

**DELEGATED MAINTENANCE AGREEMENT
FOR MAINTENANCE OF STATE HIGHWAY
IN THE CITY OF FRESNO**

THIS AGREEMENT is made effective this _____ day of _____ 2019, by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE" and the City of Fresno; hereinafter referred to as "CITY" and collectively referred to as "PARTIES".

SECTION I

RECITALS

1. The PARTIES desire to provide that CITY perform particular maintenance functions on the State highways within the CITY as authorized by Section 130 of the Streets and Highways Code.
2. This Agreement shall supersede any previous agreement or amendments thereof with the CITY for maintenance of the portion in Exhibit A which is attached to and made a part of this agreement.
3. The CITY will perform such maintenance work as is specifically delegated to it, on the identified State highway routes, or portions thereof, all as hereinafter described under this agreement and Exhibit. The Exhibit "A" may be subsequently modified upon written consent of the PARTIES hereto acting by and through their authorized representatives. No formal amendment to this Agreement will be required.
4. 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.
5. The functions and levels of maintenance service delegated to the CITY in the attached Exhibit, Delegation of Maintenance has been considered in setting authorized total dollar amounts. The CITY may perform additional work if desired, but the STATE will not reimburse the CITY for any work in excess of the authorized dollar limits established herein.

NOW THEREFORE IT IS AGREED:

SECTION II

AGREEMENT

1. The STATE will reimburse the CITY for the actual cost of all routine maintenance work performed by the CITY as delegated under Exhibit A. It is agreed that during any fiscal year, the maximum expenditure on any route shall not exceed the amount as shown in Exhibit A unless such expenditure is revised by an amended Agreement or otherwise adjusted or modified as hereinafter provided for.

- 1.1. Upon written request by CITY the expenditure per route for routine maintenance work, as referred to in Exhibit, may be increased, decreased, redistributed between routes, or additional expenditures for specific projects may be made by STATE. However, such adjustments should be authorized in writing by the District Director or his authorized representative and accepted by in writing by CITY. Exhibit need not be amended.
- 1.2. Additional expenditures or an adjustment of expenditures, once authorized shall apply only for the fiscal year designated therein and shall not be deemed to permanently modify or change the basic maximum expenditure per route as specified in Exhibit. An adjustment of any said maximum expenditure, either an increase or decrease, shall not affect other terms of the Agreement.
2. Exhibits can be amended as necessary by written concurrence of PARTIES to reflect any future changes, deletion or additions or to ensure an equitable annual cost allocation.
3. The CITY will submit bills in a consistent periodic sequence (monthly, quarterly, semiannually, or annually). Bills for less than \$500 shall not be submitted more than once each quarter. Bills must be submitted promptly following the close of STATE's fiscal year on each June 30th and should be coded according to the Caltrans HM Program Code as outlined in this Agreement. Bills submitted for periods prior to the last fiscal year will be deemed waived and will not be honored.
4. Maintenance services provided by contract or on a unit-rate basis with overhead costs included shall not have these above-mentioned charges added again. An actual handling charge by the CITY for the direct cost of processing this type of bill will be allowed.
5. The CITY shall provide the STATE's Caltrans Area Superintendent a monthly litter removal schedule, in advance, and no less than 24-hour notice, prior to any litter removal activity involving STATE highways, or the STATE's right-of-way.
6. CITY agrees to utilize a crew/or crews approved by the STATE and appropriately supervised and trained to work on State rights-of-way within the Fresno area.
7. CITY agrees to utilize one or more crews of 5 workers and one working supervisor. The City agrees to a work week not to exceed 40 hours per week 52 weeks per year.
8. CITY agrees that in the event that a CITY-assigned crew member is injured on the job, CITY or designated subcontractors will be responsible for ensuring medical care and transportation to a medical facility. CITY or designated subcontractors will be responsible to ensure the administration of any claims due to injury on the job, as well as for treatment of the injury. The STATE's Contract Manager shall be notified within 24 hours of any injuries incurred while working under this contract.
9. CITY agrees no litter removal shall be done where active adoptions by Adopt a Highway volunteers are done.
10. CITY agrees to notify STATE before 8:00 a.m. on days CITY crews are unable to work. CITY will also advise the Contract Manager one week in advance of permanent changes to schedules.

11. STATE agrees to provide the necessary safety instructions to CITY crews.
12. STATE agrees to furnish and place safety warning signs when necessary.
13. STATE agrees, at its sole expense, to provide technical direction to oversee the work being performed under the terms of this agreement.
14. STATE agrees to provide a shadow vehicle (as STATE deems necessary) for clean ups scheduled on State rights-of-way.
15. STATE agrees to provide bags for the containment of litter.
16. STATE agrees to provide for the removal of all bags and disposal of litter collected. In the event CITY is willing to provide for removal of bags and disposal of litter collected, this Agreement may be amended, and the cost of these services added to this contract.

17. LEGAL RELATIONS AND RESPONSIBILITIES

- 17.1. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not PARTIES to this contract or to affect the legal liability of either PARTY to the contract by imposing any standard of care respecting the maintenance of State highways different from the standard of care imposed by law.
- 17.2. 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 under this Agreement. It is understood and agreed that CITY will fully defend, indemnify, and save harmless STATE and all 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 CITY under this Agreement.
- 17.3. 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 under this Agreement. It is understood and agreed that STATE will fully defend, indemnify, and save harmless CITY and all 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 STATE under this Agreement.

18. PREVAILING WAGES:

18.1. 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.

18.2. Prevailing Wage 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.

19. INSURANCE:

19.1. 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.

19.2. 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.

20. STATE costs and expenses assumed under the terms of this Agreement are conditioned upon the passage of the annual State of California Budget by the Legislature, the allocation of funding by the California Transportation Commission as appropriate, and the encumbrance of funding to the District Office of STATE to pay the billing by CITY.

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

22. 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 or until terminated by STATE for cause.

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 FRESNO

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

LAURIE BERMAN
Director of Transportation

Initiated and Approved

By: VOID
Wilma Quan
Fresno City Manager

By: VOID
JOHN LIU
Deputy District Director
Maintenance
District 6

ATTEST:

By: VOID
Deputy
Fresno City Clerk

As to Form and Procedure:

By: VOID
Brandon M. Collet
Senior Deputy City Attorney

By: VOID
Attorney
Department of Transportation

