

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

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 Leandro, hereinafter referred to as “CITY” and collectively referred to as “PARTIES”.

SECTION I

RECITALS

1. WHEREAS, on the 3rd day of June, 1953, a Freeway Maintenance Agreement was executed between STATE and CITY for Route 880, then known as Route 69, between West Avenue (First Avenue Overcrossing) and San Leandro Creek: and
2. WHEREAS, on the 24th day of June, 1963, a Freeway Maintenance Agreement was executed between STATE and CITY for the Marina Blvd (First Avenue Overcrossing): and
3. WHEREAS, CITY desires to install aesthetic elements to the Route 880/Marina Blvd and Route 880/Davis Street Overcrossings under Project EA 3A9214. This project will also add High Occupancy Vehicle (HOV) lane on southbound Route 880 from 0.4 mile south Marina Blvd Overcrossing to 0.3 mile north of Route 112 (Davis Street)/Route 880 Separation; and
4. WHEREAS, recent adjustments to said freeway have now been completed, or are nearing completion, 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
5. WHEREAS, this Agreement, when executed, will supersede Freeway Maintenance Agreement dated June 3rd, 1953 and Freeway Maintenance Agreement dated June 24th, 1963 in their entirety.

NOW THEREFORE IT IS AGREED:

SECTION II

AGREEMENT

6. 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.
7. STATE agrees to continue control and maintenance of those portions adopted as a part of STATE Highway Route (SR) 880 Freeway proper as shown on Exhibit “A”.

8. The PARTIES agree to share the maintenance responsibilities on individual infrastructure items as provided in Exhibit “B” 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.
9. If there is mutual agreement on the change in the maintenance duties between PARTIES, the PARTIES can revise Exhibit “B” by a mutual written execution of Exhibit “A “and “B”.
10. 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.
11. 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.
12. CITY must obtain the necessary Encroachment Permits from STATE’s District 4 Encroachment Permit Office prior to entering STATE right of way to perform CITY maintenance responsibilities. This permit will be issued at no cost to CITY.

13. VEHICULAR AND PEDESTRIAN OVERCROSSINGS

- 13.1. STATE will maintain, at STATE expense, the entire structure of any STATE constructed vehicular and pedestrian overcrossings of SR 880 below the deck surface except as hereinafter provided.
- 13.2. 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, roadstar LED lighting installations, as well as all traffic service facilities (sidewalks, signs, pavement markings, bridge rails, CCTV cameras, tubular metal pipe in hills pattern on the chain link fences, green chain link fences, etc.) that may be required for the benefit or control of traffic using that overcrossing.
- 13.3. CITY will also maintain the butterflies/cherries on the slope paving as shown on Exhibit “B”. CITY shall not enter or leave wingwalls and slope paving areas within freeway limits via the freeway side unless an encroachment permit is obtained from STATE permitting such ingress and egress.

14. VEHICULAR AND PEDESTRIAN UNDERCROSSINGS

- 14.1. STATE will maintain the structure proper of all STATE-constructed vehicular and pedestrian 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.
- 14.2. 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 Transportation Permit Engineer prior to starting work. Upon completion of that work, a 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.

15. COMMUNITY IDENTIFICATION (Marina Blvd and Davis Street Overcrossings)

- 15.1. Corbels with San Leandro logo placed at the Marina Blvd and Davis Street Overcrossings, as shown on Exhibit "B" referred to herein as collectively the "LOGO" will be maintained by CITY. Regularly scheduled maintenance of LOGO must be performed by CITY at no cost to STATE, for projected lifespan. This includes but not limited to graffiti removal and restoration work to maintain the integrity of the approved LOGO. Graffiti removal must conform to current STATE policies and guidelines that require prompt removal of offensive messages and timely removal of all other graffiti. Maintenance practices must protect air and water quality as required by law.
- 15.2. STATE may perform maintenance activities in the area of the LOGO, such as litter pickup and other maintenance that is normally associated with the transportation facility or right-of-way, but will not provide maintenance of the LOGO itself.
- 15.3. LOGO, which in the opinion of STATE becomes a maintenance or operational concern because LOGO is not adequately maintained or deteriorates to an unacceptable condition, will be removed by CITY at CITY's expense. STATE will notify CITY when LOGO requires special attention. In the event the CITY fails to maintain, repair, rehabilitate or remove LOGO in a timely manner, STATE may remove the LOGO at upon (60) days following notice to CITY, and bill the CITY for all costs of removal and restoration of the area.
- 15.4. STATE reserves the right to remove LOGO due to construction, rehabilitation or other necessary activities affecting the transportation facilities without any obligation, compensation to, or approval of CITY.

