

**FREEWAY MAINTENANCE
AGREEMENT
WITH
CITY OF COSTA MESA**

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 Costa Mesa; hereinafter referred to as “CITY” and collectively referred to as “PARTIES.”

SECTION I

RECITALS

1. On May 10, 2016 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 Interstate (I) 405 within the jurisdictional limits of the CITY of Costa Mesa as a freeway; and
2. Recent adjustments to said freeway have now been completed, or are nearing completion, and the PARTIES hereto mutually desire to identify the maintenance responsibilities for improvements to separation structures lying within those modified freeway limits; and
3. There are existing Freeway Maintenance Agreements with CITY dated November 2, 1992, and May 3, 2007. This Agreement is meant to replace or supersede the earlier agreements.

NOW THEREFORE IT IS AGREED:

SECTION II

AGREEMENT

1. This AGREEMENT will supersede the existing Freeway Maintenance Agreements for the same location between the STATE and CITY dated November 2, 1992 and May 3, 2007 upon execution of this AGREEMENT.
2. Pursuant to Section 6 of the above May 10, 2016 Freeway Agreement, CITY is resuming 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.
3. The degree or extent of maintenance work to be performed, and the standards therefore, shall be in accordance with the provisions of Section 27 of the Streets and Highways Code, and the State Maintenance Manual

City of Costa Mesa Freeway Maintenance Agreement

4. CITY agrees to continue their control and maintenance of each of the CITY streets and roads as shown on the hatched area on the plan maps attached hereto, marked Exhibits A1-A7, and made a part hereof by this reference.
5. STATE agrees to continue its control and maintenance of those portions adopted as a part of I-405 Freeway proper as shown on Exhibits A1-A7.
6. CITY agrees to share the maintenance responsibilities as shown on the Exhibit A, and on individual infrastructure items as provided in Exhibit A7, attached and made a part of this Agreement by reference, as long as it is not in conflict with the terms of this Agreement. In case of a conflict, the terms of this Agreement shall prevail.
7. If there are agreed upon changes in the maintenance duties between PARTIES, the PARTIES can revise and replace the Exhibits by a mutual written execution of Exhibits A1-A7.
8. 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 thereafter supersede the attached original Exhibit A and become part of this Agreement upon City's approval.
9. 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.
10. CITY must obtain the necessary Encroachment Permits from STATE's District 12 Encroachment Permit Office prior to entering STATE right of way to perform CITY's maintenance responsibilities. This permit will be issued at no cost to CITY.
11. Routine Maintenance shall include: graffiti abatement, cleaning, debris and trash removal, street sweeping, weed abatement, crack sealing, crack repair and non-structural crack and spall repair on bridge barrier and sidewalk; striping and signage, and other appurtenant maintenance items as designated in the applicable Exhibits. Routine Maintenance shall not include repair to maintain structural integrity, replacement or upgrade of STATE's structural elements.
12. COMMUNITY IDENTIFIER
 - 12.1. CITY will be responsible for repair and replacement of community identifier on the interior/street facing side of the community identifiers monuments, see attached Exhibit A6.
 - 12.2. CITY will abate graffiti and perform Routine Maintenance on the interior/street facing side of the community identifier monuments.
 - 12.3. STATE will abate graffiti on exterior/freeway facing side of the community identifier monuments. STATE will not be responsible for restoration of the community identifier.

City of Costa Mesa Freeway Maintenance Agreement

- 12.4. STATE will be responsible for the community identifier monuments' structure and its integrity.

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 I-405 below the deck wearing surface and any wearing surface treatment, barrier and sidewalk structure, subsurface drainage structure and joint seal assemblies as shown on the attached exhibit, marked Exhibit A7.
- 13.2. CITY will maintain, at CITY expense, the drainage system cleaning (and shall perform such work as may be necessary to ensure an impervious and/or otherwise suitable surface), all portions of the structure above the bridge deck, including, but without limitation, cleaning, graffiti abatement, Routine Maintenance, lighting installations, signs and pavement delineation, and CITY's infrastructure that may be required for the benefit or control of traffic and located within the bridge(s) as shown on the attached exhibit, marked Exhibit C.
- 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.

