

FREEWAY MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into in duplicate, effective this _____, day of _____, 20____, is by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE," and the City of Costa Mesa, hereinafter referred to as "CITY."

WITNESSETH:

A. WHEREAS, on _____, 20____, a Freeway Agreement was executed between CITY and STATE wherein CITY agreed and consented to certain adjustments of the local street and road system required for the development of a new off ramp at Susan Street at post mile 11.2 between Fairview Road and Harbor Boulevard of Interstate 405 northbound, (I-405), within the jurisdictional limits of CITY as a freeway; and

B. WHEREAS, said development of freeway has now been completed or is nearing completion, and the parties hereto mutually desire to clarify the division of maintenance responsibility as to separation structures, and local CITY streets and roads, or portions thereof, and landscaped areas lying within or outside the freeway limits; and

C. WHEREAS, under Section 6f the above referred Freeway Agreement, CITY has resumed or will resume control and maintenance over each of the relocated or reconstructed CITY streets except on those portions thereof adopted as a part of the I-405 freeway proper.

NOW THEREFORE, IT IS AGREED:

1. When a planned future improvement has been constructed and/or a minor revision has been effected within the limits of the freeway herein described, which affects the parties division of maintenance responsibility as described herein, STATE will provide a new dated and revised Exhibit "A," which will be made a part hereof by an amendment to this Agreement when executed by both parties, which will thereafter supersede the attached original Exhibit A and which will then become part of this Agreement.

2. LANDSCAPED AREAS ADJACENT TO CROSSING STRUCTURES

Responsibility for the maintenance of any plantings or other types of roadside development lying outside of the area reserved for exclusive I-405 freeway use shall lie with CITY and not with STATE.

3. INTERCHANGE OPERATON

It is STATE's responsibility to provide efficient operation of freeway interchanges, including ramp connections to local streets and roads. The maintenance and energy costs of safety lighting, traffic signals or other necessary electrically operated traffic control devices placed at ramp connections to CITY streets and roads shall be shared between STATE and CITY. Timing of those traffic signals shall be the sole responsibility of STATE.

5. MITIGATION FOR RAMP QUEUING

5a) CITY agreed to install the advance queue loop detectors at station 23+00 of the Susan Street off ramp alignment to provide the queue override signal. Station 23+00 is located 152 meters downstream from the exit gore of the proposed Susan Street off ramp or 178 meters upstream from the limit line at the ramp terminus.

5b) CITY agreed to install and maintain interconnect communications between traffic signals at both the proposed Susan Street & Home Ranch Rd/Ikea entrance and the existing Susan Street & South Coast Drive at the City's expense. Signal coordination will give green through movement on Susan St. once the advance loop detectors are triggered.

5c) CITY agreed that in Lieu of a relinquishment of the traffic signal at Susan St and South Coast Dr. to STATE, CITY will implement signal timing at this signal based on STATE timing determination to prevent any backups on the Susan Street off ramp.

5d) If after the implementation of above measures, queuing still occurs extending to the collector-distributor road in a manner that impacts approaching Harbor Boulevard traffic, CITY will work with STATE in the identification and implementation of other mitigation measures deemed necessary by STATE. The costs for the implementation of the identified mitigation measures will be shared equally by CITY and STATE.

6. Responsibility for the maintenance of road bed at the proposed Susan Street & Home Ranch Rd/Ikea intersection shall lie with CITY and not with STATE.

6. LEGAL RELATIONS AND RESPONSIBILITIES:

- A. 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 affect the legal liability of either party to the contract by imposing any standard of care with respect to the maintenance of STATE highways different from the standard of care imposed by law.
- B. 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 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 and other theories or assertions of liability occurring by reason of anything done or omitted to be done by CITY under this Agreement.
- C. 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 and arising under this Agreement. It is understood and agreed that STATE shall 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 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.

8. EFFECTIVE DATE

This Agreement shall be effective upon the date appearing on its face, it being understood and agreed, however, that the execution of this Freeway Maintenance Agreement shall not affect any pre-existing obligations of CITY to maintain other designated areas pursuant to prior written notice from STATE that work in such areas, which CITY has agreed to maintain pursuant to the terms of the Freeway Agreement, has been completed.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

CITY of COSTA MESA

By _____
City Executive

City Clerk

** Approved as to form and procedure:

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

Attorney
Department of Transportation

WILL KEMPTON
Director of Transportation

City Attorney

By _____
District Director

By _____

** Approval by STATE's Attorney is not required unless changes are made to this form, in which case the draft will be submitted for Headquarters' review and approval by STATE's Attorney as to form and procedures.