



Meeting Date: 4/21/2009

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	X Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Cynthia Daniels, AICP *Cd*

Agenda Item No. I-3

Reviewed By: City Manager *[Signature]*

City Attorney *[Signature]*

Finance *[Signature]*

Public Works *[Signature]*

Other: General Services *[Signature]*

DATE: April 10, 2009

TO: City Council

FROM: Cynthia Daniels, Project Manager *Cynthia Daniels*
Development Services Department

SUBJECT: Revised Freeway Maintenance Agreement with California Department of Transportation (Caltrans) for Rice Avenue/Santa Clara Avenue Interchange Improvements at Highway 101

RECOMMENDATION

That City Council:

1. Cancel City Council Agreement No. A-7083 with Caltrans to maintain the reconstructed overcrossing at the Rice Avenue/Santa Clara Avenue interchange improvements on U.S. Highway 101.
2. Approve and authorize the Mayor to execute the revised agreement (No. A-7163) with Caltrans to maintain the reconstructed overcrossing at the Rice Avenue/Santa Clara Avenue interchange improvements on U.S. Highway 101.

DISCUSSION

City Council approved the maintenance agreement No. A-7083 on March 3, 2009. Caltrans subsequently decided to alter the agreement and delete the requirement in Sec. 6 C stating the safety screening on the overpass will be maintained by the State at State's expense. Caltrans stated there is no legal requirement for Caltrans to maintain the safety screening. Caltrans requires a freeway maintenance agreement to allocate to the City all maintenance on the reconstructed overcrossing at and above the bridge deck, and landscaping outside the Caltrans right of way.

Caltrans will maintain the overcrossing below the deck surface, traffic lights, and safety lights. This is a standard division of responsibilities. The City has similar agreements for the Rose Avenue and Oxnard Boulevard interchanges. The agreement requires the City to pay prevailing wages to any contractors conducting maintenance on the overcrossing and landscape areas whenever required by law. Although the agreement identifies the City as responsible for landscaping maintenance outside the Caltrans right of way, the construction contractor will have responsibility for maintaining landscaping during a specified plant establishment period, which could range from three to four years after the plants and irrigation are installed at the end of construction.

FINANCIAL IMPACT

The maintenance costs are not known but are expected to be minimal during the first years of the project because the improvements are new. As the project ages, the maintenance requirements will be evaluated and identified during the annual budget requests presented by the departments responsible for landscaping and street maintenance.

CD

Attachment #1 - Agreement No. A-7163

**FREEWAY MAINTENANCE AGREEMENT WITH
CITY OF OXNARD**

THIS AGREEMENT is made and entered into in duplicate, effective this 21st day of April, 2009, by and between the State of California, acting by and through its Department of Transportation, hereinafter referred to as "STATE" and the City of Oxnard, a municipal corporation, hereinafter referred to as "CITY"; and collectively referred to as "PARTIES."

WITNESSETH:

- A. WHEREAS, on the 10th of March 1970, 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 that portion of State Highway Route 101, within the jurisdictional limits of CITY as a freeway; and
- B. WHEREAS, CITY proposes to reconstruct the Interchange at Rice Avenue/Santa Clara Avenue and Route 101; and the PARTIES hereto mutually desire to clarify and revise the division of maintenance, as defined in section 27 of the California Streets and Highways Code, and their respective responsibilities as to separation structures and local CITY streets and roads, or portions thereof, and landscaped areas lying within or outside those modified freeway limits; and
- C. WHEREAS, pursuant to Section 5 of the above 10th of March, 1970 Freeway Agreement, CITY 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 freeway proper.

NOW THEREFORE, IT IS AGREED:

1. CITY agrees to continue its control and maintenance of each of the affected relocated or reconstructed CITY streets and roads as shown on that plan map attached hereto, marked Exhibit "A", and made a part hereof by this reference.
2. STATE agrees to continue control and maintenance of those portions adopted as a part of SR 101 Freeway proper as shown Exhibit "A".
3. When another planned future improvement has been constructed and/or a minor revision has been effected within the limits of the freeway herein described which will affect 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 all PARTIES, which will thereafter supersede the attached original Exhibit "A" and become part of this Agreement.
4. CITY and STATE agree to accept their then respective operational and maintenance responsibilities and related associated costs thereof in the event jurisdictional boundaries of the PARTIES should change and Exhibit "A" is amended to reflect those changes.

5. CITY must obtain the necessary Encroachment Permits from STATE's District 7 Encroachment Permit Office prior to entering STATE right of way to perform CITY maintenance responsibilities. This permit will be issued at no cost to CITY.

6. VEHICULAR AND PEDESTRIAN OVERCROSSINGS

- A. STATE will maintain, at STATE expense, the entire structure of any vehicular and pedestrian overcrossings of SR 101 below the deck surface except as hereinafter provided.
- B. CITY will maintain, at CITY expense, the deck and/or surfacing (and shall perform such work as may be necessary to ensure an impervious and/or otherwise suitable surface) and all portions of the structure above the bridge deck, including, but without limitation, (sidewalks, signs, pavement markings, bridge rails, etc.) that may be required for the benefit or control of traffic using that overcrossing. STATE will operate and maintain traffic signals and safety lighting as installed.

