.

Environmental: The construction of the roundabout will calm traffic, making walking and biking in this area safer and a more attractive mode of transportation as an alternative to driving.

Race and Equity: Providing for maintenance responsibility for these projects is intended to provide maximum mobility for those without access to vehicles by improving the bicycle and pedestrian infrastructure, including the Americans with Disabilities Act accessibility.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That the City Council Adopt a Resolution Authorizing The City Administrator To (1) Execute An Acquisition And Maintenance Agreement With The City Of San Leandro For The MacArthur Roundabout Project, (2) Approving The Construction Plans For The Project, (3) Waiving The Project Construction Permit Fees, And (4) Make Required California Environmental Quality Act (CEQA) Findings.

For questions regarding this report, please contact Wladimir Wlassowsky, P.E., Interim City Engineer, OakDOT.

Respectfully submitted,



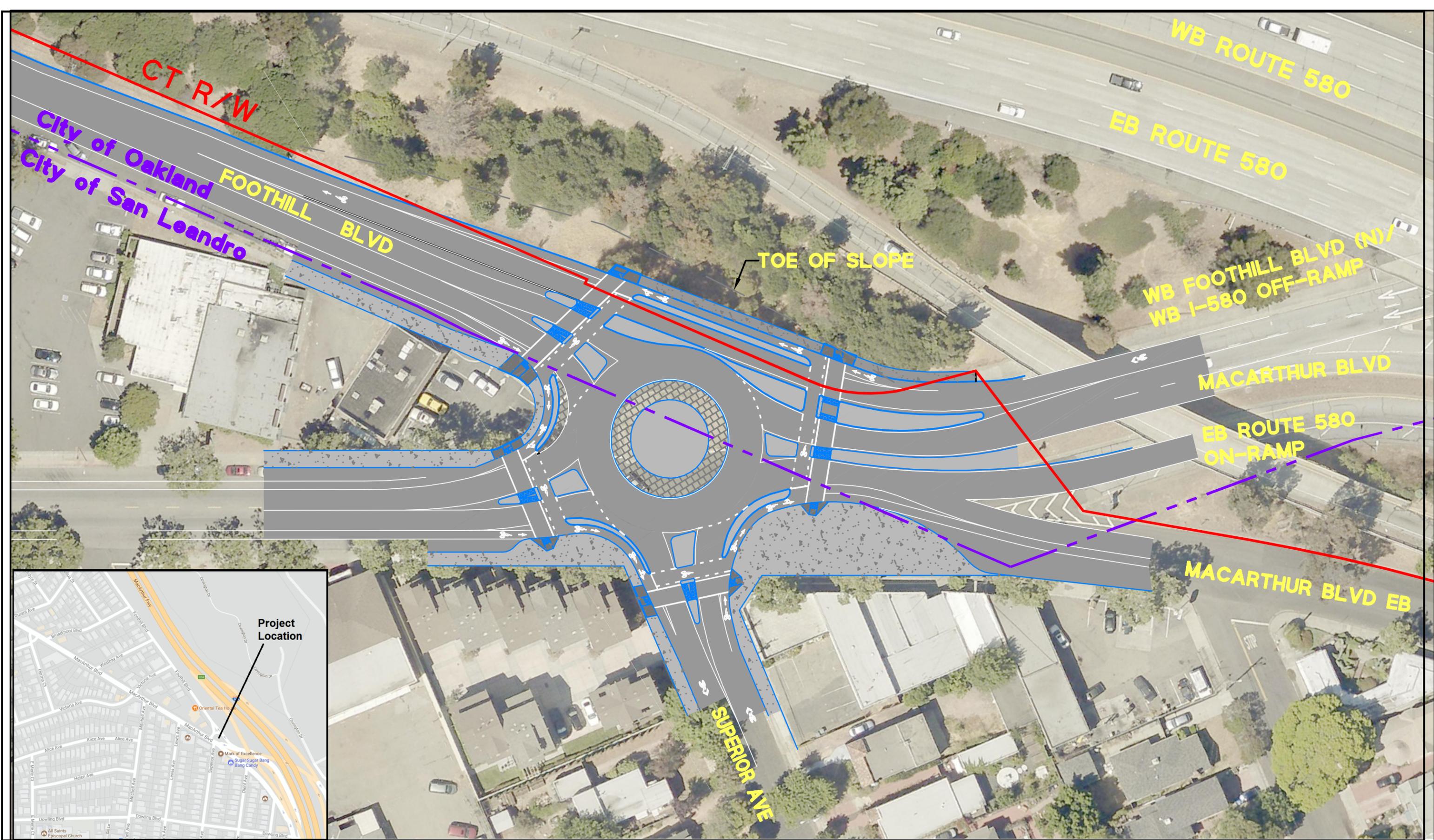
RYAN RUSSO
Director, Department of Transportation

