



Office of the City Manager

CONSENT CALENDAR  
February 25, 2020

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Phillip L. Harrington, Director, Department of Public Works  
Subject: Amendment to the Agreement for Maintenance of State Highways in the City between the California Department of Transportation and City of Berkeley

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to the Agreement with the California Department of Transportation (Caltrans) for maintenance of the State highways within the City of Berkeley. The amendment will address roadway and traffic signal improvements from the City's Ninth Street Bicycle Boulevard Pathway Extension Phase II project.

FISCAL IMPACTS OF RECOMMENDATION

This amendment would modify the City's existing maintenance Agreement with Caltrans to include the improvements from the Ninth Street Bicycle Boulevard Pathway Extension Phase II project. Under this amendment, there would be no change to the current maximum annual authorized amount that Caltrans reimburses the City for maintenance of State Highways 13 (Tunnel Road and Ashby Avenue) and 123 (San Pablo Avenue).

Staff is in the process of negotiating an upcoming revision to the Citywide maintenance Agreement, which will include an updated annual maximum reimbursement amount to align with the City's costs of providing maintenance services of State owned Right-of-Way and a comprehensive updated listing of improvements on State Highways 13 (Ashby Avenue and Tunnel Road) and 123 (San Pablo Avenue), with an anticipated execution date in calendar year 2020.

CURRENT SITUATION AND ITS EFFECTS

City staff plan to begin construction of the Ninth Street Bicycle Boulevard Pathway Extension Phase II project in early 2020. This project will construct a bike and pedestrian pathway in the gap between the existing Ninth Street Bicycle Boulevard to the north and an existing path segment in Berkeley south of Murray Street leading to the Emeryville Greenway. Council authorized the City Manager to execute a contract with Redgwick Construction Company for the construction work on November 19, 2019, under Resolution No. 69,185-N.S.

The work of the Ninth Street Bicycle Boulevard Pathway Extension Phase II project includes work within the State right of way, and the City and its contractor are required to obtain an encroachment permit from Caltrans prior to performing work in this area. Caltrans requires that the existing maintenance Agreement be amended to include the improvements from this project that will occur within the State right of way prior to issuing the encroachment permit.

The Ninth Street Bicycle Boulevard Pathway Extension Phase II project has grant funding and contract execution deadlines, and construction must begin in early 2020 to minimize the risks of losing grant funding and bid prices expiring.

### BACKGROUND

The City's current maintenance Agreement with Caltrans was executed on December 1, 1988. Council authorized execution of this Agreement on September 6, 1988, under Resolution No. 54,423-N.S. This Agreement replaced the previous Agreement from July 1, 1973, which was authorized by Council under Resolution No. 40,114-N.S.

Maintenance, as defined by Caltrans, is the preservation and keeping of right-of-way, and each type of roadway structure safety convenience or device, planting, illumination equipment, and other facility, in the safe and usable condition to which it has been improved or constructed, but does not include reconstruction or other major improvement.

Under the current maintenance Agreement, the City is responsible for performing maintenance work and the State will reimburse the City for the actual cost of specified work up to a maximum annual expenditure level.

The subject amendment to the maintenance Agreement complies with the City's strategic plan, to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

The City and Caltrans are currently negotiating the terms of an upcoming revision to the citywide maintenance Agreement, which will replace the current Agreement. The revision will include an updated maximum annual reimbursement amount that takes into account improvements that have been implemented in the State right of way within the City since the time the current Agreement was executed.

### RATIONALE FOR RECOMMENDATION

The City must obtain an encroachment permit from Caltrans in order to perform construction work in the State right of way for the Ninth Street Bicycle Boulevard Pathway Extension Phase II project, and Caltrans requires that the existing maintenance Agreement be amended to include improvements from this project prior to issuing the encroachment permit.

