

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO	CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY)
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TO: CITY COUNCIL	FROM (ORIGINATING DEPARTMENT): Transportation&Storm Water Dept	DATE: 5/18/2016
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SUBJECT: Amendments to Freeway Maintenance Agreements for I-15, SR-52, I-805, & SR-125.

PRIMARY CONTACT (NAME, PHONE): Kristy Reeser,619-527-7504, MS 44	SECONDARY CONTACT (NAME, PHONE): Josh Lahmann, 619-527-7509, MS 44
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COMPLETE FOR ACCOUNTING PURPOSES

FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

COST SUMMARY (IF APPLICABLE): There are no costs associated with this action.

ROUTING AND APPROVALS

CONTRIBUTORS/REVIEWERS:	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
Environmental Analysis	ORIG DEPT.	McFadden, Kris	09/01/2016
Liaison Office	CFO		
	DEPUTY CHIEF	Gomez, Paz	09/20/2016
	COO		
	CITY ATTORNEY		
	COUNCIL PRESIDENTS OFFICE		

PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

1. Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an agreement with the California Department of Transportation for the maintenance of portions of State Highway I-15, 11-SD-015 Post Mile 10.0-15.0, under the terms and conditions set forth in Freeway Maintenance Agreement 11-8210 (Clairemont Mesa Blvd to Carroll Canyon Rd);

2. Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an agreement with the California Department of Transportation for the maintenance of portions of State Highway SR-52, 11-SD-052 Post Mile 4.5-5.25, under the terms and conditions set forth in the Freeway Maintenance Agreement 11-8359

(Convoy St);

3. Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an agreement with the California Department of Transportation for the maintenance of portions of State Highway 1-805, 11-SD-805 Post Mile 26.5-28.9, under the terms and conditions set forth in Freeway Maintenance Agreement 11-8397 (Carroll Canyon Rd to Sorrento Valley Blvd); and

4. Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an agreement with the California Department of Transportation for the maintenance of portions of State Highway SR-125, 11-SD-125 Post Mile 0.74, under the terms and conditions set forth in Freeway Maintenance Agreement 11-8402 (Otay Mesa Rd).

STAFF RECOMMENDATIONS:

Approve requested actions.

SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)

COUNCIL DISTRICT(S):	1, 5, 6, 7, and 8.
COMMUNITY AREA(S):	Various.
ENVIRONMENTAL IMPACT:	This activity (approving maintenance agreements) is not a project and is therefore exempt from CEQA pursuant to the State Guidelines Section 15060 (c) (3).
CITY CLERK INSTRUCTIONS:	Please send copies of the authorizing resolution together with the four (4) executed agreements to Kim LaSelle, klaselle@sandiego.gov, MS 44.

COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE: 5/18/2016

ORIGINATING DEPARTMENT: Transportation&Storm Water Dept

SUBJECT: Amendments to Freeway Maintenance Agreements for I-15, SR-52, I-805, & SR-125.

COUNCIL DISTRICT(S): 1, 5, 6, 7, and 8.

CONTACT/PHONE NUMBER: Kristy Reeser/619-527-7504, MS 44

DESCRIPTIVE SUMMARY OF ITEM:

This item is to enter into agreements with the California Department of Transportation (State) for the maintenance of portions of State Highways I-15, SR-52, I-805 & SR-125, under the terms and conditions set forth in the following Freeway Maintenance Agreements (FMAs):

1. 11-SD-015, FMA 11-8210 (Clairemont Mesa Blvd to Carroll Canyon Rd);
2. 11-SD-052, FMA 11-8359 (at Convoy St);
3. 11-SD-805, FMA 11-8397 (Carroll Canyon Rd to Sorrento Valley Blvd); and
4. 11-SD-125, FMA 11-8402 (at Otay Mesa Rd).

STAFF RECOMMENDATION:

Approve requested actions.

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

It is the policy of the State of California Department of Transportation (State) to maintain State highways, including bridge structures, and for local jurisdictions to assume the maintenance responsibility of the street surfaces of local roads which cross over or under the State facility within the State right-of-way. Freeway Maintenance Agreements (FMAs) memorialize these responsibilities and allow the City to obtain encroachment permits from the State for any needed maintenance. Due to various construction activities resulting in modifications to State highway right-of-ways and/or infrastructure, the State amends these agreements accordingly to reflect current alignments.

11-SD-015: On October 3, 1963, January 3, 1967, and July 23, 1969 FMAs were executed by State and City for portions of US-395 (now I-15) between Downtown and Rancho Bernardo Rd. FMA 11-8210 covers I-15 from Clairemont Mesa Boulevard to Carroll Canyon Road, Post Miles 10.0 to 15.0, and provides for an updated agreement with exhibits matching current alignments, improvements and right-of-way. This FMA supersedes any previous FMA for the specific post miles covered.

11-SD-052: On November 22, 1963, an FMA was executed by State and City for development of SR-52 between I-5 and Santee. As the highway was built, subsequent agreements have been executed. FMA 11-8359 covers SR-52 west of Convoy St, Post Miles 4.5 to 5.25, providing for maintenance of newly constructed City owned storm water drainage facilities located within the SR-52 right-of-way. This FMA covers right-of-way not previously included in any previous FMA.

11-SD-805: On December 8, 1966 and May 16, 1973 FMAs were executed by State and City for development of I-805 within the City limits, from the I-5 at San Ysidro to I-5 at Sorrento Valley. As the highway was built, subsequent agreements have been executed. FMA 11-8397 covers I-805 from Carroll Canyon Rd to Sorrento Valley Blvd, Post Miles 26.5 to 28.9, and provides for an updated agreement with exhibits matching current alignments, improvements and right-of-way. This FMA supersedes any previous FMA for the specific post miles covered.

11-SD-125: On November 27, 2000, an FMA was executed by State and City for a portion of SR-125 from Otay Mesa Rd to the border. FMA 11-8402 covers SR-125 at Otay Mesa Rd, Post Mile 0.74, and provides for an updated agreement with exhibits matching current alignments, improvements and right-of-way. This FMA covers right-of-way not previously included in any previous FMA.

CITY STRATEGIC PLAN GOAL(S)/OBJECTIVE(S): Routine street maintenance.

FISCAL CONSIDERATIONS: The fiscal impact will be minimal. The costs to maintain the streets, drainage facilities, landscaping, & graffiti removal are included in Street & Storm Water Divisions' annual operating and maintenance budgets.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE): These Agreements are not subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2708). These Agreements are subject to the City's Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

PREVIOUS COUNCIL and/or COMMITTEE ACTION (describe any changes made to the item from what was presented at committee): None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: No outreach required. This action only provides authorization to execute the agreements stipulating protocol between the two agencies in the event of a maintenance need.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: State of California, City of San Diego.

McFadden, Kris
Originating Department

Gomez, Paz
Deputy Chief/Chief Operating Officer

**FREEWAY MAINTENANCE AGREEMENT
WITH CITY OF SAN DIEGO**

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 San Diego; hereinafter referred to as “CITY,” and collectively referred to as “PARTIES.”

RECITALS:

- A. WHEREAS, on April 25, 1978, a Freeway Agreement was executed between CITY and STATE, wherein the PARTIES consented to certain adjustments of the local street and road system required for the development of that portion of Interstate 15 (I-15) within the jurisdictional limits of the CITY as a freeway; and
- B. WHEREAS, adjustments to said freeway and/or local bridge overcrossings / interchanges have now been completed or are nearing completion, 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 1 of the above-referenced Freeway Agreement(s), CITY has resumed or will resume control and maintenance over each of the affected relocated or reconstructed CITY streets, except for those portions adopted as part of the freeway proper; and
- D. WHEREAS there is an existing Freeway Maintenance Agreement (FMA 11-8033) between CITY and STATE dated July 23, 1969, and this new Agreement is intended to partially replace or supersede the earlier agreement.

NOW THEREFORE IT IS AGREED:

- 1. CITY agrees to continue their 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 I-15 proper as shown Exhibit “A.”
3. 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 will affect the PARTIES’ division of maintenance responsibility as described herein, STATE will provide a new dated and revised Exhibit “A” which will thereafter supersede the attached original Exhibit “A” and become part of this Agreement.
4. CITY and STATE agree to accept their 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 Permit(s) from STATE’s District 11 Encroachment Permit Office prior to entering STATE right of way to perform CITY maintenance responsibilities. The permit(s) 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 STATE constructed vehicular and pedestrian overcrossings of I-15 below the deck surface except as hereinafter provided.
 - b) CITY will maintain, at CITY expense, the deck and/or surfacing and structural drainage system (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, lighting installations, as well as all traffic service facilities (sidewalks, signs, pavement markings, bridge rails, etc.) that may be required for the benefit or control of traffic using that overcrossing.
 - c) At such locations as shall be determined by STATE, screening shall be placed on STATE freeway overpasses on which pedestrians are allowed as directed by section 92.6 of the Streets and Highways Code. All screens installed under this program will be maintained by STATE, at STATE expense.

7. WALLS AND COLUMNS

Responsibility for debris removal, cleaning, and painting to keep CITY's side of any wall structure, paved slope, or column free of debris, dirt, and graffiti shall not lie with STATE.