- 15.5. STATE reserves the right to remove or alter any LOGO that presents an immediate safety hazard to the public without delay or advanced notification to CITY.
16. WALLS AND COLUMNS – CITY is responsible for debris removal, cleaning, and painting to keep CITY's side of any wall structure or column free of debris, dirt, and graffiti.
17. LANDSCAPED AREAS ADJACENT TO CROSSING STRUCTURES – CITY is responsible 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.
18. INTERCHANGE OPERATON - It is STATE’s responsibility to provide efficient operation of freeway interchanges, including ramp connections to local streets and roads.
19. ELECTRICALLY OPERATED TRAFFIC CONTROL DEVICES

The cost of installation, operation, maintenance, repairs, replacement and energy costs of safety lighting, traffic signals or other necessary electrically operated traffic control devices placed at interchanges of SR 880 Freeway and CITY streets and roads and at ramp connections or SR 880 and CITY facilities shall be shared by the PARTIES under a separate Electrical Cost Sharing Agreement.

20. BICYCLE PATHS - Except for bicycle paths constructed as permitted encroachments within STATE’s right of way for which the permittee is solely responsible for all path improvements, STATE will maintain, at STATE expense, all fences, guard railing, drainage facilities, slope and structural adequacy of any bicycle path located and constructed within STATE's right of way. CITY will maintain, at CITY expense, a safe facility for bicycle travel along the entire length of the path by providing sweeping and debris removal when necessary; and all signing and striping and pavement markings required for the direction and operation of that non-motorized facility.
21. LEGAL RELATIONS AND RESPONSIBILITIES

- 21.1. 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.

- 21.2. 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 with the exception of those actions of STATE necessary to cure a noticed default on the part of CITY.

21.3. 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 occurring by reason of anything done or omitted to be done by CITY under this Agreement.

22. PREVAILING WAGES:

22.1. 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.

22.2. 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

23. INSURANCE

23.1. CITY is self-insured. CITY agrees to deliver evidence of self-insured coverage providing general liability insurance, coverage of bodily injury liability and property damage liability, naming the STATE, its officers, agents and employees as the additional insured in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE with a signed copy of this Agreement

23.2. CITY is using Contractor - If the work performed under this Agreement is done by CITY's contractor(s), CITY shall require its contractor(s) to maintain in force, during the term of this agreement, a policy of general liability insurance, including coverage of bodily injury liability and property damage liability, naming the STATE, its officers, agents and employees as the additional insured in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess liability. 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.

24. TERMINATION - This Agreement may be terminated by timely mutual written consent by PARTIES or by STATE for cause or convenience. CITY's failure to comply with the provisions of this Agreement may be grounds for a Notice of Termination by STATE.

25. 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 as described in Article 24 above

PARTIES are empowered by Streets and Highways Code Section 114 and 130 to enter into this Agreement and have delegated to the undersigned the authority to execute this Agreement on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this Agreement.

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

THE CITY OF SAN LEANDRO

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
Mayor

TOKS OMISHAKIN
Director of Transportation

ATTEST:

By: _____
CITY Clerk

By: _____
DAVID AMBUEHL Date
Deputy District Director
Maintenance District 4

As to Form and Procedure:

By: _____
CITY Attorney

By: _____
Attorney
Department of Transportation

EXHIBIT "A"