14. VEHICULAR AND PEDESTRIAN UNDERCROSSINGS

- 14.1. STATE will maintain the entire structure of all STATE-constructed vehicular and pedestrian undercrossings of STATE freeways except as hereinafter provided.
- 14.2. CITY will maintain the roadway sections, including the traveled way, shoulders, curbs, sidewalks, wall surfaces, drainage installations, lighting installations sign and pavement delineation, and CITY's infrastructure that may be required for the benefit or control of traffic using that undercrossing and community identifiers.
- 14.3. CITY will request STATE's District Encroachment Permit Engineer to issue the necessary Encroachment Permit for any proposed change in minimum vertical clearances between CITY roadway surface and the structure that results from modifications to the 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 Transportation Permit Engineer prior to starting work. Upon completion of that work, a vertical clearance diagram will be furnished to STATE's 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.

City of Costa Mesa Freeway Maintenance Agreement

15. WALLS AND COLUMNS – STATE is responsible for walls within STATE’s right of way, including the structure and its integrity. CITY will perform debris removal, cleaning, and painting to keep any wall structure or column free of debris, dirt, and graffiti on the CITY-facing side of the wall. STATE will abate graffiti on the freeway-facing side of the wall and maintain the concrete barrier and retaining wall including the structure integrity.
16. INTERCHANGE OPERATON - It is STATE’s responsibility to provide efficient operation of freeway interchanges, including ramp connections to local streets and roads.
17. ELECTRICALLY OPERATED TRAFFIC CONTROL DEVICES
 - 17.1. Cost allocations assigned to each of the PARTIES for electrically operated traffic control devices placed at interchanges of I-405 Freeway and CITY streets and roads and at ramp connections or I-405 and CITY facilities shall be accordance with the “AGREEMENT FOR COSTS OF STATE HIGHWAY ELECTRICAL FACILITIES WITHIN THE CITY OF COSTA MESA”.
 - 17.2. Timing of traffic signals, which shall be coordinated with CITY to the extent that no conflict is created with freeway operations, shall be the sole responsibility of STATE.
18. LEGAL RELATIONS AND RESPONSIBILITIES
 - 18.1. 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.
 - 18.2. 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 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, tortuous, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.
 - 18.3. 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 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, tortuous, contractual, inverse condemnation or other theories or assertions of liability

City of Costa Mesa Freeway Maintenance Agreement
occurring by reason of anything done or omitted to be done by CITY under this Agreement.

19. PREVAILING WAGES:

19.1. Labor Code Compliance- 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.

19.2. 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.

20. INSURANCE - CITY and its 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, its officers, agents and employees as the additional insured in an amount of \$1 million per occurrence, \$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.

21. TERMINATION - This Agreement may be terminated by timely 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.

22. 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.

City of Costa Mesa Freeway Maintenance Agreement

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

THE CITY OF

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
Mayor

Initiated and Approved

By: _____
City Manager

By: _____
Roberta C. Hettick, P.E.
Deputy District Director
Maintenance District





ATTEST:

