

1 [Agreement Amendment - California Department of Transportation - Incorporate Additional
2 Facilities and City Trench Standards]

3 **Resolution approving the Second Amendment to the Agreement for Maintenance of**
4 **State Highways in San Francisco between the City and County of San Francisco**
5 **(“City”) and the State of California Department of Transportation (“Caltrans”) to include**
6 **City’s maintenance of additional facilities on right-of-way within Caltrans jurisdiction,**
7 **including City’s maintenance and operation of additional electrical equipment on Sloat**
8 **Boulevard (State Route 35) at Forest View Drive, 23rd Avenue, 36th Avenue, Constanso**
9 **Way, El Mirasol Place, 26th Avenue, and 21st Avenue, and on San Jose Avenue (State**
10 **Route 82) at Goethe Street and Rice Street; to include City’s maintenance of speed**
11 **bumps, pedestrian barrier rail, signage, and red concrete at the intersection of**
12 **Rossmoor Drive and 19th Avenue; and to reflect Caltrans’ authorization of the City’s**
13 **construction and use of water, sewer, and auxiliary water supply system trench**
14 **facilities compliant with City standards (“City Trench Details”) on certain specified**
15 **routes, including portions of Caltrans right-of-way on Van Ness Avenue, Lombard**
16 **Street, and 19th Avenue, and the City’s indemnification of Caltrans regarding any**
17 **failures, defects, conditions, or damage resulting from the construction and use of the**
18 **City Trench Details.**

19
20 WHEREAS, On July 25, 1990, the City and County of San Francisco (“City”) and the
21 State of California Department of Transportation (“Caltrans”) entered into an agreement
22 authorizing the City to perform maintenance works in the State Highways in San Francisco;
23 and

24 WHEREAS, On June 9, 2009, in Resolution No. 209-09, the Board of Supervisors
25 accepted and approved Public Works Order No. 178,169, which recommended that the Board

1 of Supervisors approve a subsequent maintenance agreement to address various changes to
2 the State Highway routes in the City and to adjust reimbursement amounts to account for
3 inflation; and

4 WHEREAS, On July 2, 2009, the City and Caltrans entered into an agreement
5 (“Maintenance Agreement”) authorizing the City to perform specified maintenance functions
6 on the State Highways within the City’s jurisdiction and setting forth State’s obligation to
7 reimburse City for such work; and

8 WHEREAS, The Maintenance Agreement superseded any previous agreements
9 regarding maintenance of the State right-of-way at Junipero Serra Boulevard, Nineteenth
10 Avenue, Cross-Over Drive, By-Pass Drive, Park Presidio Boulevard, Skyline Boulevard, Sloat
11 Boulevard, James Lick Freeway, San Jose Avenue, Bayshore Freeway, Central Freeway,
12 Mission Street, South Van Ness Avenue, Van Ness Avenue, Lombard Street, Richardson
13 Street, and Southern Freeway; and

14 WHEREAS, A copy of Resolution No. 209-09 is on file with the Clerk of the Board of
15 Supervisors in File No. 090630; and

16 WHEREAS, A copy of the approved Public Works Order No. 178,169 is on file with the
17 Clerk of the Board of Supervisors in File No. 090630; and

18 WHEREAS, On October 27, 2011, the City and Caltrans executed a first amendment to
19 the Maintenance Agreement (“First Amendment”) to specify the maintenance responsibilities
20 for median landscaping on State Route 1, and in all other respects, the Maintenance
21 Agreement remained in full force and effect; and

22 WHEREAS, Copies of the Maintenance Agreement and the First Amendment are on
23 file with the Clerk of the Board of Supervisors in File No. 090630; and

24 WHEREAS, Public Works and Caltrans staff have collaborated on the second
25 amendment to the Maintenance Agreement (“Second Amendment” or “Amendment No. 2”),

1 which reflects Caltrans' authorization of the City's construction and use of water, sewer, and
2 auxiliary water supply system ("AWSS") trench facilities compliant with City standards ("City
3 Trench Details"), which are not identical to Caltrans standards for such facilities, on specified
4 routes including portions of Caltrans right-of-way on Van Ness Avenue, Lombard Street, and
5 19th Avenue; and