8. LANDSCAPED AREAS ADJACENT TO CROSSING STRUCTURES

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

9. INTERCHANGE OPERATION

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

10. 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, 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) Labor Code Compliance / Prevailing Wages:

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.

e) 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.

f) Insurance:

CITY agrees to deliver evidence of self-insured coverage in a form satisfactory to STATE, along with a signed copy of the Agreement. If the work performed under this Agreement is done by CITY 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 \$2 million per occurrence, \$2 million in aggregate, and \$5 million in excess liability; and 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.

11. TERM OF AGREEMENT - This Agreement shall become effective on the date appearing 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. 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 SAN DIEGO

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

BY _____
CITY Mayor

MALCOLM DOUGHERTY
Director of Transportation

ATTEST:

BY _____
CITY Clerk

BY _____
District Division Chief
Maintenance

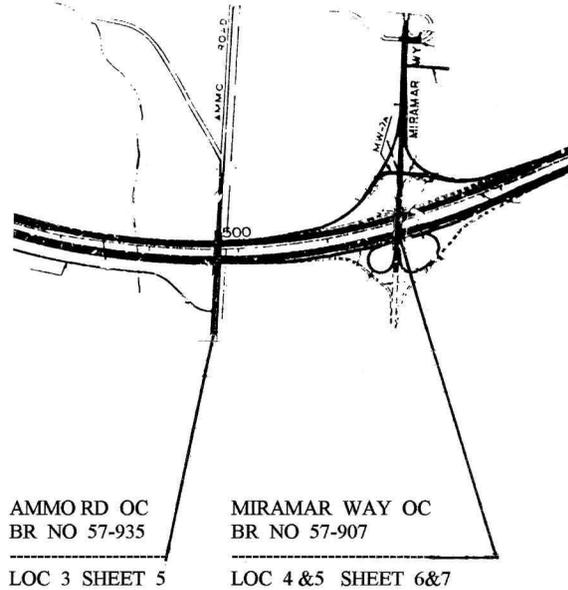
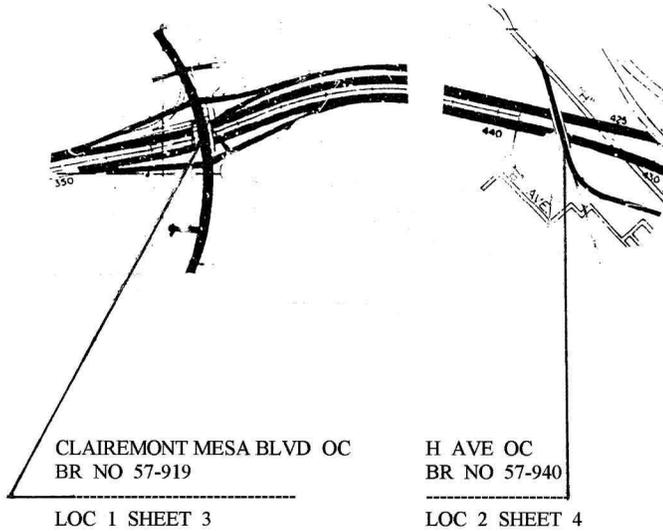
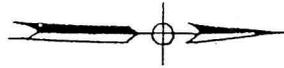
APPROVED AS TO FORM:

BY _____
CITY Attorney

BY _____
Legal Attorney **
Department of Transportation

*** 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, approval by STATE's Attorney as to form and procedures.*

DIST.	CO.	RTE.	POST MILE
11	SD	15	10.0 to 15.0
FMA 11-8210			5/15/15

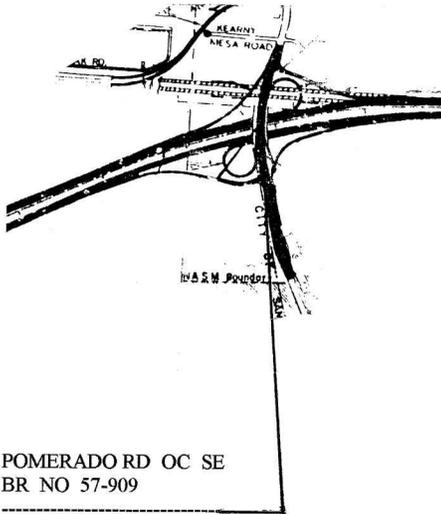


FREEWAY MAINTENANCE AGREEMENT

EXHIBIT "A"

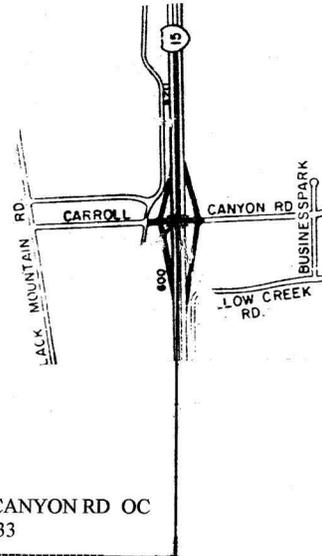
SHEET 1 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	15	10.0 to 15.0
FMA 11-8210			5/15/15



POMERADO RD OC SE
BR NO 57-909

LOC 6,7&8 SHEET 8,9&10



CARROLL CANYON RD OC
BR NO 57-933

LOC 9 SHEET 11

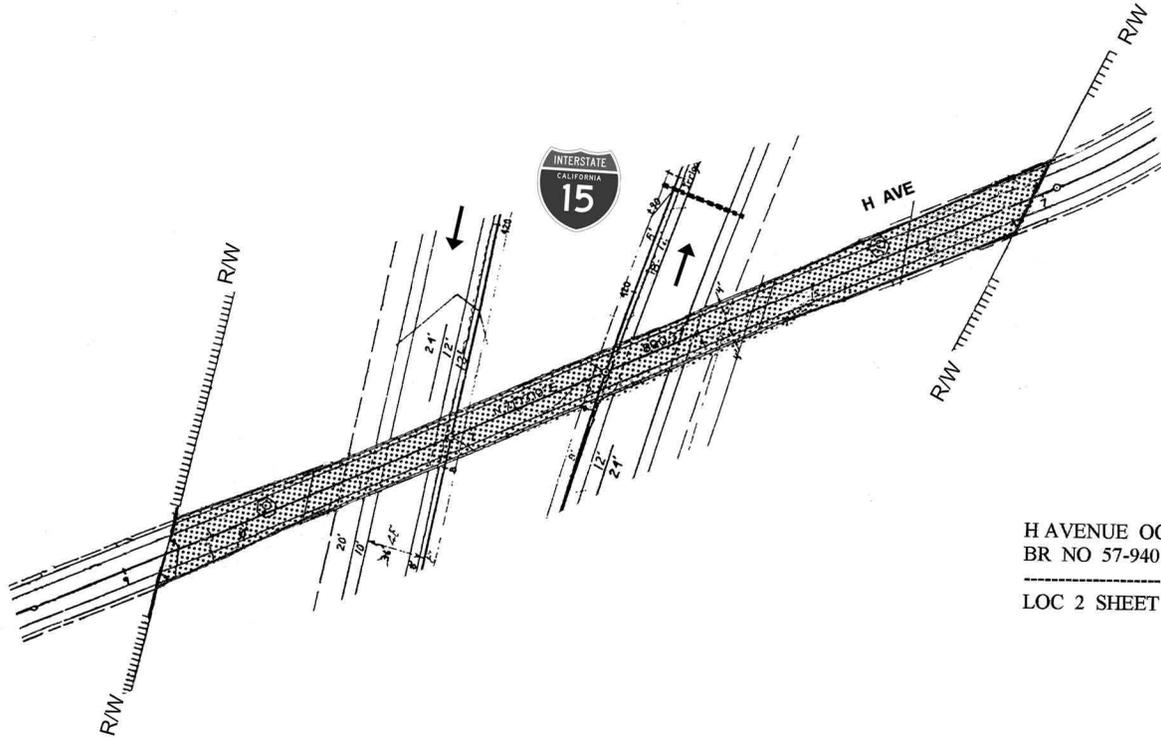


FREEWAY MAINTENANCE AGREEMENT

EXHIBIT "A"

SHEET 2 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	15	11.46
FMA 11-8210			5/15/15



H AVENUE OC
BR NO 57-940

LOC 2 SHEET 4



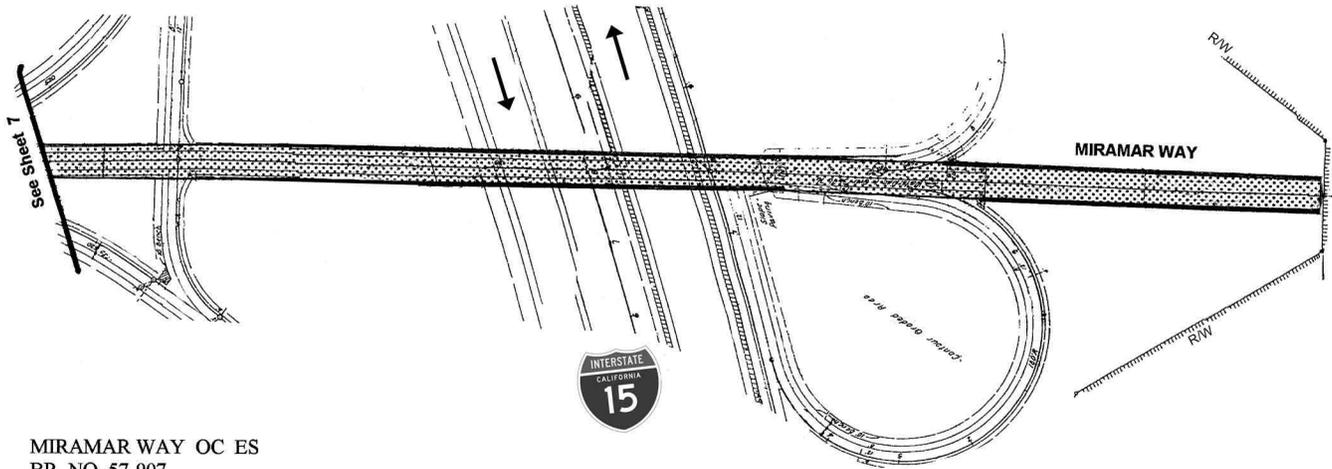
AREA WITHIN FREEWAY LIMITS
TO BE MAINTAINED BY: U.S. GOVT.

