

DELEGATED MAINTENANCE AGREEMENT WITH THE CITY OF WESTMINSTER

This DELEGATED MAINTENANCE AGREEMENT ("AGREEMENT") is made by and between the State of California, acting by and through the Department of Transportation ("STATE") and the City of WESTMINSTER ("LOCAL AGENCY"); each may be referred to individually as a "PARTY" and jointly as "PARTIES."

RECITALS

1. This AGREEMENT will identify the specific maintenance functions LOCAL AGENCY will perform in the STATE right of way, including highway and freeway areas situated within LOCAL AGENCY's jurisdictional limits as authorized under Streets and Highways Code Section 130.
2. The PARTIES executed a prior Delegated Maintenance Agreement dated September 9, 2020. This AGREEMENT does not supersede the prior Delegated Maintenance Agreement. The prior Delegated Maintenance Agreement will remain in full force and effect. This AGREEMENT does not supersede other Freeway Maintenance Agreements executed by the PARTIES, if any.

OPERATIVE PROVISIONS

1. **Maintenance Services.** LOCAL AGENCY shall perform maintenance operations at the State Route(s) (SR), post miles (PM) and approximate mile lengths (STATE Right of Way) set forth in Exhibits A and B to keep the facilities in a safe and operational condition. Maintenance Operations include but are not limited to litter, debris, and graffiti removal, repairs, and restoration.
2. **Prior Delegated Maintenance Agreements.** This AGREEMENT does not supersede the PARTIES' prior Delegated Maintenance Agreement dated September 9, 2020. The prior Delegated Maintenance Agreement will remain in full force and effect. This AGREEMENT does not supersede other Freeway Maintenance Agreements executed by the PARTIES, if any.
3. **Maintenance Standards.** LOCAL AGENCY shall perform all maintenance in compliance with the standards set forth in Streets and Highways Code Section 27, and in accordance with California and federal laws and

regulations and STATE policies, procedures and specifications in effect and as amended, and applicable municipal ordinances.

4. **Maintenance Areas and Services.** LOCAL AGENCY shall only perform those maintenance services in the STATE right of way locations described in Exhibit A and shown in Exhibit B.
5. **Amendment to Agreement.** Changes to LOCAL AGENCY's maintenance services covered in this AGREEMENT may be made by each PARTY executing amended Exhibits A and B and/or executing additional pages to Exhibits A and B that shall be attached to this AGREEMENT and will supersede the original Exhibits A and B. Otherwise, this AGREEMENT may only be amended by a written agreement executed by both PARTIES. STATE's District Maintenance Agreement Coordinator (DMAC) must obtain prior written approval of any amendments from the District 12 Deputy Director of Maintenance before such amendments may become effective and enforceable under this AGREEMENT.

6. Unsheltered Encampment Removal.

- A. LOCAL AGENCY shall remove Persons Experiencing Homelessness (PEH) and any structures, personal property, debris, and/or other items related to the encampment from the Location(s) described in Exhibit A and B, subject to STATE's Encampment Removal policy, MPD 1001 R1 and applicable State and Federal law.
 - B. Nothing in this Agreement grants or waives the right of California Highway Patrol (CHP) and other law enforcement agencies having jurisdiction over the Locations in shown in Exhibits A and B.
7. **Weed Abatement.** LOCAL AGENCY shall engage in weed abatement operations. LOCAL AGENCY shall control weeds at a level acceptable to STATE. Any weed control performed by chemical weed sprays (herbicides) shall comply with all laws, rules, and regulations established by California Department of Food and Agriculture. All chemical spray operations shall be reported quarterly (form LA17) to STATE via the STATE's Landscape Specialist, Maintenance Support, Caltrans District Office at 1750 East Fourth Street, Suite 100, Santa Ana, California, 92705.
 8. **Graffiti Removal.** LOCAL AGENCY's graffiti removal shall be limited to removal of text only in accordance with Streets and Highway Code Section 96. Any graffiti that in any way resembles a mural, artwork,

paintings, or other similar elements may not be removed. LOCAL AGENCY shall discuss such possible art with STATE's District 12 Transportation Art Coordinator before conducting any graffiti removal or remediation. STATE shall pay the actual cost of LOCAL AGENCY's graffiti removal as specified in Section 11 of this AGREEMENT.

