

**PROJECT SPECIFIC MAINTENANCE AGREEMENT
FOR INTERCHANGE AT SR 29 AND FIRST ST. IN THE CITY OF NAPA**

THIS AGREEMENT is made effective this _____ day of _____, 20__, by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE" and the CITY of NAPA; hereinafter referred to as "CITY" and collectively referred to as "PARTIES".

SECTION I

RECITALS

1. WHEREAS, Cooperative Agreement Number 04-2549 was executed between CITY and STATE to construct interchange improvements at State Route (SR) 29 and First Street, hereinafter referred to as "PROJECT"; and
2. WHEREAS, in accordance with the said agreement, it was agreed by PARTIES that prior to or upon PROJECT completion, CITY and STATE will enter into a Maintenance Agreement; and
3. WHEREAS, effective June 1, 1964, STATE entered into Freeway Maintenance Agreement (NAP-162) with CITY, which documented the respective maintenance responsibilities for a portion of State Route 49, which is now SR 29, at the intersection with First Street; and
4. WHEREAS, effective June 9, 1964, STATE entered into Freeway Maintenance Agreement (NAP-163) with the County of NAPA, hereinafter referred to as "COUNTY", which documented the respective maintenance responsibilities of STATE and COUNTY for a portion of formerly SR 49, now SR 29, at the intersection with First Street; and
5. WHEREAS, CITY has annexed areas covered by Article 4 of the above referenced Freeway Maintenance Agreement with COUNTY (NAP-163) and, therefore, assumed the contractual obligations of COUNTY thereunder; and
6. WHEREAS, Freeway Maintenance Agreement dated June 1, 1964 (NAP-162) and Freeway Maintenance Agreement dated June 9, 1964 (NAP-163), described above, may be hereinafter referred to as the "Prior Freeway Maintenance Agreements"; and
7. WHEREAS, the PARTIES hereto mutually desire to identify the maintenance responsibilities for PROJECT improvements constructed under the Cooperative Agreement Number 04-2549; and require such responsibility to comply with the standards of performance shall be in accordance with the provisions of Section 27 of the Streets and Highway Code and the current edition of the State Maintenance Manual; and
8. WHEREAS there is Prior Freeway Maintenance Agreements (NAP-162 & NAP-163), with CITY, this Agreement is meant to supersede PARTIES responsibilities for the local road of

First St. from postmile 11.5 to 11.6, including the First Street overcrossing; bridge number-21 0088 within said agreement(s) as described here and as shown in Exhibit A.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

SECTION II

AGREEMENT

9. Exhibit A consists of plan drawings that delineate the areas within STATE right of way which are the responsibility of the CITY to maintain, at CITY expense, in accordance with this Agreement.
10. This Agreement shall supersede PARTIES responsibilities for the local road of First St. from postmile 11.5 to 11.6, including the First Street overcrossing; bridge number-21 0088 within prior Freeway Maintenance Agreements (NAP-162 & NAP-163), as described here and as shown in Exhibit A. All other terms and conditions set forth in Prior Freeway Maintenance Agreements (NAP-162 & NAP-163), shall remain in full force and effect.
11. If there is mutual agreement on the change in the maintenance duties between PARTIES, the PARTIES can revise the Exhibit A by a mutual written-execution of the exhibit.
12. CITY must obtain the necessary Encroachment Permits from STATE's District 4 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.

13. VEHICULAR AND PEDESTRIAN OVERCROSSINGS

- 13.1. STATE will maintain, at STATE expense, the entire structure of any STATE constructed vehicular and pedestrian overcrossings of SR 29 below the deck wearing surface and any wearing surface treatment thereon.
- 13.2. CITY will maintain, at CITY expense, the deck wearing surface and structural drainage system (and shall perform such work as may be necessary to ensure an impervious and/or otherwise suitable surface) and all non-structural portions of the structure above the bridge deck, including, but without limitation: lighting installations, as well as all traffic service facilities (sidewalks, signs, pavement markings, guardrails, and/or bridge rails, safety fencing, etc.) that may be required for the benefit or control of traffic using that overcrossing.
- 13.3. As directed by section 92.6 of the Streets and Highways Code, at locations determined by STATE, screening shall be placed on STATE freeway overpasses on which pedestrians are allowed. All screens installed under this program will be maintained by STATE, at STATE expense.
- 13.4. CITY is responsible, at CITY's expense, for debris removal, cleaning, and painting to keep structure above the bridge deck free of debris, dirt, and graffiti.

14. LANDSCAPED AREAS - CITY is responsible for the maintenance of any plantings or other types of roadside development along the elevated First Street corridor, above SR 29 and within the "AREA TO BE MAINTAINED BY CITY" as shown in Exhibit "A".
15. SHARED USE PATHS - CITY will maintain, at CITY expense, the shared use path in the "AREA TO BE MAINTAINED BY CITY", as shown in Exhibit "A" by providing sweeping and debris removal when necessary; and all signing and striping and pavement markings required for the direction and operation of that non-motorized facility.

16. LEGAL RELATIONS AND RESPONSIBILITIES

- 16.1. 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.
- 16.2. 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 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 or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.
- 16.3. 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 CITY under or in connection with any work, authority or jurisdiction conferred upon CITY 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.