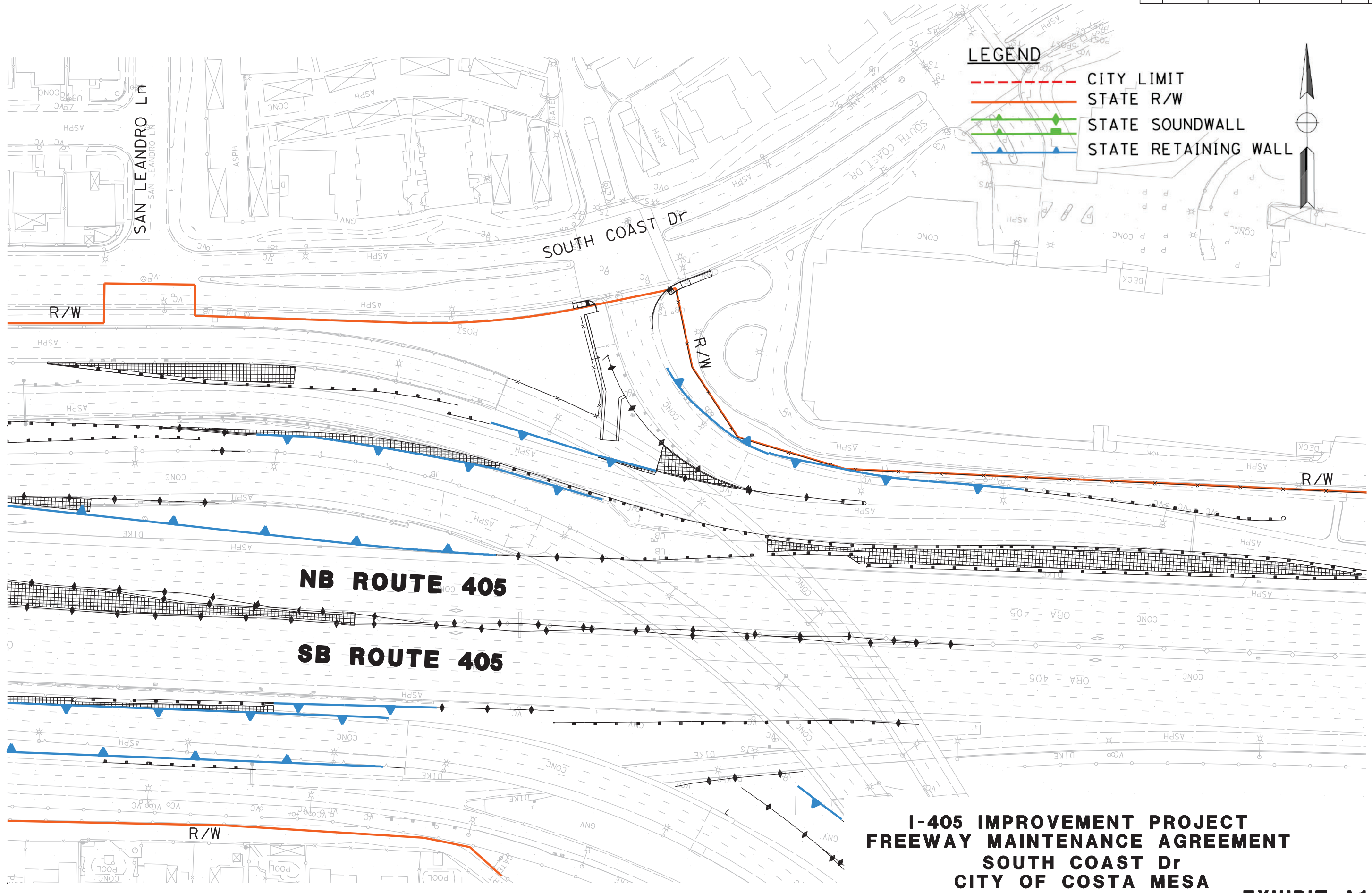
By: _____
City Clerk

By: _____
City Attorney

Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
12	ORA	405	ATTACHMENT 1 10.34	1	7

LEGEND

-  CITY LIMIT
-  STATE R/W
-  STATE SOUNDWALL
-  STATE RETAINING WALL



**I-405 IMPROVEMENT PROJECT
 FREEWAY MAINTENANCE AGREEMENT
 SOUTH COAST Dr
 CITY OF COSTA MESA**

EXHIBIT A1

SCALE: 1"=100'

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

FUNCTIONAL SUPERVISOR
CALCULATED-DESIGNED BY
CHECKED BY
REVISOR
DATE REVISION

BORDER LAST REVISED 7/2/2010

USERNAME => #USER
 DGN FILE => #REQUEST

RELATIVE BORDER SCALE
 IS IN INCHES



UNIT 0000



PROJECT NUMBER & PHASE

0000000001

LAST REVISION DATE PLOTTED => \$DATE
 00-00-00 TIME PLOTTED => \$TIME

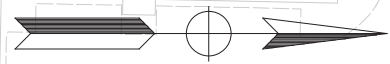
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LEGEND