FREEWAY MAINTENANCE AGREEMENT

***INFORMATIONAL* EXHIBIT "A"**

SHEET 4 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	15	13.33
FMA 11-8210		5/15/15	



MIRAMAR WAY OC ES
BR NO 57-907

LOC 4 SHEET 6



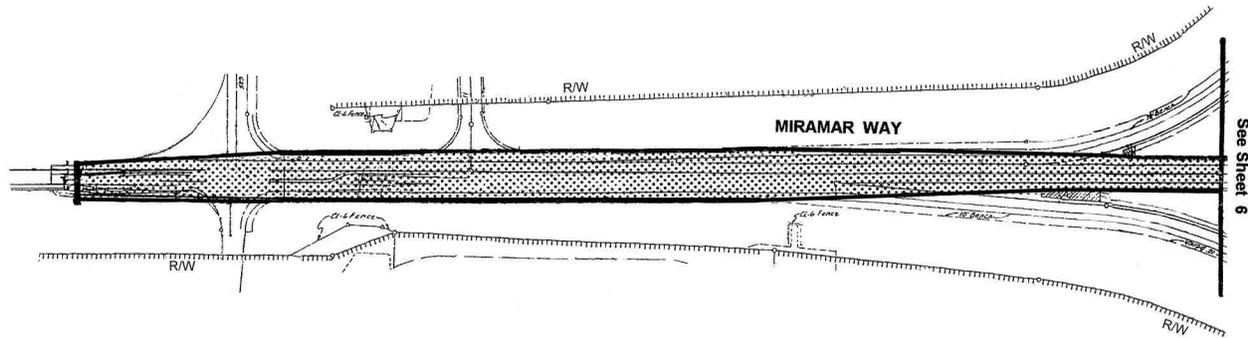
AREA WITHIN FREEWAY LIMITS
TO BE MAINTAINED BY: CITY

FREEWAY MAINTENANCE AGREEMENT

EXHIBIT "A"

SHEET 6 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	15	13.33
FMA 11-8210		5/15/15	



MIRAMAR WAY OC WS
 BR NO 57-907

 LOC 5 SHEET 7



AREA WITHIN FREEWAY LIMITS
 TO BE MAINTAINED BY: CITY

FREEWAY MAINTENANCE AGREEMENT

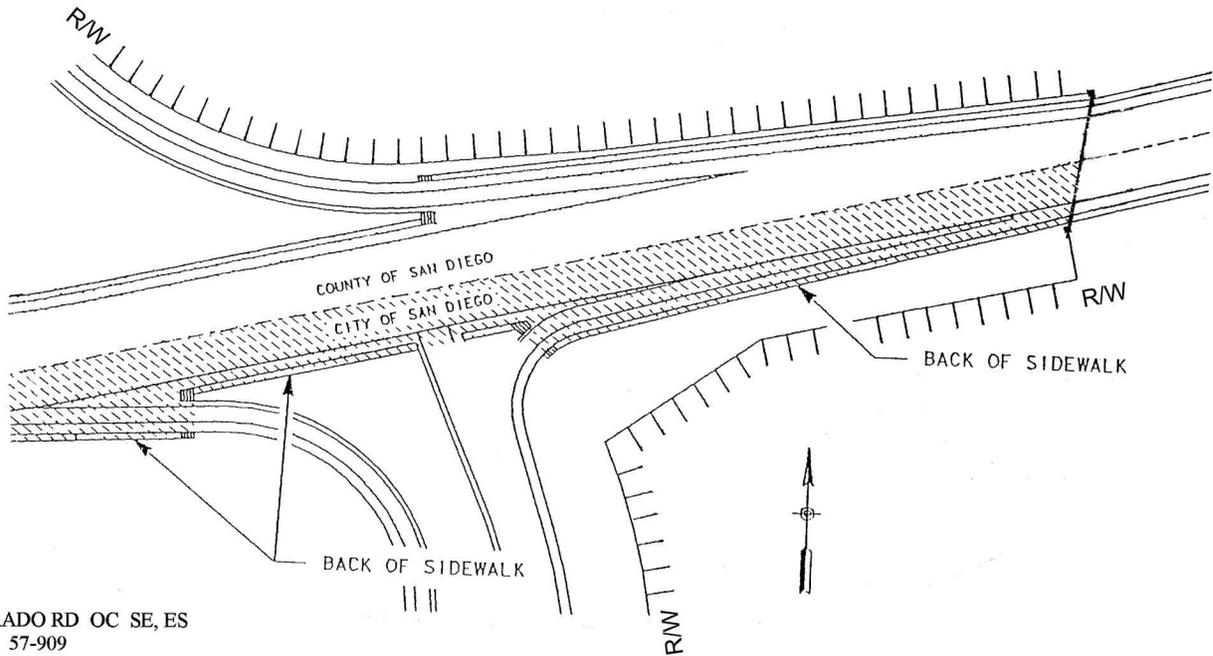
EXHIBIT "A"

SHEET 7 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	15	14.29
FMA 11-8210		5/15/15	



See Sheet 9



POMERADO RD OC SE, ES
BR NO 57-909

LOC 6 SHEET 8



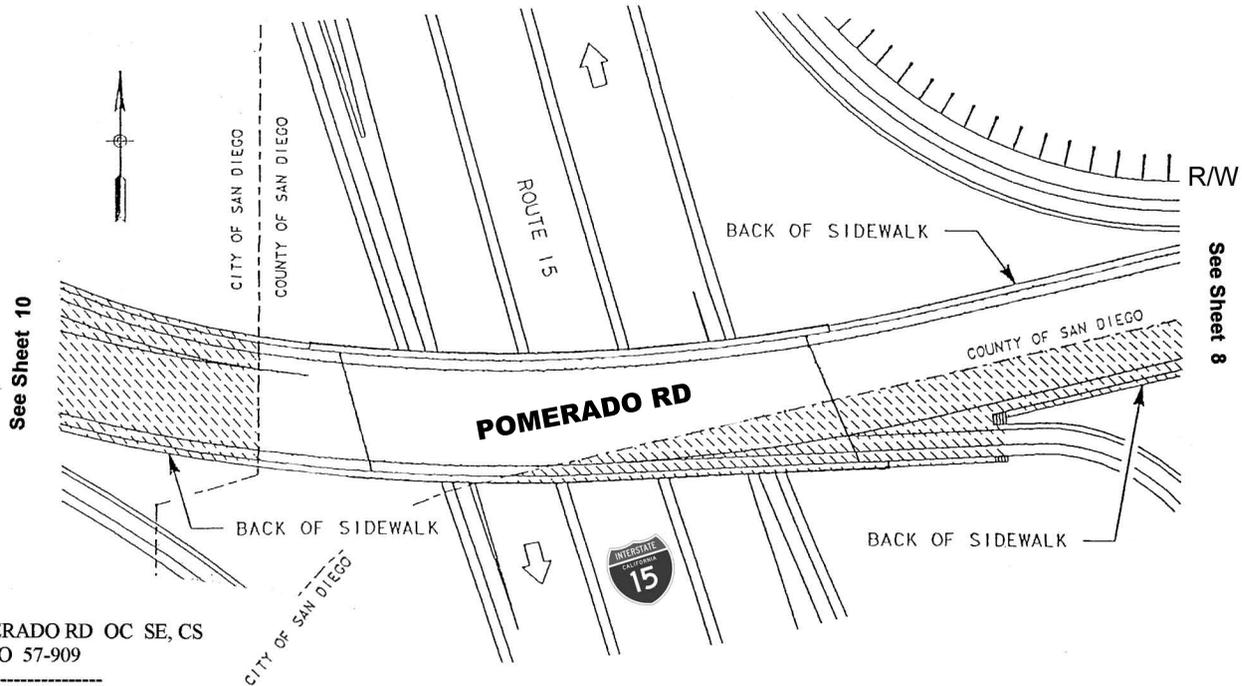
AREA WITHIN FREEWAY LIMITS
TO BE MAINTAINED BY: CITY

FREEWAY MAINTENANCE AGREEMENT

EXHIBIT "A"