Project Location

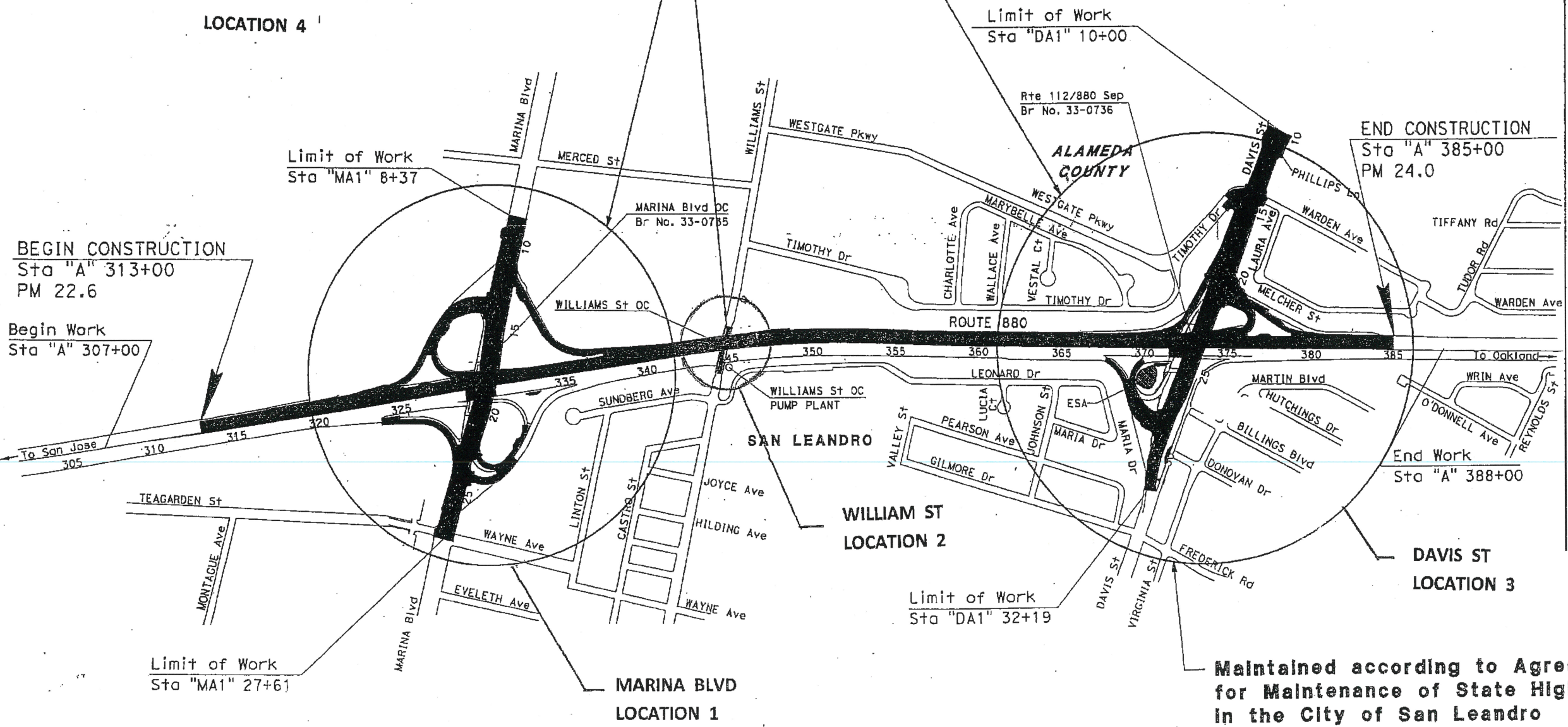
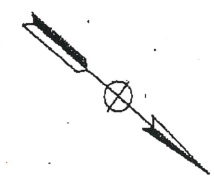