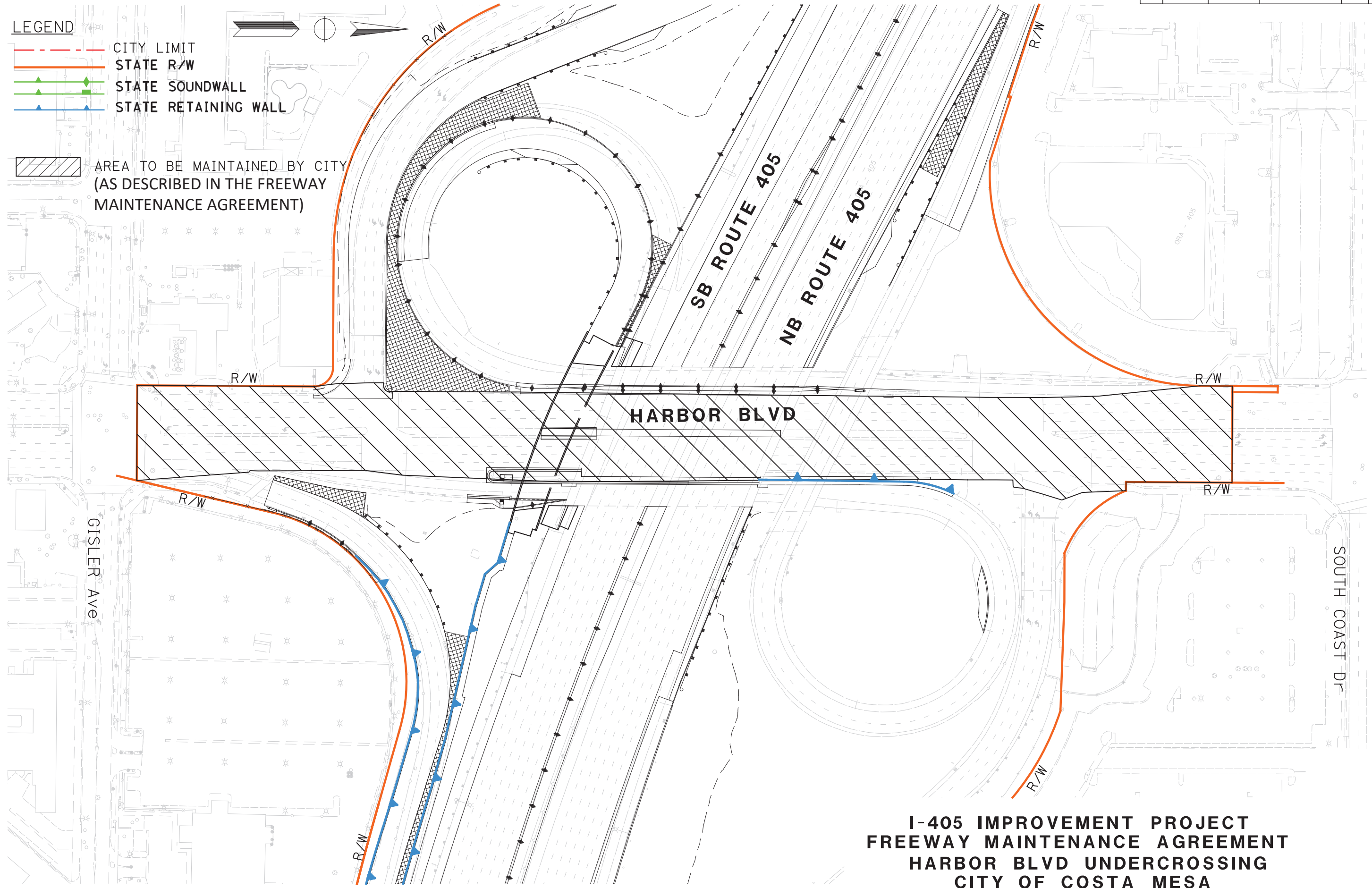
-  CITY LIMIT
-  STATE R/W
-  STATE SOUNDWALL
-  STATE RETAINING WALL



AREA TO BE MAINTAINED BY CITY
(AS DESCRIBED IN THE FREEWAY
MAINTENANCE AGREEMENT)



STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	FUNCTIONAL SUPERVISOR	CALCULATED- DESIGNED BY	REVISOR BY
		CHECKED BY	DATE REVISED



**I-405 IMPROVEMENT PROJECT
FREEWAY MAINTENANCE AGREEMENT
HARBOR BLVD UNDERCROSSING
CITY OF COSTA MESA**

EXHIBIT A3

SCALE: 1"=120'