SHEET 8 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	15	14.29
FMA 11-8210		5/15/15	



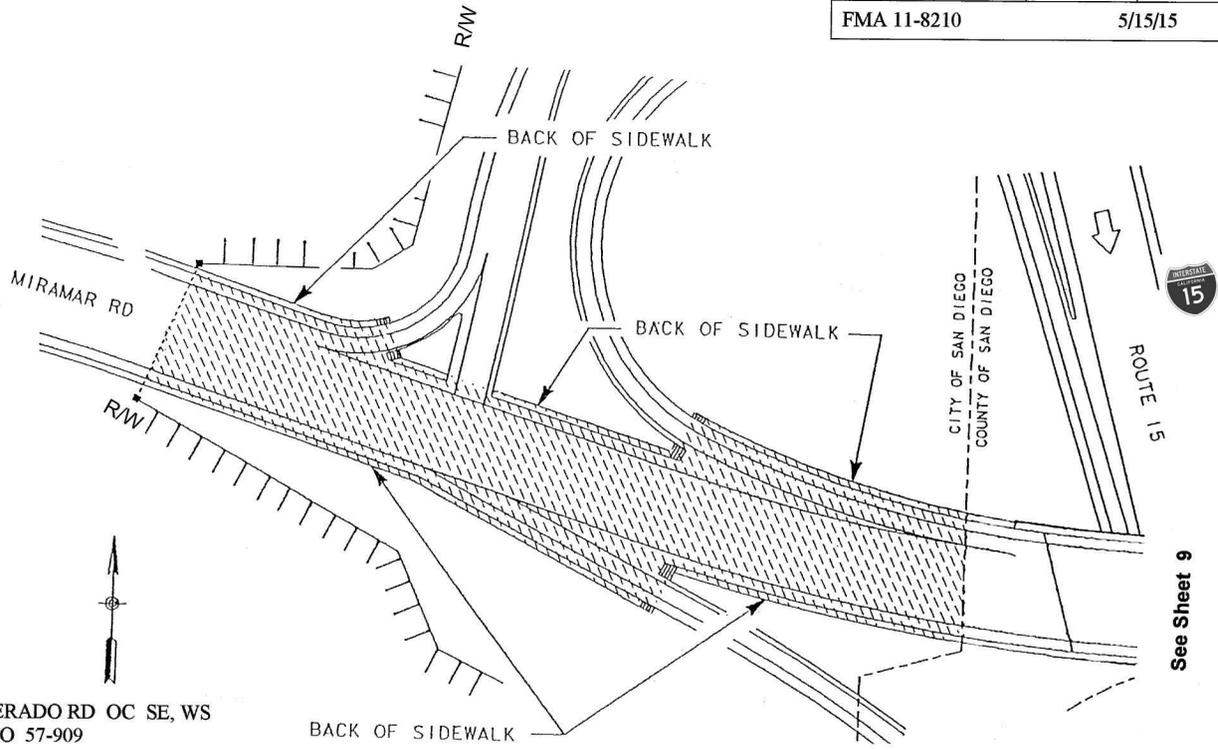
POMERADO RD OC SE, CS
 BR NO 57-909

 LOC 7 SHEET 9

 AREA WITHIN FREEWAY LIMITS
 TO BE MAINTAINED BY: CITY

FREEWAY MAINTENANCE AGREEMENT
EXHIBIT "A"
SHEET 9 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	15	14.29
FMA 11-8210		5/15/15	



POMERADO RD OC SE, WS
 BR NO 57-909

 LOC 8 SHEET 10



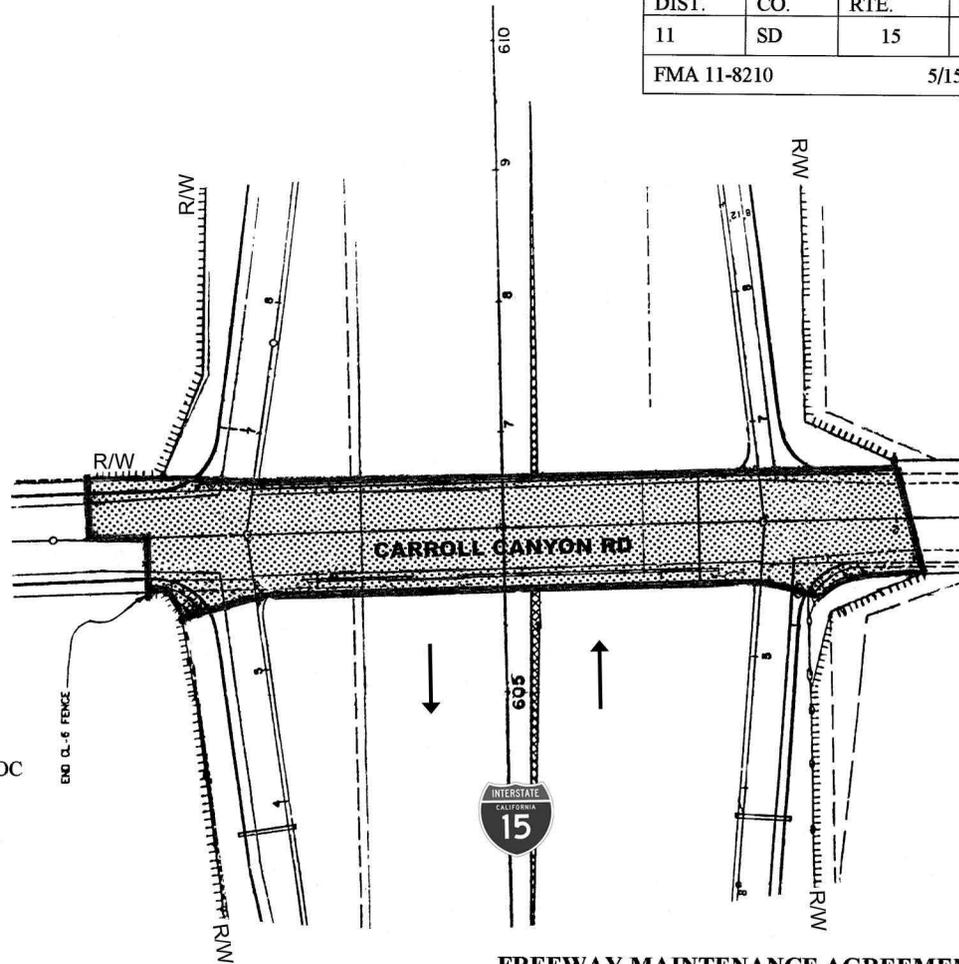
AREA WITHIN FREEWAY LIMITS
 TO BE MAINTAINED BY: CITY

FREEWAY MAINTENANCE AGREEMENT

EXHIBIT "A"

SHEET 10 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	15	15.00
FMA 11-8210			5/15/15



CARROLL CANYON RD OC
BR NO 57-933

LOC 9 SHEET 11

END CL-6 FENCE



AREA WITHIN FREEWAY LIMITS
TO BE MAINTAINED BY: CITY

FREEWAY MAINTENANCE AGREEMENT

EXHIBIT "A"

SHEET 11 OF 11 SHEETS

**AGREEMENT FOR MAINTENANCE OF DRAINAGE SYSTEM
AND LANDSCAPING IN THE CITY OF SAN DIEGO**

THIS AGREEMENT is made and entered into in duplicate, effective this _____ day of _____, 201__, by and between the State of California, acting by and through its Department of Transportation, hereinafter referred to as “STATE” and the City of San Diego hereinafter referred to as “CITY”, and collectively referred to as “PARTIES.”

WITNESSETH:

- A. WHEREAS, Caltrans Encroachment Permit Numbered 11-09-NDM-0421 was issued to construct a drainage system at least partially within State Route 52 (SR-52) Right of Way (R/W) west of Convoy Street, hereinafter referred to as the “PROJECT.”
- B. WHEREAS, in accordance with said Permit, it was agreed by PARTIES that prior to or upon PROJECT completion, CITY and STATE will enter into a Maintenance Agreement.
- C. WHEREAS, the PARTIES hereto mutually desire to clarify the division of maintenance responsibility, as defined in Section 27 of the California Streets and Highways Code, and their respective responsibilities as to the PROJECT constructed under said Permit.
- D. WHEREAS there are existing Freeway Maintenance Agreements (FMA) Numbered 11-8053 (dated Sept. 14, 1971) and FMA 11-8212 (dated May 18, 2006) between CITY and STATE. This new Agreement is not meant to replace or supersede the earlier Agreements.

NOW THEREFORE, IT IS AGREED:

- A. Exhibit “A” consists of a plan drawing that delineates the area within STATE Right of Way (R/W) which is the responsibility of the CITY to maintain in accordance with this Maintenance Agreement.
- B. If there is mutual agreement on a change in the maintenance duties between PARTIES, the PARTIES can revise the Exhibit by a mutual written execution of the Exhibit.
- C. CITY must obtain the necessary Encroachment Permit from STATE’s District 11 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.

