

**AGREEMENT FOR MAINTENANCE OF STATE HIGHWAY
IN THE CITY OF SUNNYVALE**

THIS AGREEMENT, is made effective this 2nd day of January, 2008, by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "the STATE", and the CITY of Sunnyvale hereinafter referred to as "CITY".

- I. The Parties desire that CITY perform particular maintenance functions on the State highways within the CITY as authorized in Section 130 of the Streets and Highways Code.
- II. This Agreement shall supersede any previous agreement for maintenance of the identified portion of the State highways in the City of Sunnyvale of and/or amendments thereto with the CITY.
- III. 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 Exhibit A hereof or as said Exhibit may be subsequently modified with the consent of the parties hereto acting by and through their authorized representatives.
- IV. 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 (a copy of which has been provided to the CITY), or as may be prescribed from time to time by the District Director. "District Director," as used herein, means the District Director of the Department of Transportation assigned to the territory in which the CITY is located, or an authorized representative.

The STATE reserves the option to inspect at random all areas of STATE HIGHWAYS maintained by CITY to assure conformance to maintenance levels. Failure of CITY to comply with the maintenance levels would be reason to terminate this agreement as specified under Section XIII. However, this random inspection does not preempt CITY maintenance responsibilities as specified in this Agreement.

An encroachment permit will be required for third parties when maintenance work is redelegated. Such redelegated work shall be performed to the same levels of service as specified herein and will be subject to the same random inspections as provided for work performed directly by CITY forces.

- V. The functions and levels of maintenance service delegated to the CITY in the attached Exhibit A, "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.

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

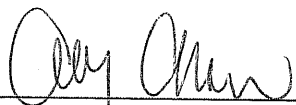
The cost of operating and maintaining utility-owned and maintained lighting now in place at the intersection of any State highway route and any CITY street/road shall be shared as shown in Exhibit B.

- B. The expenditure per route for routine maintenance work, as referred to above, may be increased or decreased, redistributed between routes, or additional expenditures for specific projects may be made, when such adjustment of expenditures for routine maintenance or such specific work is authorized in writing by the District Director or his authorized representative and accepted by CITY as an amendment to Exhibit A.
- C. Additional expenditures, or an adjustment of expenditures, once authorized shall apply during the fiscal year designated therein and shall not be deemed to permanently modify or change the basic maximum expenditure per route as hereinafter specified. An adjustment of any said maximum expenditure, either an increase or decrease, shall not affect other terms of the Agreement.
- VII. A new Exhibit A "DELEGATION OF MAINTENANCE" will be provided annually by the STATE for the ensuing fiscal year, if necessary, to ensure an equitable annual cost allocation.
- VIII. A. 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.
- B. 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.
- IX. 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.

- X. 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.
- XI. 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.
- XII. 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.
- XIII. This Agreement shall remain in full force and effective until amended by the mutual consent of the parties thereto or terminated by either party upon thirty (30) days' notice to the other parties.

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

CITY OF SUNNYVALE

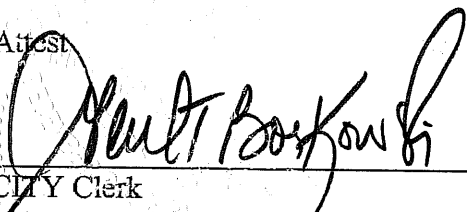


CITY Manager

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

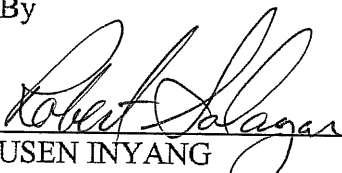
WILL KEMPTON
Director of Transportation

Attest




CITY Clerk

By

 1/2/2008

for USEN INYANG Date
Deputy District Director
Maintenance

Approved as to form:



CITY Attorney

EXHIBIT "A"**DELEGATION OF MAINTENANCE**

The specific maintenance function indicated below (and on "EXHIBIT B") is hereby delegated to the CITY. This delegation of maintenance function set forth herein does not include the control and maintenance areas and functions which rest with the CITY under the terms of executed Freeway Agreements and/or Freeway Maintenance Agreements.