9. **Maintenance Service Schedule.** LOCAL AGENCY shall provide STATE's District 12 Area Maintenance Superintendents, Anna Hernandez and Rex McConnell, at least twenty-four (24) hours prior telephone or email notice before performing any maintenance services under this AGREEMENT. Their emails and phone numbers are: Anna.hernandez@dot.ca.gov/(949) 233-7055 and Rex.mcconnell@dot.ca.gov/(949) 648-6366, respectively. LOCAL AGENCY shall provide the DMAC identified in this AGREEMENT with a litter, debris and graffiti removal schedule. Maintenance services shall be provided at a minimum basis as determined by STATE's Area Maintenance Superintendents. Maintenance services shall be performed between the hours of 9:00 a.m. and 3:00 p.m. or as otherwise authorized by the State Representative, if necessary. LOCAL AGENCY must request through the DMAC prior written approval from STATE's District Maintenance Supervisor to perform any maintenance services before 9:00 a.m. or after 3:00 p.m. and/or weekends and holidays.
10. **Authorized Reimbursement.** The functions and levels of maintenance services delegated to LOCAL AGENCY in the attached Exhibits A and B and amounts appropriated to STATE have been considered in setting authorized total dollar amounts. LOCAL AGENCY may perform additional work if desired, but STATE will not reimburse LOCAL AGENCY for any work in excess of the authorized dollar limits established herein.
11. **Cost Reimbursement.** STATE shall reimburse LOCAL AGENCY for LOCAL AGENCY's actual and necessary costs incurred to perform the maintenance services under this AGREEMENT; provided, however, that STATE's reimbursement shall not exceed the maximum authorized expenditures under this AGREEMENT.
12. **Amendment to Approved Expenditures.** Upon LOCAL AGENCY's written request, the expenditures per route for maintenance services set forth in Exhibits A and B may be increased, decreased, or redistributed between routes pursuant to the PARTIES executing an appropriate amendment in accordance with section 5 above. All such adjustments must be authorized in writing by the District Director or his/her authorized representative.

13. **Term of Expenditures.** Additional expenditures or an adjustment of expenditures once authorized shall apply only for the term of this AGREEMENT and shall not be deemed to permanently modify or change the basic maximum expenditures per route as specified in Exhibits A and B. Any expenditure adjustments shall not affect or alter any other terms of this AGREEMENT.
14. **Billing, Payment and Reporting.**
 - 14.1 **Billing Date.** LOCAL AGENCY shall submit billing invoices to STATE's DMAC each (month/quarter) beginning after the first (month/quarter) LOCAL AGENCY has performed maintenance services under this AGREEMENT. LOCAL AGENCY shall not submit billing invoices for reimbursement of costs less than \$500 more than once each quarter. LOCAL AGENCY shall also submit billing invoices promptly following the close of STATE's fiscal year on each June 30th.
 - 14.2 **Billing Submission Format.** Each billing invoice shall include all of the following:
 - (a) STATE's AGREEMENT number;
 - (b) Date(s) of services;
 - (c) Location of services;
 - (d) Number of hours and hourly rates;
 - (e) Receipts for trash disposal; and
 - (f) Receipts for equipment, materials, and supplies.

STATE shall pay LOCAL AGENCY for the maintenance services satisfactorily performed in accordance with the rates and schedules in Exhibits A and B.
15. **Successors.** This AGREEMENT shall be binding upon and inure to the benefit of each of the PARTIES' successors-in-interest, including, but not limited to any public entity to whom any part of the STATE right of way covered under this AGREEMENT may be relinquished and any subsequently incorporated city or other municipality established within the LOCAL AGENCY's jurisdictional limits.
16. **Encroachment Permits.** Before LOCAL AGENCY may enter STATE right of way to perform any maintenance services in the areas covered by this AGREEMENT, STATE's District 12 Encroachment Permit Office must issue an initial encroachment permit at no cost to LOCAL AGENCY. LOCAL AGENCY must obtain additional encroachment permits, if necessary, to

enter or perform any work within STATE right of way not covered by this AGREEMENT. STATE will issue these additional encroachment permits at no cost to LOCAL AGENCY.

17. **Legal Disposal of Litter Collected.** LOCAL AGENCY shall make its own arrangements for the legal disposal of litter or debris materials to authorized disposal sites. LOCAL AGENCY shall not leave any filled litter bags, litter piles or other groups of litter assembled during its maintenance services along or in STATE Right of Way. Such litter groupings shall be removed out of STATE Right of Way each day LOCAL AGENCY performs the maintenance services in this AGREEMENT.
18. **Safety and Worker Compliance.** LOCAL AGENCY shall be solely responsible for crew pay, workers compensation and any other benefits required by state and federal law. Subcontractors and crew members are not considered STATE's employees at any time. LOCAL AGENCY shall comply with all applicable State and Federal statutes and regulations governing worker and public safety, including but not limited to compliance with CAL-OSHA regulations and guidelines.

LOCAL AGENCY shall make arrangements through the STATE if traffic controls, flags, signs, or lane closures are necessary to safely perform any maintenance services. STATE's maintenance Supervisor or designee shall determine what protections are required at the worksite pursuant to applicable provisions of the Caltrans Maintenance Manual, including but not limited to Volume 1, Chapter 8, Protection of Workers.