1. NEW DRAINAGE SYSTEM:

- a) CITY, at CITY expense, will maintain the new drainage system (including twelve inch [12"] PVC pipe, concrete ditch, and french drain) and shall perform such work as may be necessary to ensure a functioning system.
- b) CITY, at CITY expense, will be responsible for debris and graffiti removal outside of the area reserved for exclusive freeway use.
- c) CITY, at CITY expense, will perform structural maintenance for the new drainage system, including the portion(s) inside STATE Right of Way.
- d) CITY will maintain the new drainage system including, but without limitation, lighting installations, signage, markings, drainage access, etc. that may be required.
- e) STATE will maintain the STATE freeway proper while the drainage installations, lighting installations, wall surfaces (including eliminating graffiti), that may be required for the benefit or control of the drainage system at this location will be maintained by CITY.

2. WALLS:

Responsibility for debris removal, cleaning, and painting to keep any wall / structure free of debris, dirt, and graffiti shall not lie with STATE, but will lie with CITY.

3. LANDSCAPED AREAS:

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

4. 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 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.

- 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 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 section 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) Labor Code Compliance: Prevailing Wages

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, repair, or maintenance, CITY must conform to the provisions of Labor Code Sections 1720 through 1815, all applicable regulations and coverage determinations issued by the Director of Industrial Relations. 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.

e) 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). Subcontracts shall include all Prevailing Wage requirements set forth in CITY's contracts.

5. 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 is being understood and agreed, however, that the execution of this 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 an Agreement, has been completed.

The PARTIES are empowered by Streets 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 SAN DIEGO

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

BY _____
MAYOR

MALCOLM DOUGHERTY
Director of Transportation

ATTEST:

BY _____
CITY Clerk

BY _____
Deputy District Director
Maintenance and Operations
District 11

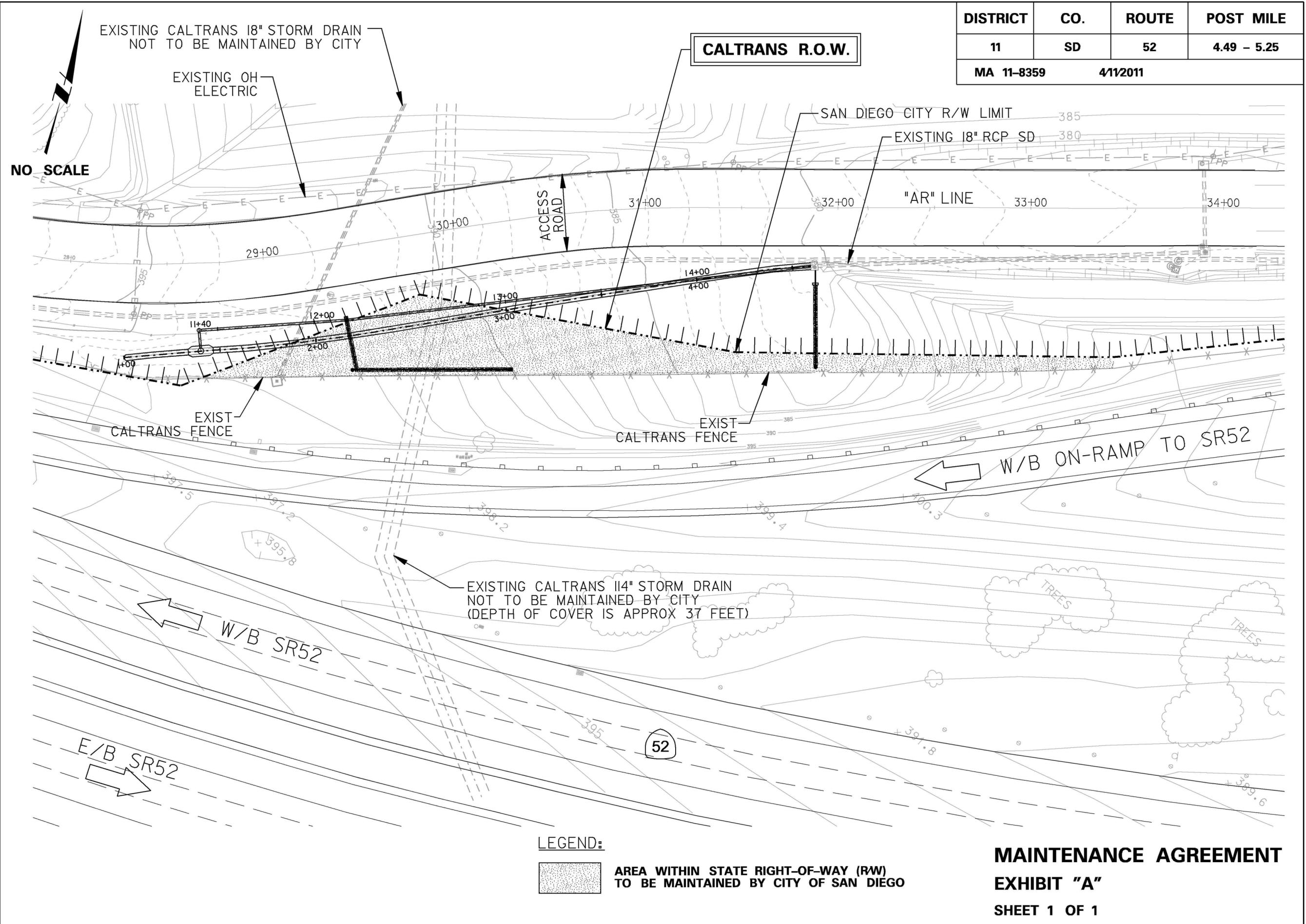
APPROVED AS TO FORM:

BY _____
CITY Attorney

BY _____
** Legal Attorney
Department of Transportation

***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.*

DISTRICT	CO.	ROUTE	POST MILE
11	SD	52	4.49 - 5.25
MA 11-8359		4/1/2011	



LEGEND:
 **AREA WITHIN STATE RIGHT-OF-WAY (RW) TO BE MAINTAINED BY CITY OF SAN DIEGO**

MAINTENANCE AGREEMENT
EXHIBIT "A"
 SHEET 1 OF 1

**FREEWAY MAINTENANCE AGREEMENT
WITH CITY OF SAN DIEGO**

THIS AGREEMENT is made and entered into in duplicate, effective this _____ day of _____, 201____, by and between the State of California, acting by and through its Department of Transportation, hereinafter referred to as “STATE,” and the City of San Diego, hereinafter referred to as “CITY,” collectively referred to as “PARTIES.”

WITNESSETH:

- A. WHEREAS, on December 8, 1966 and May 19, 2009, Freeway Agreements were executed between CITY and STATE, wherein the PARTIES consented to certain adjustments of the local street and road system required for the development of that portion of Interstate Highway Route 805 (I-805) within the jurisdictional limits of the CITY as a freeway; and
- B. WHEREAS, 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 Sections 1, 3, and 4 of the above-referenced Freeway Agreement(s), CITY has resumed or will resume control and maintenance over each of the affected relocated or reconstructed CITY streets, except for those portions adopted as a part of the freeway proper; and
- D. WHEREAS, on May 16, 1973, Freeway Maintenance Agreement (FMA) number 11-8074 was executed between CITY and STATE, wherein the PARTIES agreed to allocate maintenance responsibilities for overcrossings and undercrossings of this segment of I-805 within the jurisdictional limits of the CITY; and
- E. WHEREAS, improvements in this area of I-805 have now been or soon will be completed, and this Agreement is intended to replace and/or supersede the earlier FMA 11-8074.

NOW THEREFORE, IT IS AGREED:

- 1. CITY agrees to continue their 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 I-805 proper as shown in Exhibit “A.”

3. 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 will affect the PARTIES' division of maintenance responsibility as described herein, STATE will provide a new dated and revised Exhibit "A," which will thereafter supersede the attached original Exhibit "A" and become part of this Agreement.
4. CITY and STATE agree to accept their 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 11 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 STATE-constructed overcrossings of I-805 below the deck surface except as hereinafter provided.
 - b) CITY will maintain, at CITY expense, the deck and/or surfacing and structural drainage system (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, lighting installations, as well as all traffic service facilities (sidewalks, signs, pavement markings, bridge rails, etc.) that may be required for the benefit or control of traffic using that overcrossing.
 - c) At such locations as shall be determined by STATE, screening shall be placed on STATE freeway overpasses on which pedestrians are allowed as directed by Section 92.6 of the Streets and Highways Code. All screens installed under this program will be maintained by STATE, at STATE expense.
7. VEHICULAR AND PEDESTRIAN UNDERCROSSINGS:
 - a) STATE will maintain the structure proper of all STATE-constructed undercrossings of STATE freeways, while the roadway sections including the traveled way, shoulders, curbs, sidewalks, wall surfaces (including eliminating graffiti), drainage installations, lighting installations, and traffic service facilities that may be required for the benefit or control of traffic using that undercrossing will be maintained by CITY.
 - b) CITY will request STATE's District Transportation Permit Engineer to issue the necessary Encroachment Permit for any proposed change in minimum vertical clearances between the traveled way portion of the underroadway surface and the Structure that results from modifications to the underroadway (except when said modifications are made by STATE). If the planned modifications will result in a reduction in the minimum clearance within the traveled way, an estimate of the

clearance reduction must be provided to STATE's District Transportation Permit Engineer prior to starting work. Upon completion of that work, a clearance diagram will be furnished to STATE's District Transportation Permit Engineer that shows revised minimum clearances for all affected movements of traffic, both at the edges of the traveled way and at points of minimum clearance within the traveled way.

