

**FREEWAY MAINTENANCE
AGREEMENT
WITH
CITY OF COMMERCE**

THIS AGREEMENT is made effective this second day of October 2018, by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE" and the CITY of Commerce; hereinafter referred to as "CITY" and collectively referred to as "PARTIES".

SECTION I

RECITALS

1. WHEREAS, on April 22, 1960, a Freeway Agreement was executed between CITY and STATE, wherein the PARTIES consented to certain adjustments of the local street and road system required for the development of that portion of STATE Highway Route (SR) 005 within the jurisdictional limits of the CITY of Commerce as a freeway; and
2. WHEREAS, on January 2, 1957, a Freeway Agreement was executed between County of Los Angeles and STATE, wherein the PARTIES consented to certain adjustments of the local street and road system required for the development of that portion of STATE Highway Route (SR) 710 within the jurisdictional limits of the County of Los Angeles as a freeway; and
3. WHEREAS, portions of the territory covered by said Freeway Agreement were subsequently annexed by the CITY, and the CITY has succeeded to the obligations of the County under said Freeway Agreement, with respect to the County roads located within the annexed territory; and
4. WHEREAS, said freeways were completed, and the PARTIES entered into a Freeway Maintenance Agreement on May 25, 1964 and mutually identified the maintenance responsibilities for improvements to separation structures and landscaped areas lying within those modified freeway limits. Upon execution, this Agreement will supersede the Freeway Maintenance Agreement dated May 25, 1964; and
5. 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.
6. WHEREAS, pursuant to Section 5 of the above Freeway Agreements, CITY has resumed or will resume control and maintenance over each of the affected relocated or reconstructed CITY streets, except for those portions adopted as a part of the freeway proper.

NOW THEREFORE IT IS AGREED:

SECTION II

AGREEMENT

1. CITY agrees to continue their control and maintenance of each of the affected relocated or reconstructed CITY streets and roads as shown on that plan map attached hereto, marked Exhibit A, and made a part hereof by this reference.
2. STATE agrees to continue control and maintenance of those portions adopted as a part of SRs 005 and 710 Freeway proper as shown Exhibit A.
3. If there is mutual agreement on the change in the maintenance duties between PARTIES, the PARTIES can revise Exhibit A by a mutual written execution of Exhibit A.
4. When another planned future improvement has been constructed and/or a minor revision has been effected within the limits of the freeway herein described which will affect the PARTIES' division of maintenance responsibility as described herein, STATE will provide a new dated and revised Exhibit A which will thereafter supersede the attached original Exhibit A and become part of this Agreement.
5. CITY and STATE agree to accept their then respective operational and maintenance responsibilities and related associated costs thereof in the event jurisdictional boundaries of the PARTIES should change and Exhibit A is amended to reflect those changes.
6. CITY must obtain the necessary Encroachment Permits from STATE's District 07 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.
7. VEHICULAR AND PEDESTRIAN OVERCROSSINGS
 - 7.1. STATE will maintain, at STATE expense, the entire structure of any STATE constructed vehicular and pedestrian overcrossings of SRs 005 and 710 below the deck wearing surface and any wearing surface treatment thereon.
 - 7.2. CITY will maintain, at CITY expense, the deck wearing surface and structural drainage system (and shall perform such work as may be necessary to ensure an impervious and/or otherwise suitable surface) and all portions of the structure above the bridge deck, including, but without limitation, lighting installations, as well as all traffic service facilities (sidewalks, signs, pavement markings, bridge rails, etc.) that may be required for the benefit or control of traffic using that overcrossing.
 - 7.3. As directed by section 92.6 of the Streets and Highways Code, at locations determined by STATE, screening shall be placed on STATE freeway overpasses on which pedestrians are allowed. All screens installed under this program will be maintained by STATE, at STATE expense.

8. VEHICULAR AND PEDESTRIAN UNDERCROSSINGS

- 8.1. STATE will maintain the entire structure of all STATE-constructed vehicular and pedestrian undercrossings of STATE freeways except as hereinafter provided.
- 8.2. CITY will be maintain the roadway sections, 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 traffic using that undercrossing.
- 8.3. 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.

9. WALLS 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.

10. LANDSCAPED AREAS - CITY is responsible for the maintenance of any plantings or other types of roadside development lying outside of the fenced right of way area reserved for exclusive freeway.

11. INTERCHANGE OPERATON - It is STATE's responsibility to provide efficient operation of freeway interchanges, including ramp connections to local streets and roads.

12. ELECTRICALLY OPERATED TRAFFIC CONTROL DEVICES

- 12.1. The cost of installation, operation, maintenance, repairs, replacement and energy costs of safety lighting, traffic signals or other necessary electrically operated traffic control devices placed at interchanges of SRs 005 and 710 Freeway and CITY streets and roads and at ramp connections or SRs 005 and 710 and CITY facilities shall be shared by the PARTIES. A separate "Shared Cost Electrical Agreement" was executed on September 15, 1986, allocating these costs between the PARTIES.
- 12.2. Timing of traffic signals, which shall be coordinated with CITY to the extent that no conflict is created with freeway operations, shall be the sole responsibility of STATE.

13. BICYCLE PATHS - Except for bicycle paths constructed as permitted encroachments within STATE's right of way for which the permittee is solely responsible for all path improvements, STATE will maintain, at STATE expense, all fences, guard railing, drainage facilities, slope and structural adequacy of any bicycle path located and constructed within STATE's right of way. CITY will maintain, at CITY expense, a safe facility for bicycle travel along the entire length of the path 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.

14. LEGAL RELATIONS AND RESPONSIBILITIES

- 14.1. 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.
- 14.2. 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 STATE, under or in connection with any work, authority or jurisdiction conferred upon STATE arising 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, tortuous, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.
- 14.3. 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 and arising 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, but not limited to, tortuous, 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.

15. PREVAILING WAGES:

- 15.1. Labor Code Compliance- If the work performed on this Project is done under contract and falls within the Labor Code section 1720(a)(1) definition of a "public work" 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 work. Work performed by CITY's own forces is exempt from the Labor Code's Prevailing Wage requirements.

- 15.2. Requirements in Subcontracts - CITY shall require its contractors to include prevailing wage requirements in all subcontracts funded by this Agreement when the work to be performed by the subcontractor is a "public work" 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.

16. **INSURANCE** - CITY and its contractors shall 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 the 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.

- 16.1. **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 the 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 in a form satisfactory to STATE, along with a signed copy of the Agreement.

- 16.2. **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 the 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 and shall be delivered to the STATE with a signed copy of this Agreement.

17. **TERMINATION** - This Agreement may be terminated by timely mutual written consent by PARTIES, and a PARTY's failure to comply with the provisions of this Agreement may be grounds for a Notice of Termination by the other PARTY.

18. **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 at any time upon mutual consent of the PARTIES.

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

THE CITY OF COMMERCE

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
Hugo A. Argumedo, Mayor

LAURIE BERMAN
Director of Transportation

Initiated and Approved

By: _____
Edgar P. Cisneros, City Administrator

By: _____
Deborah Wong, Deputy District Director
Maintenance District 07

ATTEST:

By: _____
Lena Shumway, City Clerk

As to Form and Procedure:

By: _____
Noel Tapia, City Attorney

By: _____
Attorney
Department of Transportation