Therefore, in order to proceed with construction of the Ninth Street Bicycle Boulevard Pathway Extension Phase II project in a timely manner, Council would need to authorize the City Manager to execute an amendment to the Agreement with Caltrans for

maintenance of the State highways within the City of Berkeley to include roadway and traffic signal improvements from this project.

ALTERNATIVE ACTIONS CONSIDERED

There is no alternative that would allow the Ninth Street Bicycle Boulevard Pathway Extension Phase II project to proceed in a timely manner.

If Council does not approve the staff recommendation, this project could only proceed once the comprehensive revision to the maintenance Agreement is executed, which will likely take at least several months and possibly over a year to negotiate and execute. By that time, the construction bid price would have expired, and staff would need to rebid the project. Based on current construction cost trends, the price would increase. Also the construction of the project would be delayed, likely causing the City to lose its grants of \$750,000 in Alameda County Vehicle Registration Fee (VRF) and \$850,000 in State Active Transportation Program (ATP) funding.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works Department (510) 981-7061  
Kenneth Jung, Associate Civil Engineer, Public Works Department (510) 981-7028

Attachments:

- 1: Resolution
- 2: Amendment to Maintenance Agreement

RESOLUTION NO. ##,###-N.S.

AMENDMENT TO THE AGREEMENT FOR MAINTENANCE OF STATE HIGHWAYS IN THE CITY BETWEEN THE CALIFORNIA DEPARTMENT OF TRANSPORTATION AND CITY OF BERKELEY

WHEREAS, completion of the Ninth Street Bicycle Boulevard Pathway Extension Phase II project will close an existing gap in the bicycle network between West Berkeley and Emeryville; and

WHEREAS, a significant portion of this project includes improvements within the State of California right of way on Highway 13; and

WHEREAS, the California Department of Transportation (Caltrans) requires the City and its contractor to obtain an encroachment permit prior to performing any work within the State right of way; and

WHEREAS, Caltrans requires the existing Agreement, for maintenance of the State highways within the City, be amended to include roadway and traffic signal improvements from the Ninth Street Bicycle Boulevard Pathway Extension Phase II project as a precondition to issuing an encroachment permit; and

WHEREAS, the proposed amendment would not change the current maximum annual authorized amount that Caltrans reimburses the City for maintenance of State highways within the City; and

WHEREAS, the City has received State of California Active Transportation Program (ATP) funds and Alameda County Vehicle Registration Fee (VRF) funds for the work of this Project; and

WHEREAS, the current Citywide maintenance Agreement between the City and Caltrans was executed in 1988 and has not been updated since that time; and

WHEREAS, City staff and Caltrans are currently negotiating the terms of an upcoming revision to the Citywide maintenance Agreement, which will replace the current Agreement and the subject amendment by (1) updating the improvements that have been implemented in the State right of way since the Agreement was executed and (2) correspondingly updating the maximum annual reimbursement amount that the City would receive from Caltrans for said maintenance work.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute an amendment to the 1988 Agreement with the California Department of Transportation (Caltrans) for maintenance of the State highways within the City of Berkeley to include roadway and traffic signal improvements from the City's Ninth Street Bicycle Boulevard Pathway Extension Phase II project. A record signature copy of said amendment will be on file in the Office of the City Clerk.

**AMENDMENT NUMBER 1**  
**AGREEMENT FOR MAINTENANCE OF STATE HIGHWAYS**  
**IN THE CITY OF BERKELEY**

This Amendment Number 1 ("AMENDMENT") to the "Agreement for Maintenance of State Highways in the City of Berkeley" ("AGREEMENT") is made and entered into by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE", and the City of Berkeley, hereinafter referred to as "CITY". CITY and STATE together are hereinafter referred to as "PARTIES".

**WITNESSETH:**

WHEREAS, AGREEMENT was executed on December 1, 1988; and

WHEREAS, AGREEMENT by its terms provides that it may be amended at any time upon mutual consent of PARTIES; and

WHEREAS, PARTIES now desire to amend AGREEMENT.