8. WALLS AND COLUMNS:

Responsibility for debris removal, cleaning, and painting to keep CITY's side of any wall structure, paved slope, or column free of debris, dirt, and graffiti shall not lie with STATE.

9. LANDSCAPED AREAS ADJACENT TO CROSSING STRUCTURES:

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

10. INTERCHANGE OPERATON:

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

11. 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, 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) Labor Code Compliance / Prevailing Wages:

When required by law, work performed on this Project is done under contract and falls within the Labor Code Section 1720(a)(1) definition of “public work” in that it is construction, alteration, demolition, installation, repair, or maintenance, the CITY must conform to the provisions of Labor Code Sections 1720 through 1815, all applicable regulations and coverage determinations issued by the Director of Industrial Relations. When required by law, CITY agrees to include Prevailing Wage requirements in its contracts for public works. Work performed by CITY’s own forces is exempt from the Labor Code’s Prevailing Wage requirements.

e) Prevailing Wage Requirements in Subcontracts:

When required by law, 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 the Labor Code section 1720(a)(1). When required by law, these subcontracts shall include all Prevailing Wage requirements set forth in CITY’s contracts.

f) Insurance:

CITY and their contractors shall 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 of California, its officers, agents, and employees as the additional insured in an amount of \$1 million per occurrence and \$2 million in aggregate. Coverage shall be evidenced by a Certificate of Insurance in a form satisfactory to STATE that shall be delivered to STATE with a signed copy of this Agreement.

12. 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 SAN DIEGO

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

BY _____
CITY Mayor

MALCOLM DOUGHERTY
Director of Transportation

ATTEST:

BY _____
CITY Clerk

BY _____
District Division Chief
Maintenance

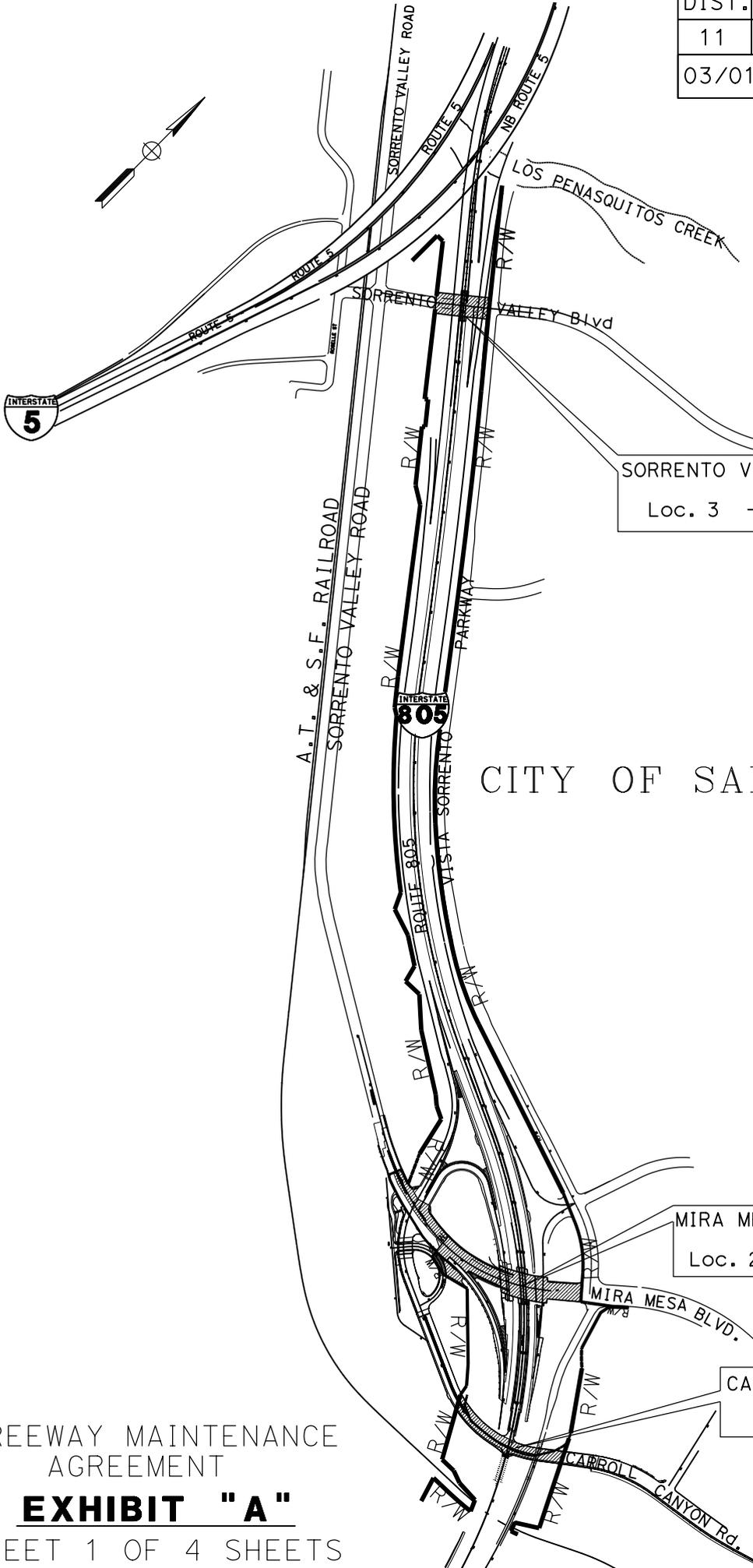
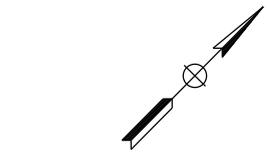
APPROVED AS TO FORM:

BY _____
CITY Attorney

BY _____
Legal Attorney**
Department of Transportation

** 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, approval by STATE's Attorney as to form and procedures.

DIST.	CO.	RTE.	P.M.
11	SD	805	26.5-28.9
03/01/14		FMA 11-8397	



SORRENTO VALLEY BLVD. UC
 Loc. 3 - Sheet 4

MIRA MESA BLVD. U.C.
 Loc. 2 - Sheet 3

CARROLL CANYON Rd. U.C.
 Loc. 1 - Sheet 2

CITY OF SAN DIEGO

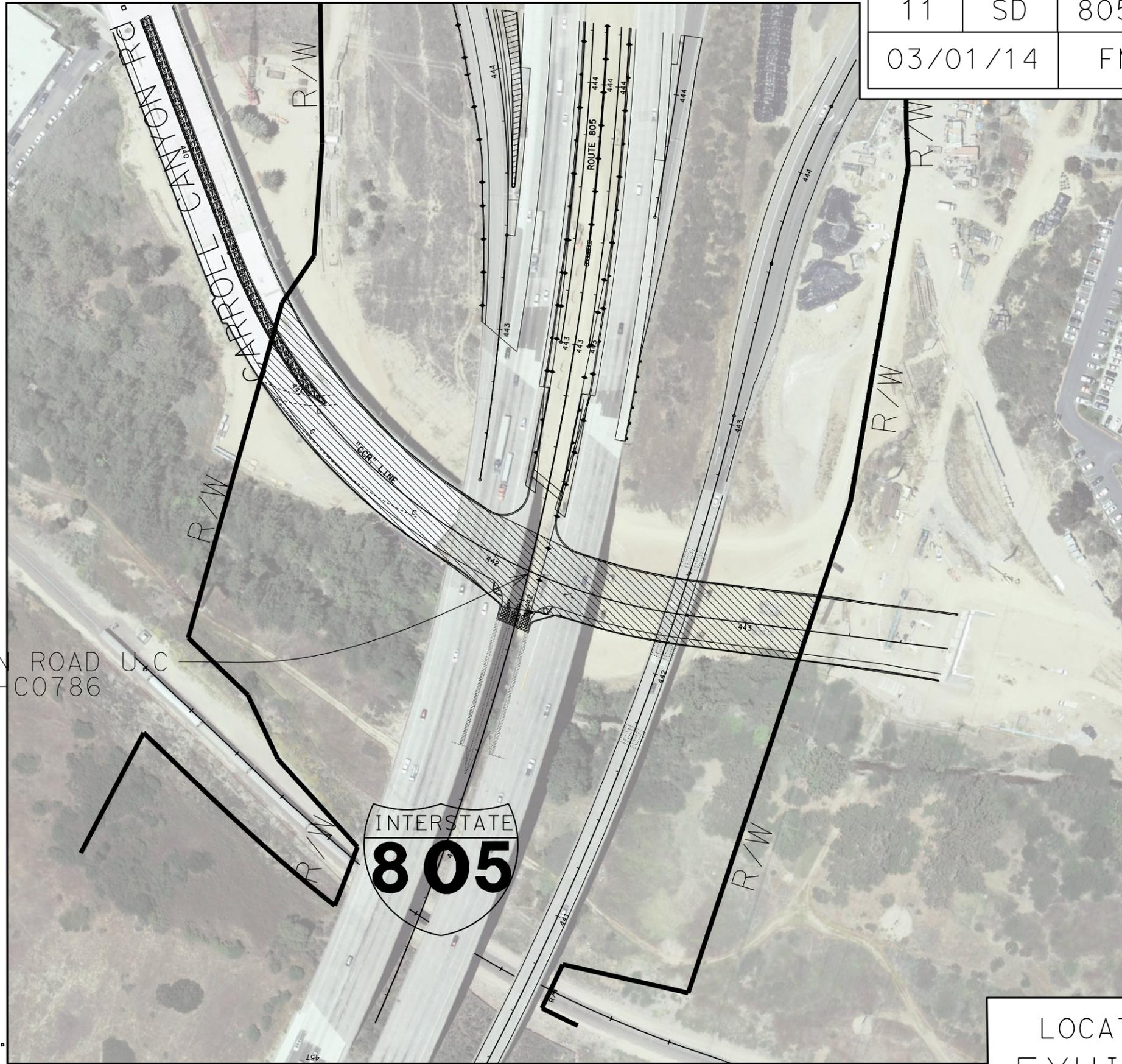
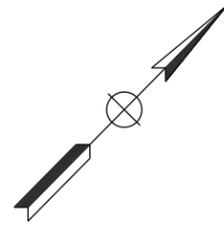
FREEWAY MAINTENANCE AGREEMENT