7. LANDSCAPED AREAS ADJACENT TO CROSSING STRUCTURES

Responsibility for the maintenance of any plantings or other types of roadside development lying outside of the Caltrans right of way shall lie with CITY and not with STATE.

8. INTERCHANGE OPERATION

It is STATE's responsibility to provide efficient operation of freeway interchanges, including ramp connections to local streets and roads.

9. LEGAL RELATIONS AND RESPONSIBILITIES:

- A. 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.
- B. 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, under or in connection with any work, authority or jurisdiction conferred upon STATE arising under this Agreement. It is understood and agreed that STATE shall fully defend, indemnify and save harmless CITY 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 and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.
- C. 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 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 CITY under this Agreement.

D. INSURANCE:

CITY is self-insured through the laws of the State of California Government Code Sections 989 and 990. City maintains at least \$25 million of excess liability coverage as a member of Big Independent Cities Excess Pool ("BICEP"), a joint powers insurance authority.

E. PREVAILING WAGE REQUIREMENTS:

CITY agrees that CITY and all its contractors are subject to the prevailing wage provisions of the Labor Code to the same extent as the STATE and the STATE'S contractors. CITY shall require its contractors to include applicable prevailing wage requirements in all subcontracts entered into to perform the work mentioned in this Agreement. All of CITY'S contracts with their contractors shall include a requirement that contractors and their subcontracts shall include applicable prevailing wage requirements.

10. EFFECTIVE DATE

This Agreement shall be effective upon the date appearing on its face 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. 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 until a written notice from STATE has been issued that work in such areas, which CITY has agreed to maintain pursuant to the terms of a Freeway Agreement, has been completed.

The PARTIES are empowered by Street and Highways Code section 114 & 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 set their hands and seals the day and year first above written.

CITY OF OXNARD

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

BY _____
Dr. Thomas E. Holden, Mayor

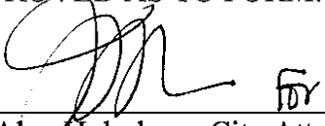
BY _____
WILL KEMPTON
Director of Transportation

ATTEST:

BY _____
Daniel Martinez, City Clerk

BY _____
Deputy District Director
Maintenance and Operations District

APPROVED AS TO FORM:

BY  _____
Alan Holmberg, City Attorney
4.13.09

BY _____
**Legal Attorney
Department of Transportation

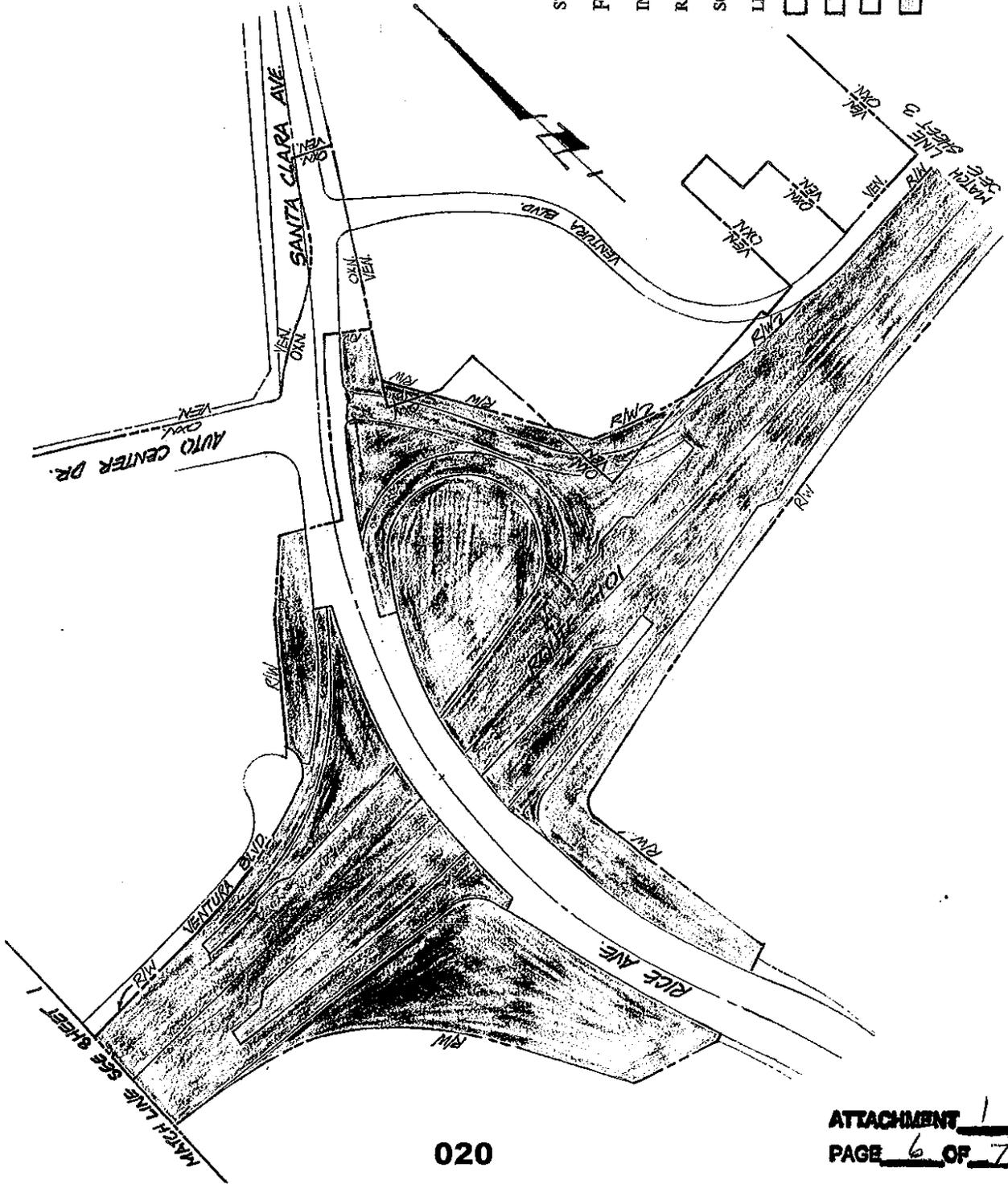
APPROVED AS TO CONTENT:

BY  _____
Cynthia Daniels, Project Manager

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

EXHIBIT "A"

(Plan map showing SR 101 Freeway proper and CITY road/facilities)



STATE OF CALIFORNIA

FREEWAY MAINTENANCE AGREEMENT

IN THE CITY OF OXNARD

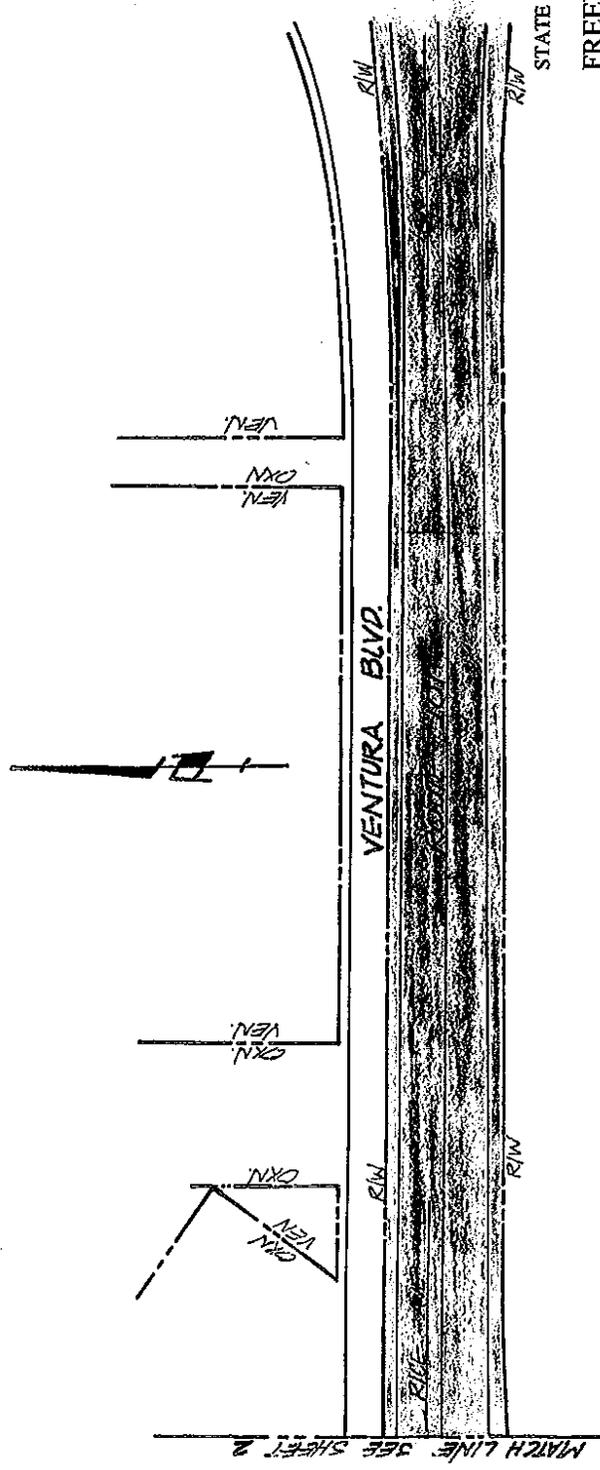
ROUTE 101/RICE AVENUE

SCALE 1" = 400'

LEGEND

-  Pavement to be maintained by STATE
-  Right of way area to be maintained by STATE
-  Pavement to be maintained by CITY at CITY expense
-  Right of way area to be maintained by CITY at CITY expense

SHEET 2 EXHIBIT "A"



STATE OF CALIFORNIA
 FREEWAY MAINTENANCE AGREEMENT
 IN THE CITY OF OXNARD
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