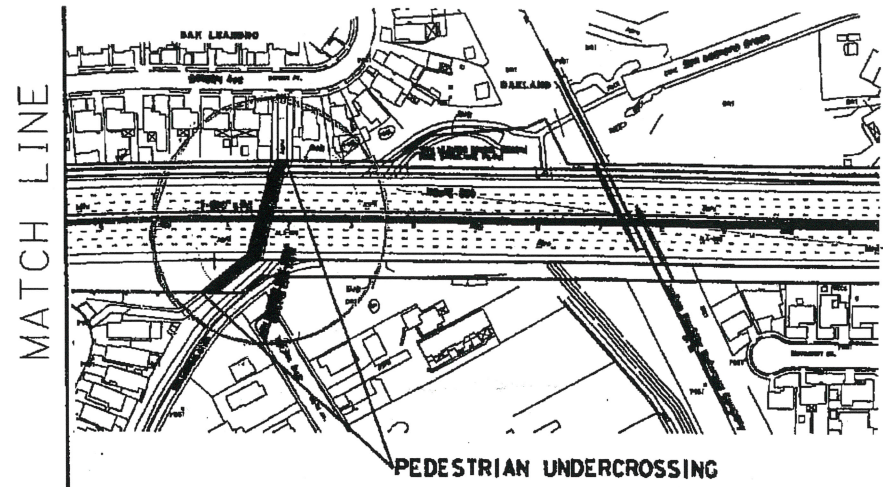
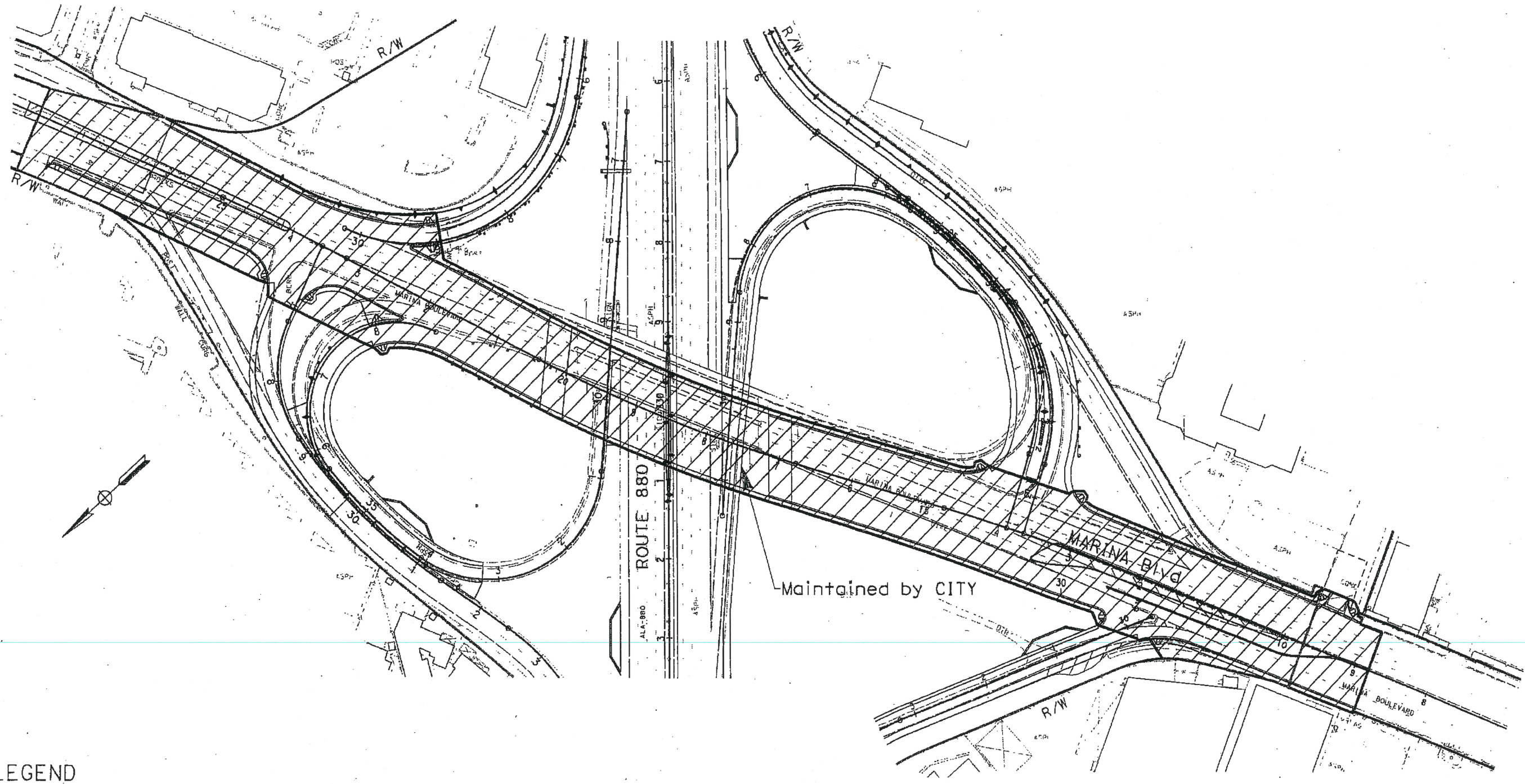