Reviewed by:
Fred Kelly, Assistant Director
Department of Transportation

Prepared by:
Wladimir Wlassowsky, P.E.,
Interim City Engineer
Department of Transportation

Attachments (2):

- A: MacArthur Roundabout Site Map*
- B: DRAFT Acquisition and Maintenance Agreement*



**MACARTHUR BOULEVARD ROUNDABOUT
EXHIBIT**

IN THE CITY OF SAN LEANDRO, ALAMEDA COUNTY, CALIFORNIA



Attachment A
Site Map



ATTACHMENT B

ACQUISITION AND MAINTENANCE AGREEMENT (MacArthur Blvd/Superior Ave/Foothill Blvd Roundabout Project)

THIS ACQUISITION AND MAINTENANCE AGREEMENT (MacArthur Blvd/Superior Ave/Foothill Blvd Roundabout Project) (this “**Agreement**”), dated as of _____, 20__ (“**Effective Date**”), is entered into by and between the CITY OF SAN LEANDRO, a municipal corporation (“**San Leandro**”) and the CITY OF OAKLAND, a municipal corporation (“**Oakland**”) (each individually a “**Party**” and collectively, the “**Parties**”).

RECITALS

This Agreement is entered into upon the basis of the following facts, understandings and intentions of San Leandro and Oakland:

A. San Leandro and Oakland are public agencies that share the common desire and interest to have a roundabout constructed at the intersection of MacArthur Boulevard, Superior Avenue, and Foothill Boulevard (the “**Project**” (and after construction of the Project is complete, the “**Roundabout**”)) to improve the Level of Service, reduce traffic speeds, and make the intersection safer for all modes of transportation.

B. The Project footprint includes certain real property located within the Oakland and San Leandro jurisdictions as shown on the depiction attached hereto as Exhibit A, as well as a California Department of Transportation (“**Caltrans**”) right-of-way within the Oakland city limits depicted in green on Exhibit A and as more particularly described on the plat attached hereto as Exhibit B attached hereto (the “**Caltrans Property**”).

C. San Leandro has, or will obtain, funds to construct the Project and is currently undergoing the right-of-way decertification process with Caltrans in order to acquire the Caltrans Property to facilitate construction of the Project with the understanding that the Caltrans Property will ultimately be transferred to Oakland.

D. Oakland is not interested in acquiring the Caltrans Property declared excess by Caltrans pursuant to its right-of-way decertification process until after San Leandro acquires the Caltrans Property from Caltrans and San Leandro constructs the Project.

E. The Parties desire to enter into an agreement regarding the acquisition and transfer of the Caltrans Property, construction of the Project, and maintenance of the Roundabout.

NOW, THEREFORE, in consideration of the terms, covenants, conditions and agreements set forth herein, the Parties agree as follows:

1. Purpose. The purpose of this Agreement is to memorialize (a) San Leandro’s agreement (i) to acquire the Caltrans Property from Caltrans, (ii) design and construct the Project, (ii) transfer the Caltrans Property to Oakland, and (iii) to maintain the Roundabout, and (b) Oakland’s agreement to (i) permit access for construction of the Project and maintenance of

ATTACHMENT B

the Roundabout, and (ii) accept the transfer of the Caltrans Property in accordance with this Agreement.

2. Term of Agreement. This Agreement shall commence on the Effective Date and continue in perpetuity unless terminated by mutual agreement in writing by the Parties.

3. Project Costs. San Leandro will be responsible for one hundred percent (100%) of the cost of design and construction of the Project and the Caltrans Property acquisition costs.