6 WHEREAS, The Second Amendment would address the allocation of liability and costs
7 related to such trench facilities among City and Caltrans, and would provide that: the City shall
8 be responsible for performing the maintenance and repair of the routes specified in the
9 agreement ("Specified State Routes") and for all failures or defects of the roadway
10 infrastructure resulting from the construction and use of the City Trench Details; Caltrans shall
11 provide reimbursements for routine maintenance of Specified State Routes, but shall not
12 reimburse the City for maintenance and repair of conditions resulting from the construction
13 and use of the City Trench Details; the City shall be solely responsible for all costs for the
14 reconstruction of Specified State Routes for all failures or defects resulting from the
15 construction and use of the City Trench Details, including but not limited to sinkholes, failure
16 of compacted soils, and structural failure of the roadway resulting from the construction and
17 use of the City Trench Details; the City shall fully defend, indemnify, and save harmless,
18 Caltrans and its officers, directors, agents, and employees for any injury, claim, damage, or
19 liability occurring as the result of any condition or defect of Specified State Routes, resulting
20 from the construction and use of the City Trench Details, including but not limited to, failures
21 of the compacted soils, sinkholes, potholes, cracking, and structural failure of the roadway
22 resulting from the construction and use of the City Trench Details; and the City's duty to
23 defend, indemnify, and save harmless described above extends to any injury, claim, damage,
24 or liability whether said injury, claim, damage, or liability is alleged to have been caused by a
25 failure to maintain or a failure of design and construction; and

1 WHEREAS, The Second Amendment would include the City’s maintenance of low
2 profile speed bumps, steel bollards, pedestrian barrier rail, signage, red concrete at the
3 intersection of 19th Avenue (Caltrans’ jurisdiction) and Rossmoor Drive; and

4 WHEREAS, The Second Amendment would include the City’s maintenance and
5 operation of certain electrical equipment on Rossmoor Drive installed pursuant to the M-
6 Ocean View Track Replacement Project at 19th Avenue (State Route 1) and Rossmoor Drive;
7 and

8 WHEREAS, The Second Amendment would include the City’s maintenance and
9 operation of certain electrical equipment that constitutes the High-Intensity Activated
10 Crosswalk pedestrian beacon system (the “HAWK System”) that has been installed on Sloat
11 Boulevard (State Route 35) at Forest View Drive, 23rd Avenue, 36th Avenue, Constanso
12 Way, El Mirasol Place, 26th Avenue, and 21st Avenue, and on San Jose Avenue (State Route
13 82) at Goethe Street and Rice Street; and

14 WHEREAS, As set forth in Public Works Order No. 186981, dated July 24, 2018, the
15 Director of Public Works has recommended that the Board of Supervisors approve the
16 Second Amendment; and

17 WHEREAS, A copy of Public Works Order No. 186981 is on file with the Clerk of the
18 Board of Supervisors in File No. 180812;

19 WHEREAS, A copy of said Second Amendment is on file with the Clerk of the Board of
20 Supervisors in File No. 180812; now, therefore, be it

21 RESOLVED, That the Board of Supervisors accepts and approves the Public Works
22 Director’s recommendations in Public Works Order No. 186981 and the Second Amendment
23 to reflect Caltrans’ authorization of the City to permit construction and use of water, sewer,
24 and AWSS trench facilities compliant with City standards on specified state routes, and
25 allocating liability related to such facilities; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors hereby approves, confirms, and
2 ratifies all actions heretofore taken by the officers of the City with respect to such Second
3 Amendment, and authorizes and directs the Public Works Director to execute an agreement in
4 substantial conformance with the Second Amendment and to approve any additions,
5 amendments, or other modifications to the Second Amendment that the Public Works
6 Director, in consultation with the City Attorney, determines are in the best interest of the City,
7 do not materially increase the obligations or liabilities of the City or materially decrease the
8 public benefits accruing to the City, and are necessary or advisable to effectuate the purpose
9 and intent of this Resolution; and, be it

10 FURTHER RESOLVED, That within 30 days of the full execution of the Second
11 Amendment by all parties, the Public Works Director shall provide the fully executed Second
12 Amendment to the Clerk of the Board for inclusion in the official file.

13 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board
14 to send four (4) certified copies of this Resolution to Caltrans at an address to be provided by
15 the Public Works Director.

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