EXHIBIT "A"

SHEET 1 OF 4 SHEETS

FREEWAY MAINTENANCE AGREEMENT

DIST.	CO.	RTE.	P.M.
11	SD	805	~26.5
03/01/14		FMA 11-8397	



CARROLL CANYON ROAD U.C.
Br. No. 57-C0786



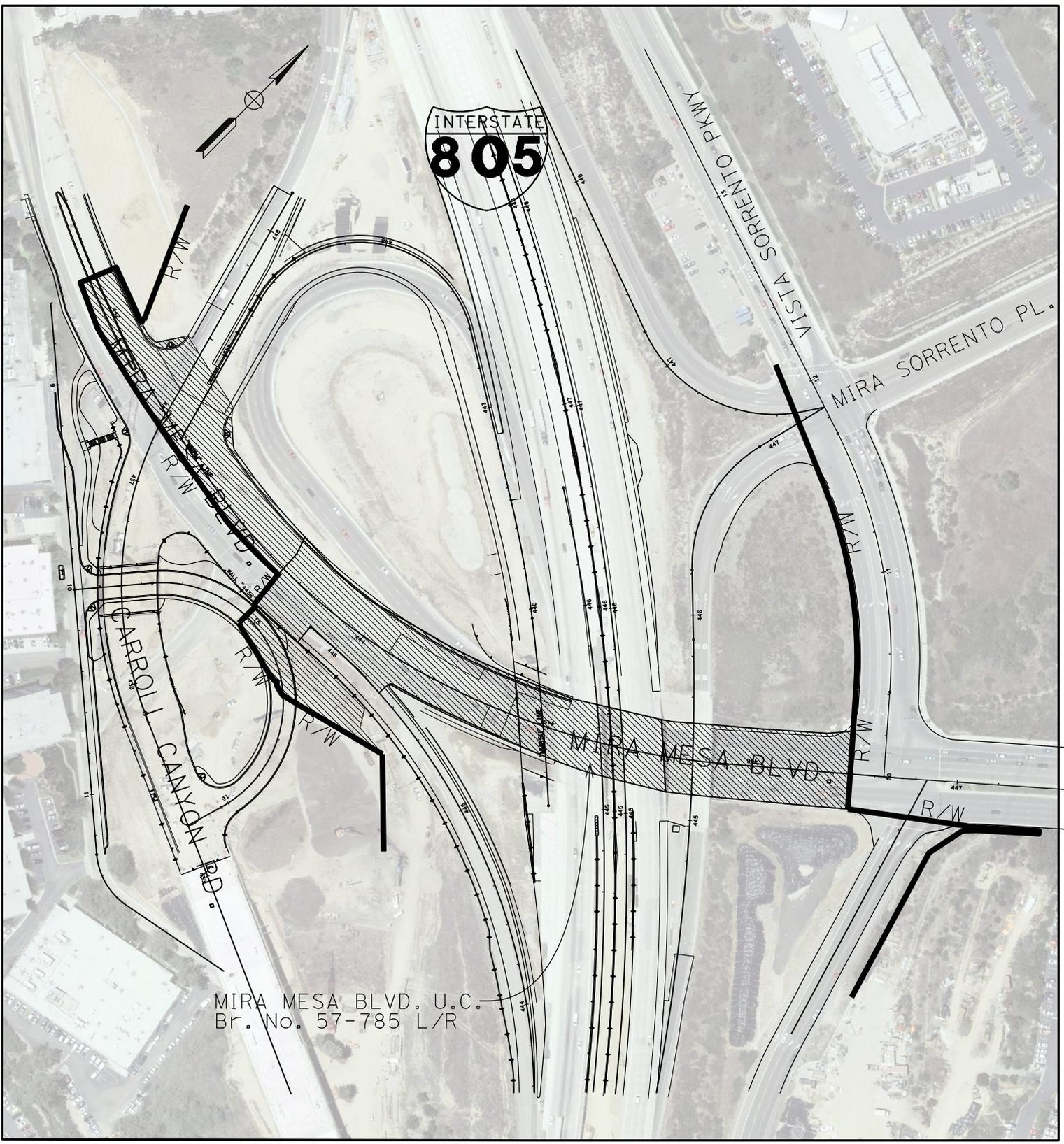
CARROLL CANYON Rd. U.C.

AREA WITHIN FREEWAY LIMITS TO BE MAINTAINED BY CITY

LOCATION # 1
EXHIBIT "A"
SHEET 2 OF 4 SHEETS

FREEWAY MAINTENANCE AGREEMENT

DIST.	CO.	RTE.	P.M.
11	SD	805	27.07
03/01/14		FMA	11-8397



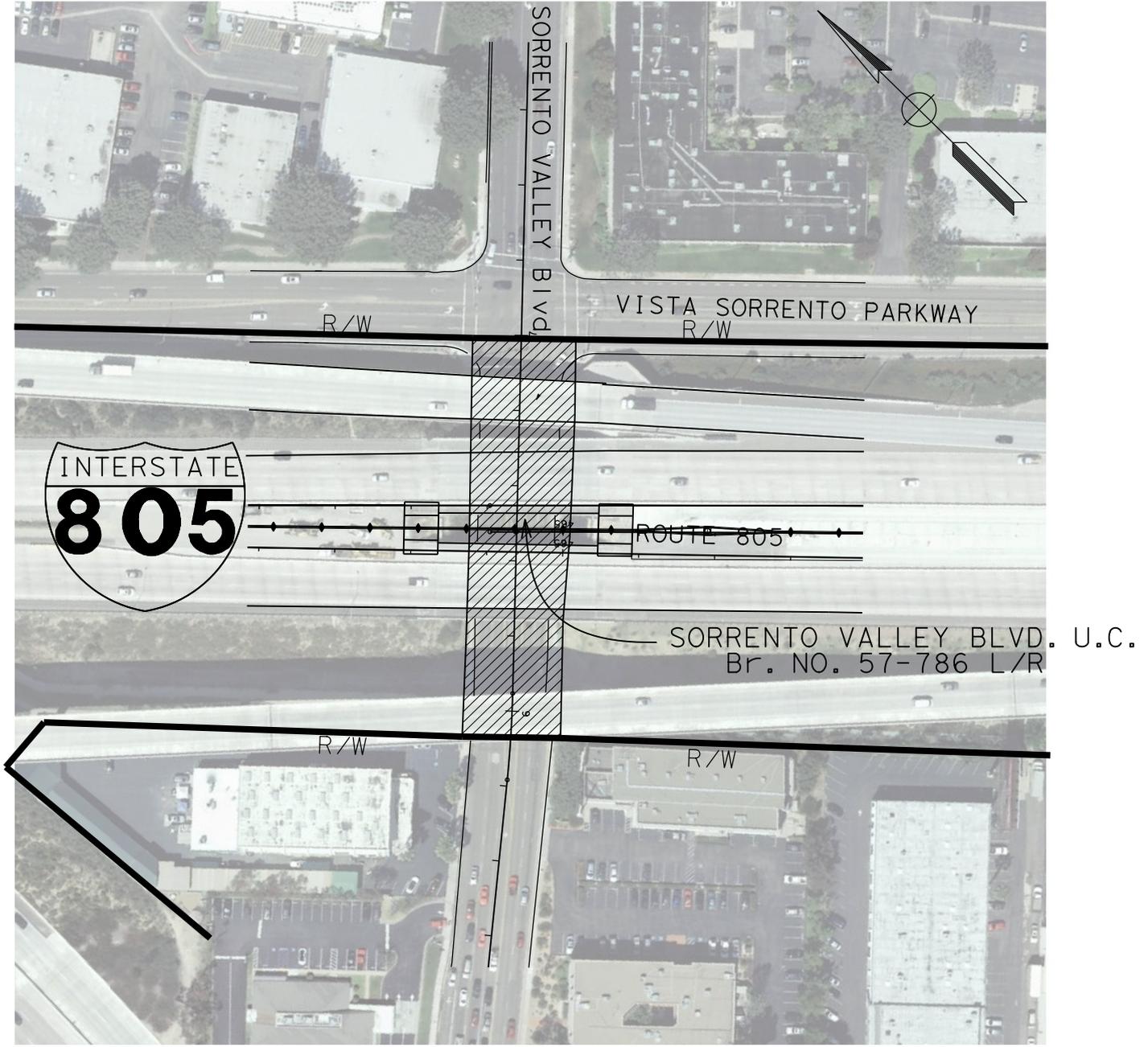
MIRA MESA BLVD. U.C.