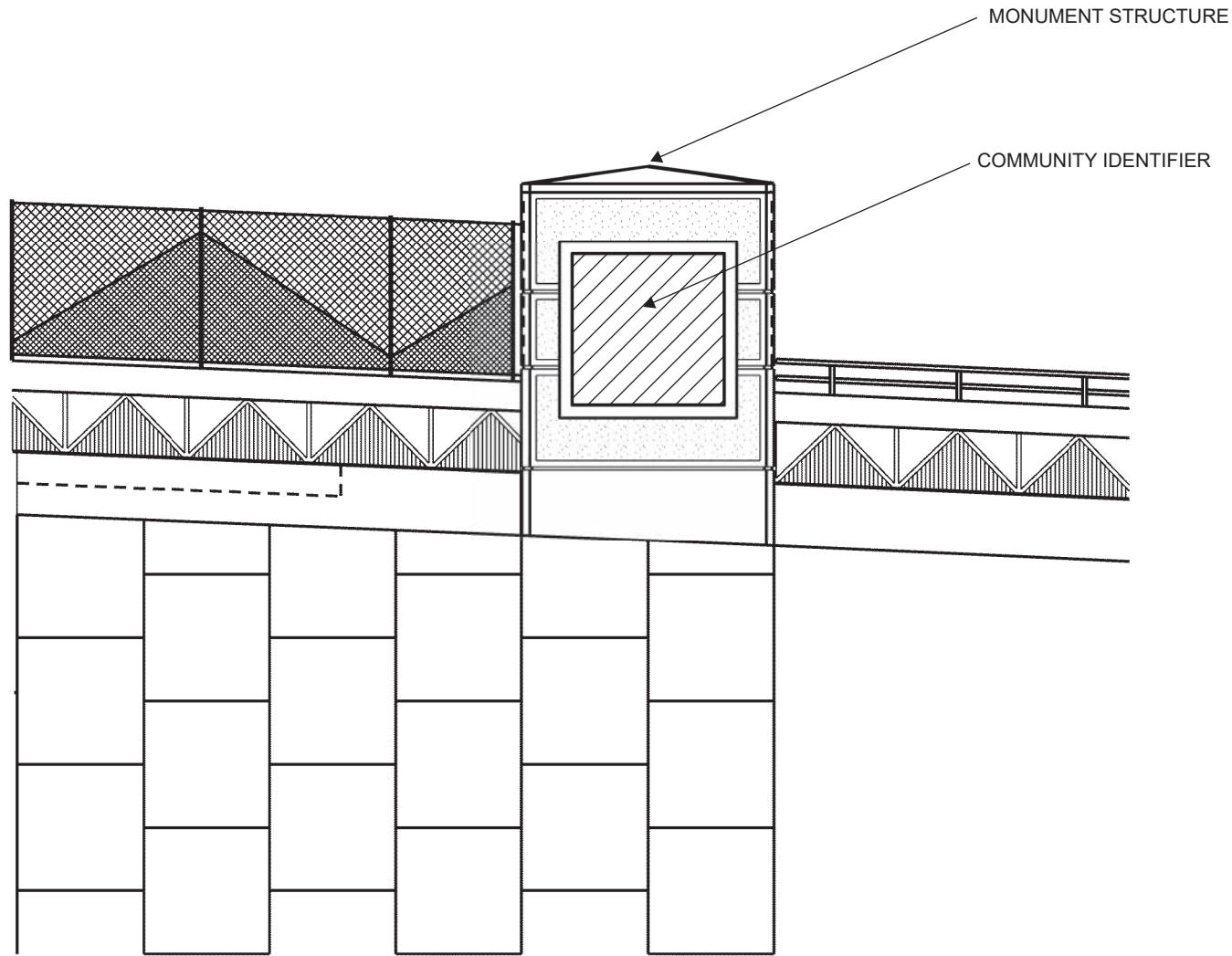
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LEGEND