4. San Leandro Acquisition of Caltrans Property.

a. Caltrans staff has informed the Parties the following: The Caltrans Property (i) is currently going through the decertification process; (ii) will be appraised and sold at fair market value to San Leandro; and (iii) will be conveyed by a Director's Deed (the "**Caltrans Property Director's Deed**"), subject to approval by the California Transportation Commission ("**CTC**") and the Federal Highway Administration ("**FHWA**").

b. Following approval of the sale of the Caltrans Property by the CTC and FHWA, San Leandro, at its cost and expense, shall purchase the Caltrans Property and accept conveyance of the Caltrans Property pursuant to the Caltrans Property Director's Deed.

5. Design and Construction of the Project.

a. San Leandro has provided to Oakland design drawings in electronic format for review and Oakland has provided design review comments to San Leandro. Once the plans are approved by Oakland staff, Oakland staff will present to the City Council for its consideration a resolution to approve the final construction plans.

b. Oakland staff will process a P-Job permit ("**Construction Permit**") and if it meets permit requirements, issue the Construction Permit to San Leandro's contractor to construct the portions of Project within Oakland's jurisdiction. As part of the resolution referenced in Section 5(a) above, Oakland staff will seek City Council approval to waive the fee for the Construction Permit.

c. San Leandro, at its cost and expense, shall construct, or cause to be constructed, the Project pursuant to the Construction Permit and all other permits and governmental approvals required for construction of the Project.

6. Conveyance of Caltrans Property to Oakland. Following completion of construction of the Project, San Leandro shall convey the Caltrans Property, at no cost or expense to Oakland, pursuant to a Grant Deed (the "**Caltrans Property Grant Deed**") in accordance with California Government Code Section 66428, and Oakland shall accept the Caltrans Property pursuant to the Caltrans Property Grant Deed.

7. Maintenance Obligations. San Leandro, at its cost and expense, shall maintain the improvements comprising the Roundabout, including, but not limited to, sidewalks, paving, pavement striping and markings, street lights, street signage, the retaining wall, and landscaping, located within the area shown on Exhibit C attached hereto (the "**Roundabout Maintenance**

ATTACHMENT B

Area”). San Leandro shall notify Oakland pursuant to Section 12 below when maintenance is scheduled for the Roundabout Maintenance Area. Oakland and San Leandro will cooperate to facilitate such maintenance.

8. Street Maintenance. Nothing contained herein shall limit a Party’s ability to maintain MacArthur Boulevard, Superior Avenue, and Foothill Boulevard located outside the Roundabout Maintenance Area and within such Party’s jurisdiction in accordance with its respective standards and procedures.

9. Access to the Roundabout Maintenance Areas. Oakland hereby grants permission to San Leandro, and/or its authorized agents, employees or contractors, to enter upon the Roundabout Maintenance Area located within Oakland’s jurisdiction at reasonable times and in a reasonable manner to maintain the Roundabout.

10. Permits and Approvals. To the extent that performance of the maintenance of the Roundabout requires permits or governmental approvals, San Leandro shall, at its cost and expense, obtain such permits and approvals.

11. Indemnification.

a. San Leandro shall indemnify, defend and hold Oakland, and its Councilmembers, officers, agents, contractors and employees (the “**Oakland Indemnified Parties**”) harmless from liens, claims, demands, actions, cause of action, obligations, liabilities, damages, losses, costs and expenses (including reasonable attorneys’ fees) (individually, “**Claim**” and collectively, “**Claims**”), which may arise from, or in any manner relate to, any work performed, or services provided, under this Agreement by San Leandro, or San Leandro’s contractors, subcontractors, agents or employees, including, but not limited to, the performance of maintenance of the Roundabout. The foregoing indemnity shall apply regardless of whether or not any of the Oakland Indemnified Parties has prepared, supplied or approved plans and/or specifications for the Project or the Roundabout and regardless whether any insurance is applicable to any Claim or Claims.

b. Oakland shall indemnify, defend and hold San Leandro, and its Councilmembers, officers, agents, contractors and employees (the “**San Leandro Indemnified Parties**”) harmless from a Claim or Claims, which may arise from, or in any manner relate to, any work performed, or services provided, under this Agreement by Oakland, or Oakland’s contractors, subcontractors, agents or employees. The foregoing indemnity shall apply regardless of whether or not any of the San Leandro Indemnified Parties has prepared, supplied or approved plans and/or specifications for the Project or the Roundabout and regardless whether any insurance is applicable to any Claim or Claims.