19. **Equipment and Supplies.** LOCAL AGENCY shall provide the necessary equipment, tools, personal protective equipment, materials, supplies and products necessary to perform the maintenance services under this AGREEMENT. STATE shall reimburse LOCAL AGENCY for the reasonable costs of such equipment and supplies not to exceed the authorized expenditures set forth in Exhibits A and B.
20. **Legal Relations and Responsibilities.**
 - 20.1 **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 maintenance of STATE highways different from the standard of care imposed by law.

- 20.2 **Indemnification.** 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 under this AGREEMENT. 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.

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 under this Agreement. 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 under this Agreement.

- 20.3 **Work-related Injuries.** If a LOCAL AGENCY-assigned crew member is injured while performing maintenance services under this AGREEMENT, LOCAL AGENCY or its designated subcontractor shall be responsible for ensuring the crew member is given prompt medical care and treatment and, if necessary, transportation to a medical facility. LOCAL AGENCY or its designated subcontractor shall administer any injury and workers compensation claims. LOCAL AGENCY shall notify the DMAC within twenty-four (24) hours when any such incident has occurred.
21. **Prevailing Wages and Labor 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 public works or maintenance contracts and subcontracts executed for the LOCAL AGENCY's maintenance services under this AGREEMENT.
22. **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 and \$2 million in aggregate and \$5 million in excess by delivering a Letter Certifying Self-Insurance. The Letter of Self-Insurance must be substantially in the form of Exhibit C and identify the AGREEMENT number, and location as depicted in Exhibits A and B.

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 C.

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 and \$2 million in aggregate and \$5 million in excess. LOCAL AGENCY shall provide a certificate of insurance evidencing this insurance in a form satisfactory to STATE.

23. **Budget Contingency.** STATE's payments to LOCAL AGENCY are contingent upon the Legislature appropriating sufficient funds under the Budget Act and the encumbrance of funding to STATE's District Office.
24. **Termination.** This AGREEMENT may be terminated by the mutual written consent of each PARTY. Either PARTY may terminate this AGREEMENT upon thirty (30) days prior written notice to the other PARTY.
25. **Effective Date (Term) of Agreement.** This AGREEMENT shall become effective on the last of the dates each PARTY's authorized representative has executed this AGREEMENT.
26. **Authority.** Each individual executing this AGREEMENT on behalf of each PARTY represents and warrants that he/she is duly authorized to execute this AGREEMENT as authorized under Streets and Highways Code Sections 114 and 130. 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.
27. **Counterparts.** This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.
28. **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.

29. All notices, document submittals and invoices required under this AGREEMENT shall be deemed to have been fully given when made in writing and received by the PARTIES at their respective addresses as shown on Exhibit D.

THE CITY OF WESTMINSTER

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

Dated: 9/30/24

[Signature]
Mayor/Chairman

Dated: _____

Deputy District Director
Maintenance District

APPROVED:

Dated: 9/3/24

[Signature]
City Manager

Dated: 9/3/24

[Signature]
City Clerk

**EXHIBIT A
DELEGATION OF MAINTENANCE**

Route No.	Length Miles	Description of Routing	Program Delegated	Maximum Annual Authorized Expenditure
22, 39	0.6 MI	Litter/Debris Removal as shown as Area to be Maintained by City in Exhibit B	HM-2	\$23,000
22	303 LF	Fence Maintenance as shown as Area to be Maintained by City in Exhibit B	HM-2	\$2,000

TOTAL ANNUAL AUTHORIZED EXPENDITURE: \$25,000

EXHIBIT C

LETTER CERTIFYING CITY OF WESTMINSTER'S SELF-INSURED STATUS

CALTRANS
ATTN: Sarah Rodriguez
Maintenance Engineering
Caltrans, District 12
1750 E. 4th Street
Santa Ana, CA, 92705

May 7, 2024

Re: Statement of Self-Insurance for City of Westminster ("CITY") for Delegated Maintenance Agreement with State of California Department of Transportation ("STATE") for the fence maintenance and litter/debris removal along SR-22 and SR-39 at PM R3.2-R3.6 and PM 8.3-8.5, respectively.

Dear Sarah Rodriguez:

This letter certifies that the CITY 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 22 (Insurance) of the Delegated 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 D

Party Representatives and Notices.

LOCAL AGENCY's Project Manager: Tuan Pham
STATE's DMAC: Sarah Rodriguez

All notices, document submittals and invoices required under this AGREEMENT shall be deemed to have been fully given when made in writing and received by the PARTIES at their respective addresses as follows:

LOCAL AGENCY

Attn: Name of Project Manager: Tuan Pham
Address: 14381 Olive Street
City, Zip: Westminster, 92683

STATE

Attn: Name of DMAC: Sarah Rodriguez
Address: 1750 East Fourth Street, Suite 100
City, Zip: Santa Ana, 92705

EXHIBIT B

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Delegation of Maintenance

