

Attachment B

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**PROJECT SPECIFIC MAINTENANCE AGREEMENT
BETWEEN THE STATE OF CALIFORNIA
AND THE COUNTY OF MONTEREY**

THIS PROJECT SPECIFIC AGREEMENT (AGREEMENT) is made by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE" and the County of Monterey, a political subdivision of the State of California; hereinafter referred to as "COUNTY"; and collectively referred to as "PARTIES" as of the last date opposite the respective signatures below.

SECTION I

RECITALS

1. Cooperative Agreement¹ Number 05-0234 was executed between COUNTY and STATE on May 6, 2014 to construct an overflow bridge on State Route (SR) 1, hereinafter referred to as "PROJECT", and
2. In accordance with said Cooperative Agreement, it was agreed by PARTIES that prior to or upon PROJECT completion, COUNTY and STATE will enter into a Project Specific AGREEMENT (AGREEMENT), and
3. The PARTIES hereto mutually desire to identify the maintenance responsibilities of COUNTY for the improvements of PROJECT constructed within the STATE right of way under the Cooperative Agreement Number 05-0234, and

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

SECTION II

AGREEMENT

1. Exhibit A consists of plan drawings, and Exhibits B, C and D delineate and describe the areas within STATE right of way which are the responsibility of the COUNTY to maintain in accordance with this Agreement.
2. If there is mutual agreement on a change in the maintenance responsibilities between PARTIES, the PARTIES can revise this AGREEMENT, including Exhibits A, B, C, or D by a mutual written Amendment to this AGREEMENT.

¹ Reference to an Encroachment Permit is acceptable if co-op was not used, delete and replace as needed including the footnote.

3. COUNTY must obtain the necessary Encroachment Permits from STATE's District 5 Encroachment Permit Office prior to entering STATE right of way to perform COUNTY maintenance responsibilities. This permit will be issued at no cost to COUNTY.

4. OVERFLOW FLOODPLAIN – COUNTY will maintain the area and facilities under the Caltrans overflow bridge including but not limited to routine and emergency debris clearing to maintain overflow bridge design capacity, graffiti removal on rock slope protection, trail, cable exclusionary fencing litter/debris, temporary irrigation, vegetation, sediment removal, and the adjacent well in its entirety.

- 3.1 Graffiti Removal. LOCAL AGENCY, at LOCAL AGENCY's sole cost and expense, shall remove all graffiti described in this section. LOCAL AGENCY is solely responsible for ensuring that any graffiti that in any way resembles a mural, artwork, paintings, 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, Family D Chapter, D1.06.
- 3.2 Unsheltered Encampments. STATE/ LOCAL AGENCY shall remove Persons Experiencing Homelessness (PEH) and any structures, personal property, debris, and/or other items related to the encampment from the undercrossing, subject to State's Encampment Removal policy, MPD 1001 R1 and applicable State and Federal law.
- 3.3 Weed Control. To control weeds at a level acceptable to the STATE. Any weed control performed by chemical weed sprays (herbicides) shall comply with all laws, rules, and regulations established by the California Department of Food and Agriculture. All chemical spray operations shall be reported quarterly (Form LA17) to the STATE to: District 05 Maintenance at² _____.

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

5. WALLS AND COLUMNS - COUNTY is responsible for debris removal, cleaning and painting to keep COUNTY's side of any wall structure or column free of debris, dirt, and graffiti.

6. LEGAL RELATIONS AND RESPONSIBILITIES

- 6.1. 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.
- 6.2. Neither COUNTY 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 under this AGREEMENT. It is understood and agreed that STATE shall fully defend, indemnify and save harmless COUNTY 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.
- 6.3. 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 COUNTY under or in connection with any work, authority or jurisdiction conferred upon COUNTY under this AGREEMENT. It is understood and agreed that COUNTY 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, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by COUNTY under this AGREEMENT.

7. PREVAILING WAGES:

- 7.1. 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. COUNTY 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. COUNTY agrees to include prevailing wage requirements in its contracts for public works. Work performed by COUNTY'S own forces is exempt from the Labor Code's Prevailing Wage requirements.
- 7.2. Requirements in Subcontracts - COUNTY 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 COUNTY's contracts.

8. INSURANCE

8.1. SELF-INSURED - COUNTY is self insured. COUNTY agrees to deliver evidence of self-insured coverage providing 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. Coverage shall be evidenced by a certification of self-insurance letter ("Letter of Self-Insurance"), satisfactory to STATE, certifying that COUNTY meets the coverage requirements of this section. This Letter of Self-Insurance shall also identify the project location as depicted in EXHIBIT A. COUNTY 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.

8.2. SELF-INSURED using Contractor - If the work performed under this MAINTENANCE AGREEMENT is done by COUNTY's contractor(s), COUNTY 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.

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

10. TERM OF AGREEMENT - This AGREEMENT shall become effective on the last date opposite the respective signatures below and shall remain in full force and effect until amended or terminated as set forth in Article 9 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 entered into this AGREEMENT as of the last date opposite the respective signatures below.

THE COUNTY OF MONTEREY
Department of Public Works, Facilities
and Parks

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
Randell Y. Ishii, Director

Date: _____

Approved as to form:
Office of the county Counsel
Susan K. Blitch, County Counsel

By: _____
Mary Grace Perry
Deputy County Counsel

Date: _____

Approved as to Indemnity/Insurance
Provisions:
Office of the County Counsel/Risk
Management

By: _____
David Bolton, Risk Manager

Date: _____

By: _____
Deputy District Director
Maintenance District 5

EXHIBIT A

(Plan map identifying the applicable STATE Route and COUNTY facilities)

HQ MTCE REVIEW REQUIRED; PENDING LEGAL APPROVAL

ATTN: Victor Devens – Senior Maintenance Engineer

RE: Statement of Self Insurance for County of Monterey _____ Related to
_Project Specific Maintenance Agreement (AGREEMENT) with State of
California Department of Transportation ("STATE") for Highway __1__ at
_PM_71.9/72.3 _____

Dear _Victor, _____

The purpose of this letter is to certify that the COUNTY 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 COUNTY 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 COUNTY appropriates funds specifically to satisfy valid third-party claims and workers' compensation claims, which may be brought against the COUNTY.

The COUNTY certifies its self-insured, general liability coverage for bodily injury liability and property damage liability, meets the required coverage amounts in section 8 (INSURANCE) of the 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 COUNTY further represents that regarding any claims made in connection with the 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 inquiries through my office.

Sincerely,

FINANCE MANAGER

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