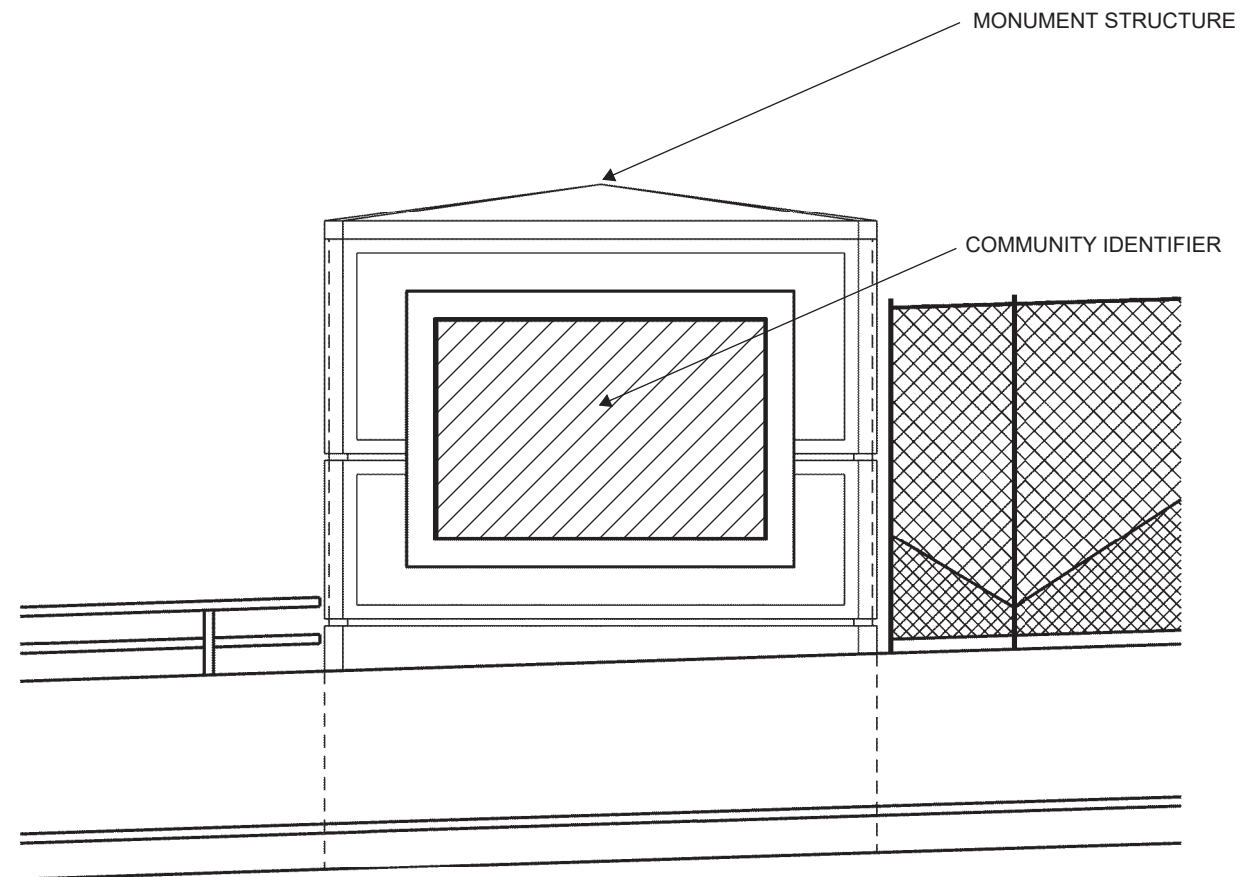


AREA TO BE MAINTAINED BY CITY

NOTE: APPLICABLE TO OVERCROSSINGS AT FAIRVIEW RD SANTA ANA RIVER BRIDGE



FREEWAY FACING SIDE



STREET FACING SIDE

**I-405 IMPROVEMENT PROJECT
 FREEWAY MAINTENANCE AGREEMENT
 COMMUNITY IDENTIFIER AND MONUMENT STRUCTURE
 CITY OF COSTA MESA**