12. Notices. Any notice relating to this Agreement shall be given in writing and shall be deemed sufficiently given and served for all purposes when delivered personally or by generally recognized overnight courier service, or five (5) calendar days after deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, addressed as follows:

ATTACHMENT B

To San Leandro: City of San Leandro
835 E. 14th Street
San Leandro, CA 94577
Attn: Engineering and Transportation Department Director

To City: City of Oakland
Department of Transportation
250 Frank H. Ogawa Plaza, Suite 4314
Oakland, CA 94612
Attn: Director of Transportation

With copy to: Office of the City Attorney
One Frank H. Ogawa Plaza, 6th Floor
Oakland, CA 94612
Attn: Supervising City Attorney for Real Estate

13. Miscellaneous.

a. Modification; Waiver. Any modification or amendment to this Agreement shall be of no force and effect unless it is in writing and signed by the Parties. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar. No waiver or consent shall constitute a continuing waiver or consent to commit either party to provide a waiver in the future except to the extent specifically set forth in writing. No waiver shall be binding unless executed in writing by the Party making the waiver.

b. Section Headings. Section headings as used herein are for convenience only and shall not be deemed to be a part of such section and shall not be construed to change the meaning thereof.

c. Governing Law. The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any action, cause of action, lawsuit, claim, or legal proceeding of any kind related to or arising under this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Alameda.

d. No Limitations on Cities' Police (or Authorized) Powers. Nothing herein is intended to, nor does, limit the San Leandro's or Oakland's police power, nor limit the ability of the Parties, and/or their authorized agents, employees, contractors, officers, officials, representatives, volunteers, and/or other third-party vendors from taking any and all actions authorized under federal, state, or local law.

e. Exhibits. Any and all exhibits and schedules attached hereto, or to be attached hereto, are hereby incorporated and made a part of this Agreement by this reference.

ATTACHMENT B

f. Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect.

g. Authority. Each person executing this Agreement on behalf of a Party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to bind and has full right and authority to enter into this Agreement and perform all of its obligations hereunder.

h. No Agency Relationship. Neither Party, nor any of a Party's agents, contractors, or subcontractors are, or shall be, considered to be agents of the other Party in connection with the performance of any of the Parties' obligations under this Agreement.

i. Attorneys' Fees and Costs. Either Party may bring a lawsuit to enforce or require performance of the terms of this Agreement, and the prevailing Party in such suit or proceeding shall be entitled to recover from the other Party its reasonable costs and expenses, including attorneys' fees.

j. Time of Essence. Time is of the essence of each and every provision of this Agreement.

k. Complete Agreement. This Agreement represents the complete understandings and agreements of the Parties and no prior oral or written understandings are in force and effect.

l. No Third Party Beneficiaries. This Agreement is not intended to, and does not, create any private rights of action to third parties; no third parties are the intended beneficiaries of this Agreement.

m. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

[Remainder of page intentionally blank; signatures on following pages]

ATTACHMENT B

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

SAN LEANDRO:

City of San Leandro,
a municipal corporation

By: _____
Frances Robustelli
City Manager

Attest:

By: _____
Leticia Miguel
City Clerk

Approved as to form and legality:

By: _____
Richard Pio Roda
City Attorney

[Signatures continue on following page]

ATTACHMENT B

OAKLAND:

City of Oakland,
a municipal corporation

By: _____
Edward D. Reisksin
City Administrator

Approved as to form and legality:

By: _____
JoAnne Dunec
Deputy City Attorney

DRAFT

ATTACHMENT B

EXHIBIT A

Depiction of Roundabout with City Jurisdiction Boundary

[Attached]

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ATTACHMENT B

EXHIBIT B

Plat of Caltrans Property

[Attached]

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ATTACHMENT B

EXHIBIT C

Diagram Depicting Roundabout Maintenance Area

[Attached]

[NOTE: To create a new diagram which diagrammatically depicts the Roundabout Maintenance Area.]

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