EXHIBIT "A"



LEGEND

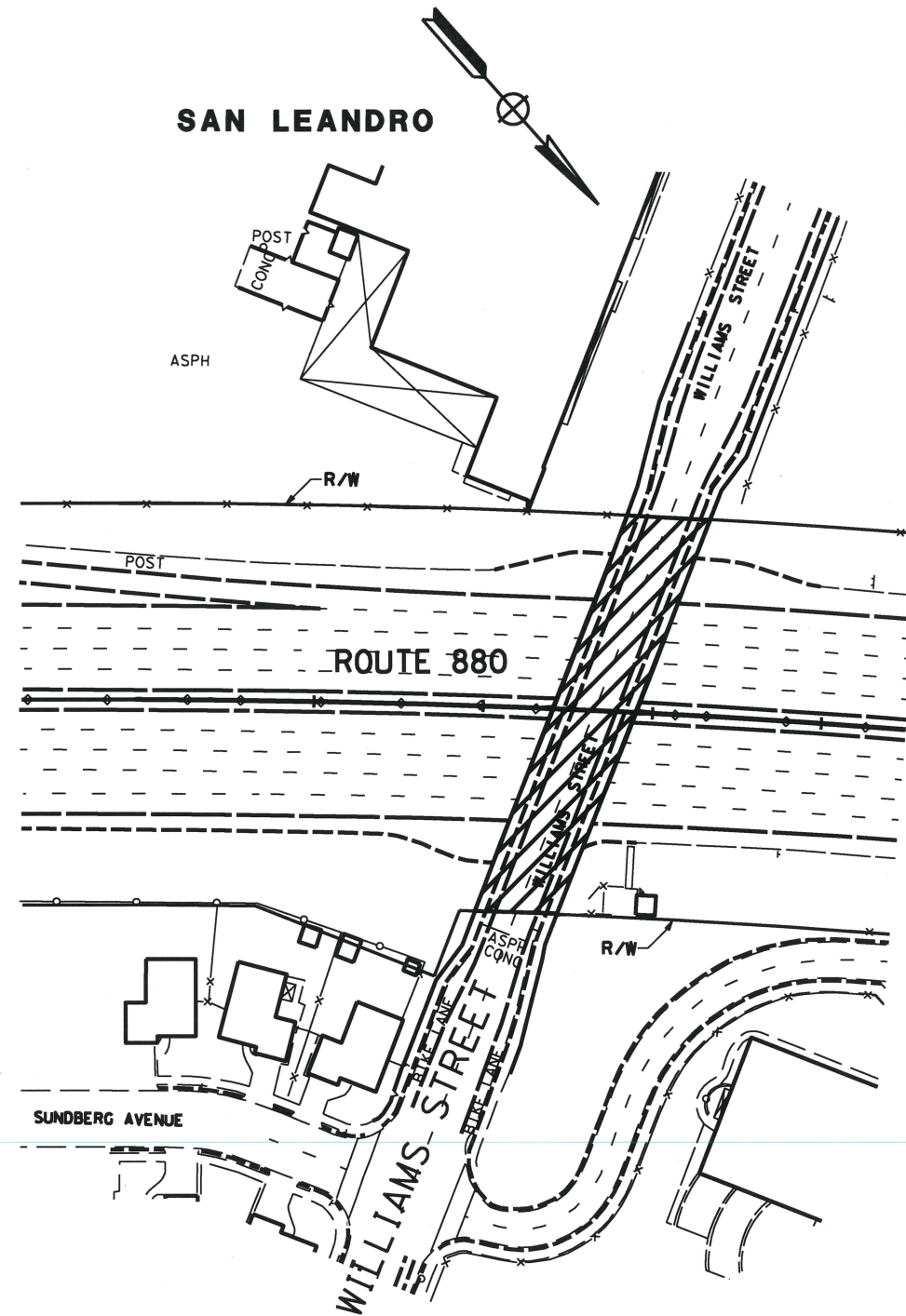
*,  Maintained by CITY

LOCATION 1

MAINTENANCE AGREEMENT WITH THE CITY OF SAN LEANDRO
04-ALA-880 POST MILES 22.6/24.2

Sheet 2 of 4
Date: 6/2015

EXHIBIT "A"