17. PREVAILING WAGES:

- 17.1. 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 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.

- 17.2. 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

18. INSURANCE

- 18.1. 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 in a form satisfactory to STATE, along with a signed copy of the Agreement.

- 18.2. 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.

19. TERMINATION - This Agreement may be terminated by 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.

20. 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, the PARTIES hereto have set their hands and seals the day and year first above written.

THE CITY OF NAPA

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
City Manager

LAURIE BERMAN
Director of Transportation

Initiated and Approved

By: _____
Public Works Director

By: _____
DAVID AMBUEHL
Deputy District Director
Maintenance District 4

ATTEST:

By: _____
City Clerk

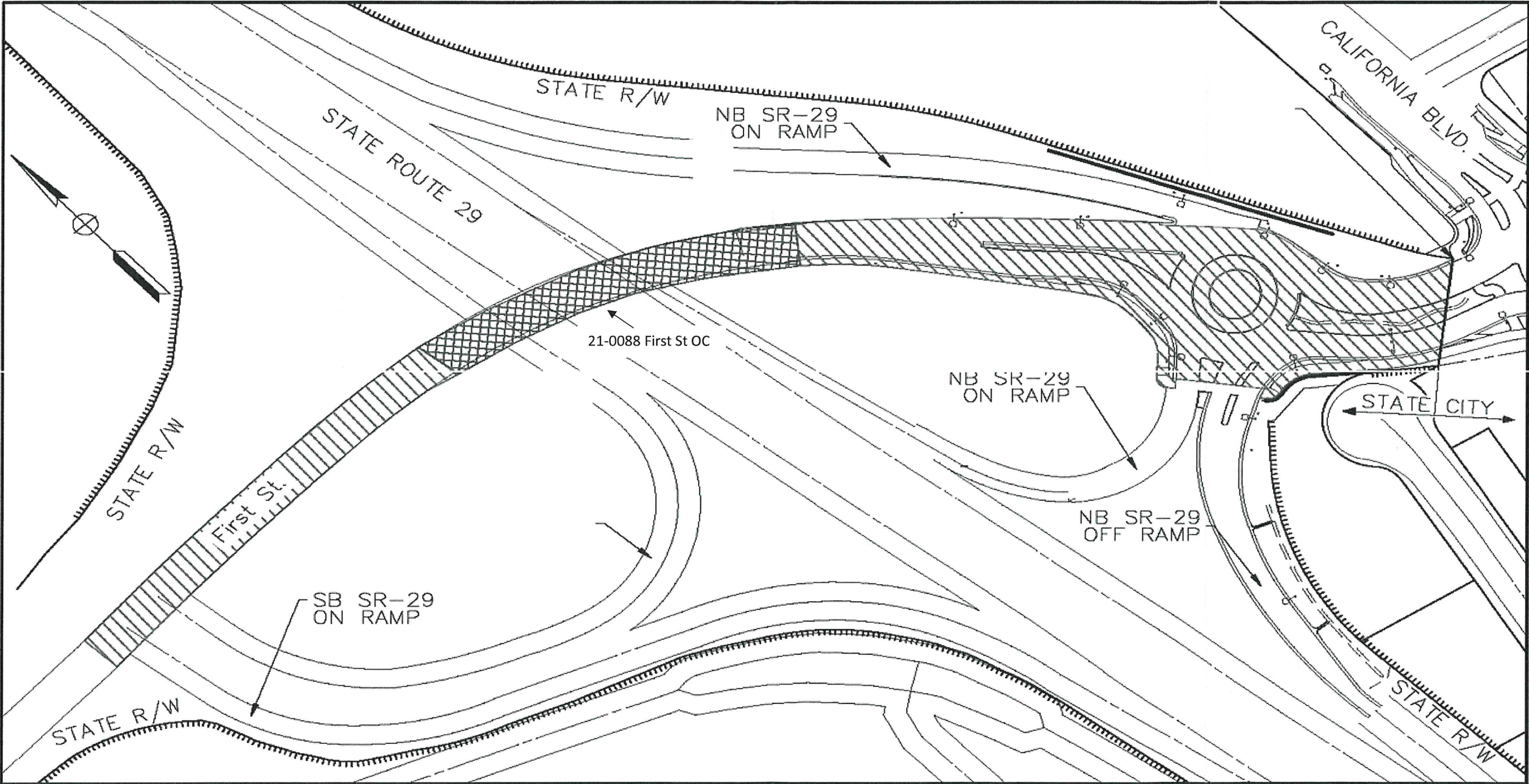
COUNTERSIGNED

As to Form and Procedure:


By: _____
City Auditor


By:  _____
Attorney
Department of Transportation


By: _____
City Attorney



LEGEND:

 AREA MAINTAINED BY CITY

 BRIDGE 21-0088 NON -STRUCTURAL COMPONENTS MAINTAINED BY CITY.

 CITY/STATE R/W BOUNDARIES

PROJECT SPECIFIC MAINTENANCE AGREEMENT
CITY OF NAPA
04-NAP-29PM 1.5/11.6

EXHIBIT A
SHEET 1 of 1