EXHIBIT A6

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
 Caltrans

REVISOR: * * * * *

REVISOR: * * * * *

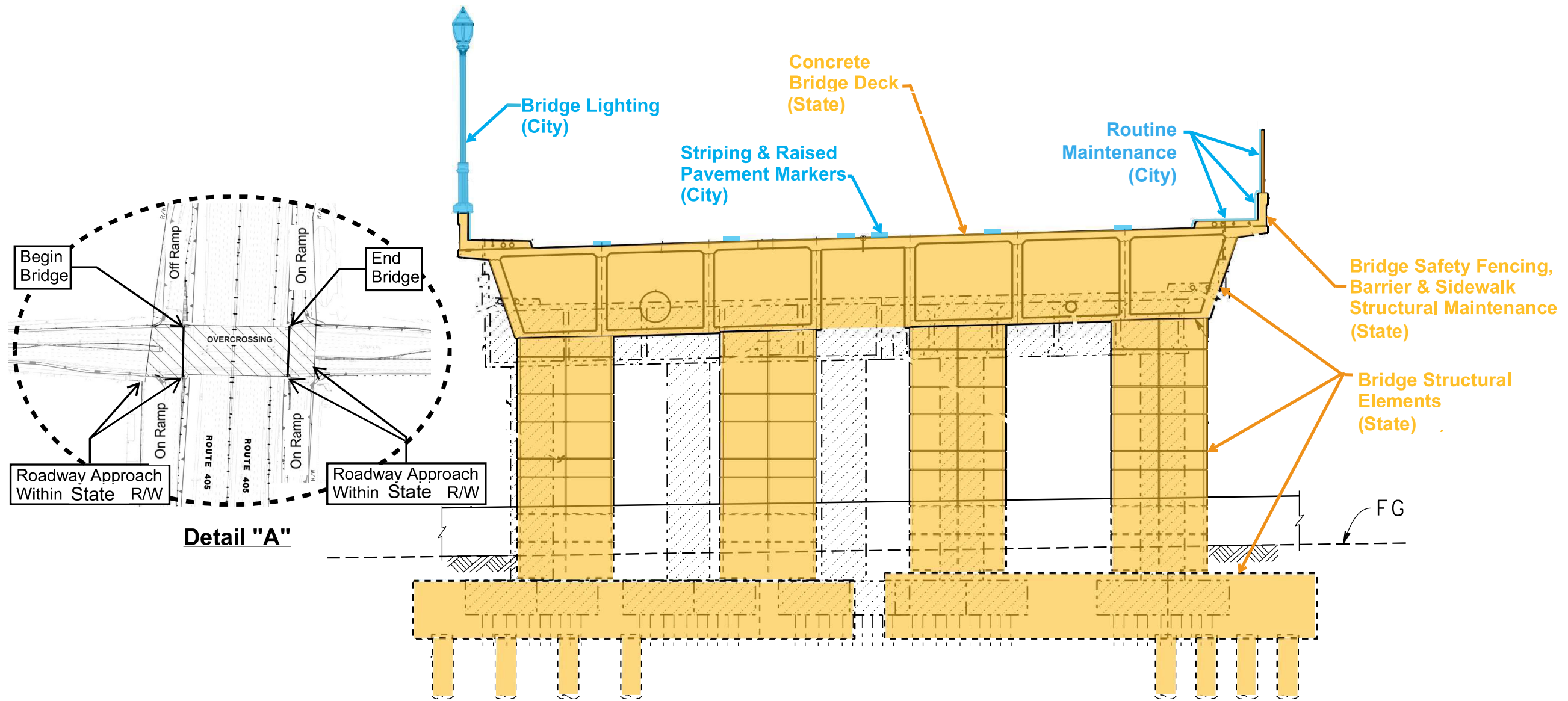
REVISOR: * * * * *

REVISOR: * * * * *

REVISOR: * * * * *

REVISOR: * * * * *

REVISOR: * * * * *



Notes

1. On roadway approaches within State R/W envelope, City is responsible for asphalt pavement and sidewalk (See Detail "A").
2. City roadway signage is the responsibility of the City and freeway signage is the responsibility of the State.
3. Bridge approach slabs are the responsibility of the State.
4. Structural integrity of bridge deck and drains are the responsibility of the State and drainage inlet and grate cleaning are the responsibility of the City.
5. Joint seal assemblies are the responsibility of the State.
6. Encroachment Permit for Routine Maintenance is subject to two (2) years in duration.
7. State is responsible for structural integrity and repairs of the fencing on the Overcrossing.

Legend

- City Maintenance Responsibility
- State Maintenance Responsibility

**I-405 IMPROVEMENT PROJECT
FREEWAY MAINTENANCE AGREEMENT
OVERCROSSING BRIDGE TYPICAL SECTION
CITY OF COSTA MESA**

EXHIBIT A7

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

FUNCTIONAL SUPERVISOR	CHECKED BY
CALCULATED-DESIGNED BY	REVISOR
DATE	DATE
REVISED BY	DATE
DATE	DATE

LAST REVISION | DATE PLOTTED => DATE
 00-00-00 | TIME PLOTTED => TIME

EXHIBIT C

Section 27 – Streets and Highways Code: General Provisions

State Statute

As used in the General Provisions and in Division 1 (commencing with Section 50), Division 2 (commencing with Section 900), and Division 2.5 (commencing with Section 1800), “*maintenance*” includes any of the following:

- (a) The preservation and keeping of rights-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 improvement.
- (b) Operation of special safety conveniences and devices and illuminating equipment.
- (c) The special or emergency maintenance or repair necessitated by accidents or by storms or other weather conditions, slides, settlements, or other unusual or unexpected damage to a roadway, structure, or facility.

The degree and type of maintenance for each highway, or portion thereof, shall be determined at the discretion of the authorities charged with the maintenance thereof, taking into consideration traffic requirements and the moneys available therefor.