<u>Route No.</u>	<u>Length Miles</u> <u>Expenditure</u>	<u>Description of Routing</u>	<u>Program Delegated</u>	Maximum Annual Authorized
82	3.71	El Camino Real at east city limit, from approximately 1380 feet east of Henderson Avenue to west city limits, approximately 625 feet west of Bernardo Avenue. Footnote 1	HM2C HM2D HM2E	-0- \$35,000.00 -0-
85	1.77	Freeway, from city limits 1,550 feet east of Homestead Road Overcrossing to city limits at Stevens Creek Bridge (No. 37-185).	None	-0-
101	3.46	Bayshore Freeway, from east city limits 2,750 feet east of Lawrence Expressway Overcrossing to the west city limits 1,375 feet east of Ellis Avenue Undercrossing.	None	-0-
237	3.56	Freeway, from south city limits at Maude Avenue to east city limits at Calabazas Creek.	HM4K	\$5,000.00
280	0.40	Junipero Serra Freeway, from 1,700 feet west of Wolfe Road Overcrossing to city limits 1,150 feet east of Blaney Avenue Overcrossing, a	None	-0-

Length of 0.03 mile for this Portion; also, freeway from City limits 660 feet west of North Stelling Road Overcrossing to 1060 west of North Stelling Road, a length Of 0.07 mile for this portion; Also, freeway from city limits At Mary Avenue to city limits 475 feet north of Route 85/280 Separation, a length of 0.30 Mile for this portion; a total Length of 0.40 mile.

TOTAL AUTHORIZED EXPENDITURE

\$40,000.00

Footnote:

1. Length of street to be cleaned 14.83 curb miles.

DELEGATION OF MAINTENANCE

A brief description of those maintenance program functions delegated to CITY are included in this section. The functions are identified by STATE's Caltrans HM Program.

HM2C (Roadsides)- CITY, at CITY expense, shall maintain, curbs, sidewalks and other appurtenances between roadbed and the outer highway right-of-way boundary line. This includes curb painting, parking lines, regulatory signs for stopping vehicular traffic at pedestrian or school crossing, and regulatory signs for the prohibition or regulation of parking. This also includes weed and brush control by chemical, biological or mechanical methods, trimming and removal of trees and pest control.

HM2D (Litter/Debris)- CITY shall provide for removal of litter and debris from roadway surface and roadsides. This includes debris/carcass pickup, sweeping, litter pickup, spills and miscellaneous.

HM2E (Landscaping)-CITY, at CITY expense, shall provide for the maintenance of landscaping in planted areas. This provides for watering, fertilizing, removal of shrubs, and control of weeds in planted areas. Includes trimming, removal, and spraying of trees, replacement of plants, shrubs, and trees, and pest control in planted areas.

HM4K (Electrical)- This includes maintenance work performed on highway electrical facilities including flashing beacons, traffic signals, traffic-signal system, safety lighting and sign lighting. CITY shall maintain signals and safety lighting as shown on Exhibit B.

COST SHARING OF ELECTRICAL FACILITIES

Timing sequence of traffic signals shall be determined after consultation with the CITY; however, the decision of the District Director of Transportation shall be final. Maintenance of the “designed” timing is the responsibility of the CITY. Timing records shall be kept in both CITY Maintenance and Traffic Branches.

The STATE will not pay for maintenance, installation, repair servicing, nor power for ordinary street lighting; however, lighting at intersections, which qualify as safety lighting under warrants approved/accepted by the STATE, will be paid for when approved and specifically authorized by the District Director.

The cost of maintaining traffic signals, safety lighting, or other electrically operated traffic control devices now in place or those which may hereafter be installed at the intersection of any STATE highway route and any CITY street/road shall be shared between the STATE and the CITY on a pro rata basis in the same ratio as the number of legs in the intersection under each jurisdiction bears to the total number of legs. The same principle of cost distribution shall apply to freeway interchanges. The participation ratio shall be based on the ratio of the number of legs of the respective agencies to the total number of legs of the intersection.