WHEREAS, Traffic signal modifications and intersection improvements will be installed on Route 13 at Ninth Street under Encroachment Permit No. \_\_\_\_\_.

NOW, THEREFORE, PARTIES agree to amend AGREEMENT as follows:

1. AGREEMENT shall be amended in accordance with the attached pages, number 8 and 9. These pages shall be substituted for like numbered page in said AGREEMENT, and shall cancel and supersede previously like numbered page, becoming a part of said AGREEMENT for all purposes.
2. STATE costs and expenses assumed under the terms of this Agreement Amendment, if any, are conditioned upon the passage of the annual State of California Budget by the Legislature, the allocation of funding 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.

3. This AMENDMENT to AGREEMENT shall become effective on \_\_\_\_\_  
and shall remain in full force and effect. In other respects, AGREEMENT shall  
remain in full force and effect.

**CITY OF BERKELEY**

**STATE OF CALIFORNIA  
DEPARTMENT OF  
TRANSPORTATION**

\_\_\_\_\_  
City Manager

TOKS OMISHAKIN  
Director of Transportation

ATTEST:

By:

\_\_\_\_\_  
DAVID AMBUEHL                      DATE  
Deputy District Director  
Maintenance

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

## H. DELEGATION OF MAINTENANCE

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

ROUTE NO.	LENGTH MILES	DESCRIPTION OF ROUTING	PROGRAM DELEGATED	MAXIMUM ANNUAL AUTHORIZED EXPENDITURE
13 (a)	3.31	Ashby Avenue from Ninth Street to Tunnel Road; along Tunnel Road, from Ashby Avenue to southeast city limits at Landvale Road; a length of 3.31 miles for this section. See footnotes 1,3,4,5,6,7	HM1A, HM1B HM2C HM2D HM2E HM4M HM4K	\$20,000.00 1,000.00 11,500.00 2,000.00 0.00 <u>13,500.00</u>
		Authorized Expenditure Rte 13 (a)		\$48,000.00
13(b)	0.49	Ashby Avenue Connection; south leg of wye from south city limits near Eastshore Freeway, and north leg of wye from Eastshore Freeway, Route 80 to Ninth Street; a length of 0.49 mile for this section.	HM4K	\$1,300.00
		Authorized Expenditure Rte 13 (b)		\$1,300.00
80	2.43	Eastshore Freeway from south city limits near Folger Avenue to north city limits at Codornices Creek; a length of 2.43 miles.	None	
123	2.34	San Pablo Avenue from south city limits at Haskell Street to north city limits at Codornices Creek; a length of 2.34 miles. See footnotes 2,4,5,6,7	HM1A, HM1B HM2C HM2D HM2E HM4M HM4K	\$5,000.00 1,000.00 8,000.00 0 0 <u>20,900.00</u>
		Authorized Expenditure Rte 123		\$34,900.00
		TOTAL AUTHORIZED EXPENDITURE		\$84,200.00

Footnotes:

- (1) Length of street to be cleaned 7.5 curb miles.
- (2) Length of street to be cleaned 9.6 curb miles.
- (3) Extensive tree reconditioning work or removal in excess of authorized amount will require specific authorization by STATE.
- (4) STATE will maintain traffic stripe. City will maintain pavement markings.
- (5) Landscaping and trees installed by CITY under encroachment permit to be maintained by CITY at no expense to STATE.
- (6) Maintenance of improvements including, but not limited to, parking "TEE" pavement markings, non-STATE standard materials, sidewalks, non- STATE standard pavement markings, green pavement markings, non-STATE standard signs, bike lane signs, and all improvements constructed under an Encroachment Permit, will be performed by CITY at no expense to STATE.
- (7) Maintenance of video camera detection systems, emergency vehicle preemption, battery back-up system and IISNS including electrical energy, etc. will be performed by City at no expense to STATE.