 AREA WITHIN FREEWAY LIMITS TO BE MAINTAINED BY CITY

LOCATION # 2
EXHIBIT "A"
SHEET 3 OF 4 SHEETS

DIST.	CO.	RTE.	P.M.
11	SD	805	28.3
03/01/14		FMA 11-8397	

FREEWAY MAINTENANCE AGREEMENT



SORRENTO VALLEY BLVD. U.C.

LOCATION # 3
EXHIBIT "A"

 AREA WITHIN FREEWAY LIMITS TO BE MAINTAINED BY CITY

SHEET 4 OF 4 SHEETS

**FREEWAY MAINTENANCE AGREEMENT
WITH CITY OF SAN DIEGO**

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 San Diego; hereinafter referred to as "CITY," and collectively referred to as "PARTIES."

RECITALS:

- A. WHEREAS, on November 27, 2000, a Freeway Agreement was executed between CITY and STATE, wherein the PARTIES consented to certain adjustments of the local street and road system required for the development of that portion of STATE Highway Route 125 (SR-125) within the jurisdictional limits of the CITY as a freeway; and
- B. WHEREAS, recent adjustments to said freeway have now been completed or are nearing completion under Expenditure Authorization (EA) 288811, 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 1 of the above-referenced Freeway Agreement(s), CITY has resumed or will resume control and maintenance over each of the affected relocated or reconstructed CITY streets, except for those portions adopted as part of the freeway proper.

NOW THEREFORE IT IS AGREED:

1. CITY agrees to continue their 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-125 proper as shown Exhibit "A."

3. 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 will affect the PARTIES' division of maintenance responsibility as described herein, STATE will provide a new dated and revised Exhibit "A" which will thereafter supersede the attached original Exhibit "A" and become part of this Agreement.
4. CITY and STATE agree to accept their 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 Permit(s) from STATE's District 11 Encroachment Permit Office prior to entering STATE right of way to perform CITY maintenance responsibilities. The permit(s) will be issued at no cost to CITY.
6. VEHICULAR AND PEDESTRIAN UNDERCROSSINGS
 - a) STATE will maintain the structure proper of all STATE-constructed undercrossings of STATE freeways while the roadway sections, including the traveled way, shoulders, curbs, sidewalks, wall surfaces (including eliminating graffiti), drainage installations, lighting installations, and traffic service facilities that may be required for the benefit or control of traffic (both vehicular and other) using that undercrossing will be maintained by CITY
 - b) CITY will request STATE's District Encroachment Permit Engineer to issue the necessary Encroachment Permit for any proposed change in minimum vertical clearances between the traveled way portion of the under roadway surface and the Structure that results from modifications to the under roadway (except when said modifications are made by STATE). If the planned modifications will result in a reduction in the minimum clearance within the traveled way, an estimate of the clearance reduction must be provided to STATE's District Transportation Permit Engineer prior to starting work. Upon completion of that work, a clearance diagram will be furnished to STATE's District Transportation Permit Engineer that shows revised minimum clearances for all affected movements of traffic, both at the edges of the traveled way and at points of minimum clearance within the traveled way.
7. WALLS AND COLUMNS

Responsibility for debris removal, cleaning, and painting to keep CITY's side of any wall structure, paved slope, or column free of debris, dirt, and graffiti shall not lie with STATE.

8. LANDSCAPED AREAS ADJACENT TO CROSSING STRUCTURES

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

9. INTERCHANGE OPERATION

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

10. 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, 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) Labor Code Compliance / Prevailing Wages:

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.

e) 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.

f) Insurance:

CITY agrees to deliver evidence of self-insured coverage in a form satisfactory to STATE, along with a signed copy of the Agreement. If the work performed under this Agreement is done by CITY 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 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.

11. TERM OF AGREEMENT - This Agreement shall become effective on the date appearing 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. 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 SAN DIEGO

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

BY _____
CITY Mayor

MALCOLM DOUGHERTY
Director of Transportation

ATTEST:

BY _____
CITY Clerk

BY _____
District Division Chief
Maintenance

APPROVED AS TO FORM:

BY _____
CITY Attorney

BY _____
Legal Attorney **
Department of Transportation

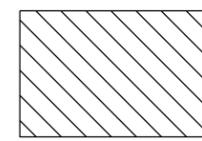
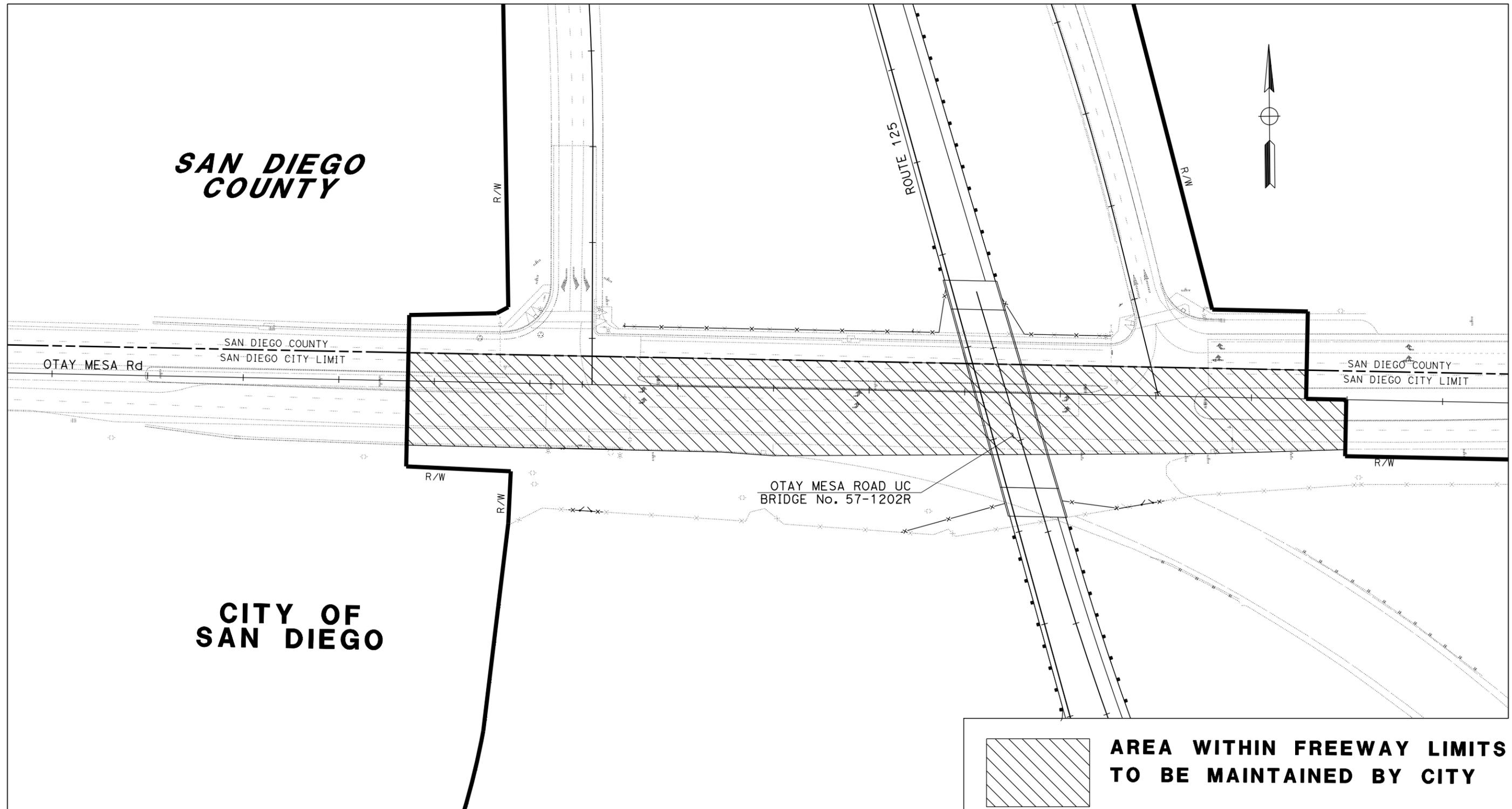
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FREEWAY MAINTENANCE AGREEMENT

EXHIBIT "A"

SHEET 1 OF 1

DIST.	CO	RTE.	POST MILE
11	SD	125	0.74
FMA 11-8402			12/04/14



**AREA WITHIN FREEWAY LIMITS
TO BE MAINTAINED BY CITY**