EXHIBIT "B"**LIGHTING AGREEMENT**

Caltrans and City of Sunnyvale
 In Accordance with Maintenance Agreement Effective 1/2/2008

BASIS OF COST DISTRIBUTION

Maintenance and Operation of Utility-Owned and Maintained
 Lighting by the City of Sunnyvale for Caltrans

CITY to Bill STATE for Expenses

<u>Route & PM</u>	<u>Location/Intersection Description</u>	<u>Type of Facility</u>	<u>Cost Distribution (%)</u>	
			<u>State</u>	<u>City</u>
237 2.83	Mathilda Ave. and E/B on and off ramps	Signals & Safety Lighting	50.00	50.00
237 2.84	Mathilda Ave. and W/B on and off ramps	Signals & Safety Lighting	50.00	50.00
237 2.85	Mathilda Ave. & Moffett Park Drive	Signals & Safety Lighting	0.00	100.00

Maintenance and repair services may include, but are not limited to: carpentry, electrical, painting, plumbing, glazing and other craftwork to preserve a facility in the condition for which it was intended; repairs, cleaning and other operations on machinery and other equipment permanently attached to a facility as fixtures; the mowing, pruning, and trimming of lawns, grass, trees, shrubs, bushes and hedges; and the regular removal or relocation of by-products or waste products accumulated at city facilities as the result of ongoing environmental processes.

(l) Person. Any individual, partnership, limited partnership, association, corporation, labor union, committee, club, or governmental, public or quasi-public entity.

(m) Procurement. The acquisition of goods and/or services by the city, including but not limited to purchasing or leasing, and all functions and procedures pertaining to such acquisitions.

(n) Professional Services. Services which involve the exercise of professional discretion and independent judgment based on an advanced or specialized knowledge, expertise or training gained by formal studies or experience. Such services include, but are not limited to, those provided by appraisers, architects, attorneys, engineers, instructors, insurance advisors, physicians and other specialized consultants.

(o) Purchasing Officer. The person designated by the city manager as the purchasing officer of the city, or an individual specifically authorized by the purchasing officer to act on his or her behalf.

(p) Responsible Bidder. A bidder determined by the awarding authority:

(1) To have the ability, capacity, experience and skill to provide the goods and/or services in accordance with bid specifications;

(2) To have the ability to provide the goods and/or services promptly, or within the time specified, without delay;

(3) To have equipment, facilities and resources of such capacity and location to enable the bidder to provide the goods and/or services;

(4) To be able to provide future maintenance, repair, parts and service for the use of the goods purchased, if appropriate;

(5) To have a record of satisfactory or better performance under prior contracts with the city and other purchasers where such bidder has previously been awarded such contracts;

(6) To have complied with laws, regulations, guidelines and orders governing prior or existing contracts performed by the bidder, if applicable.

(q) Responsive Bidder. A bidder determined by the purchasing officer to have submitted a bid or proposal

which conforms in all material respects to the requirements of the bid or proposal documents.

(r) Services. Work performed or labor, time and effort expended by an independent contractor.

(s) Sole Source. Contracts for which the city's purchasing officer has determined, after conducting a good faith review of available products and sources, that the city's requirements can be met solely by a single patented, copyrighted or proprietary article or process available from a single source. Examples of acceptable sole source purchases are equipment for which there is no comparable competitive product, a component or replacement part for which there is no commercially available substitute and which can be obtained only from the manufacturer, and an item where compatibility with items in use by the city is the overriding consideration.

(t) Specifications. A description of the physical or functional characteristics or of the nature of the required goods and/or services.

(u) Surplus Personal Property. Goods owned by the city which are no longer needed or which are obsolete or unserviceable, property that is a by-product (scrap metal, used tires and oil, etc.), or any unclaimed, seized or abandoned personal property in the possession or custody of the department of public safety which may be legally disposed of by the city. (Ord. 2628-99 § 3 (part)).

2.08.040. Procurement and disposition responsibilities.

(a) End User. The end user shall:

(1) Identify its procurement needs and the availability of funding;

(2) Submit to the purchasing officer specifications for the required goods and/or services;

(3) Participate in the evaluation of bids and proposals, as required;

(4) Inspect goods delivered and services performed to determine conformity with the requirements set forth in the bid or proposal documents and with contractual obligations, authorize payment for conforming goods and/or services and notify the purchasing officer of nonconforming goods and/or services;

(5) Report to the purchasing officer all surplus property available for disposal.

(b) Purchasing Officer. The purchasing officer shall be responsible for the procurement of goods and/or services for the city in accordance with the provisions of this chapter. No procurement of goods and/or services shall be made by any city employee independently of the purchasing officer except in cases of emergency, unless otherwise authorized in writing by the city manager. The purchasing officer shall:

(1) Prepare and recommend to the city manager operational procedures and forms for the procurement of goods and/or services in cooperation with the end users and for the disposal of surplus personal property;

(2) Procure or supervise the procurement of all goods and/or services needed in coordination with end user;

(3) Process the contracts awarded;

(4) Whenever possible, establish standardized specifications and consolidation of requirements for goods and/or services required by two or more end users;

(5) Determine the types and amounts of bid security and any performance security acceptable for city procurements;

(6) Exercise general supervision and control over inventories of goods maintained by the city;

(7) Sell or otherwise dispose of surplus personal property.

(c) City Manager. The city manager shall:

(1) Be the awarding authority for every procurement of goods and/or services for which the cost to the city is fifty thousand dollars or less in any one transaction;

(2) Be the awarding authority for every procurement of goods and/or services, the cost of which will be fully paid or reimbursed to the city, regardless of amount;

(3) Review the results of all formal competitive bid and proposal solicitations for which the city council is the awarding authority and make recommendations to the city council as to the action to be taken;

(4) Approve methods of procurement alternate to those described in this chapter, if appropriate, for use on an experimental basis and recommend to the city council additions, deletions or modification of the procurement methods authorized by Section 2.08.060.

(d) City Council. The city council shall be the awarding authority for every procurement of goods and/or services for which the cost to the city is greater than fifty thousand dollars in any one transaction. (Ord. 2628-99 § 3 (part)).

2.08.050. Delegated authority.

The city manager, after consultation with the director of finance, may delegate authority to procure certain goods and/or services to city employees other than the purchasing officer, if such delegation is deemed necessary for the effective procurement of those items. Delegation shall be made in advance in writing by the city manager and filed with the city clerk and the director of finance. (Ord. 2628-99 § 3 (part)).

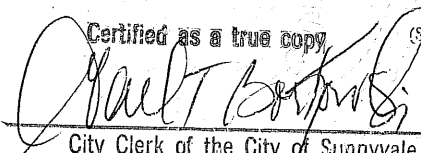
2.08.060. Methods of procurement.

(a) Informal Competitive Bids or Proposals. Procurements anticipated to cost fifty thousand dollars or less in one transaction may be made by informal bid or proposal solicitations in accordance with the provisions of this chapter. Solicitations may be verbal or written, but bids must be in writing. Where possible, a minimum of three bidders should be solicited.

(b) Formal Competitive Bids. Procurements anticipated to cost more than fifty thousand dollars in one transaction shall be made by issuance of written invitations for bids. Bid documents include, at a minimum, the notice inviting bids; instructions to bidders; specifications describing the required goods and/or services; bid forms and schedules; any required bond forms and proposed contract terms and conditions.

(c) Formal Competitive Proposals. Where the City has defined a situation for which it seeks a solution, instead of using a bid, procurements anticipated to cost more than fifty thousand dollars in one transaction may be made by issuance of written requests for proposals. The solution may be in the form of goods, services or a combination of goods and services and may require exceptional technical knowledge or professional expertise beyond that available within the end user. The circumstances may require that a contract award be based on factors in addition to price. The purchasing officer may enter into discussions with proposers to achieve clarification, full understanding and responsiveness to the solicitation requirements, but neither the purchasing officer nor any other city employee shall disclose any information derived from proposals submitted by competing proposers prior to contract award or rejection, except to city employees directly responsible for the procurement.

(d) Competitive Negotiation. The purchasing officer may establish, and the bid or proposal documents shall clearly define in a competitive negotiation procurement a two-tiered process in which bids or proposals, as first received, constitute preliminary offers only. Subject to the purchasing officer's judgment, the purchasing officer shall have the authority to enter into negotiations with those persons reasonably likely of being considered for selection for contract award. Following such negotiations, best and final bids or proposals will be accepted by the purchasing officer. Bidders or proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of bids or proposals. During negotiation, there shall be no disclosure beyond the city staff evaluating the matter of any information derived from bids or proposals submitted by competing bidders or proposers. The contract award shall be made to the bidder or proposer whose bid or proposal offers the best value to the city, taking into

Certified as a true copy (Sunnyvale 8-00)
By 
City Clerk of the City of Sunnyvale