LEGEND

✱  MAINTAINED BY CITY

LOCATION 2

MAINTENANCE AGREEMENT WITH THE CITY OF SAN LEANDRO

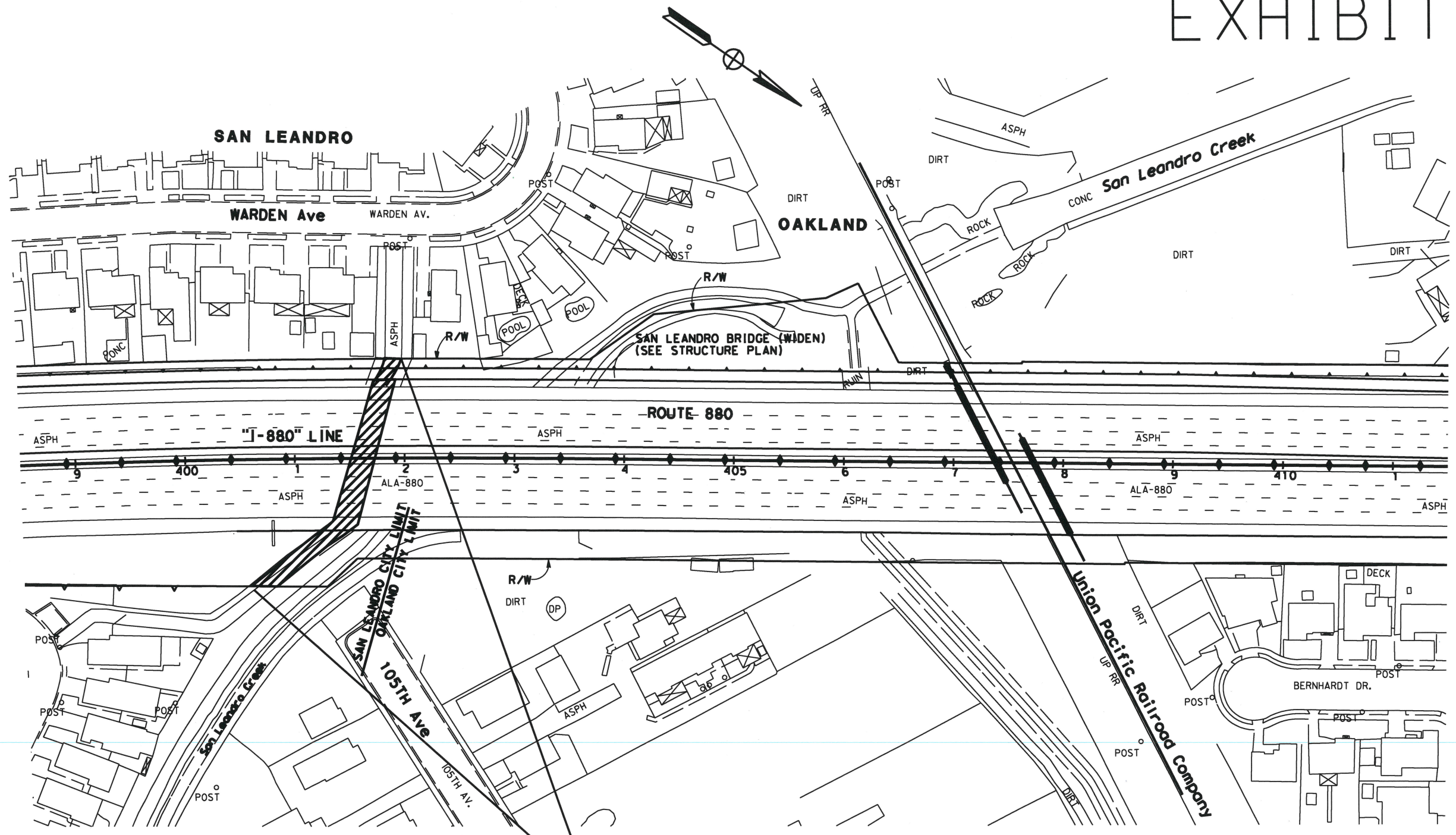
Sheet 3 of 4

04 - ALA - 880

POST MILES 22.6/24.2

Date: 6/2015

EXHIBIT "A"



LEGEND
✱  MAINTAINED BY CITY

PEDESTRIAN UNDERCROSSING

LOCATION 4

MAINTENANCE AGREEMENT WITH THE CITY OF SAN LEANDRO

Sheet 4 of 4

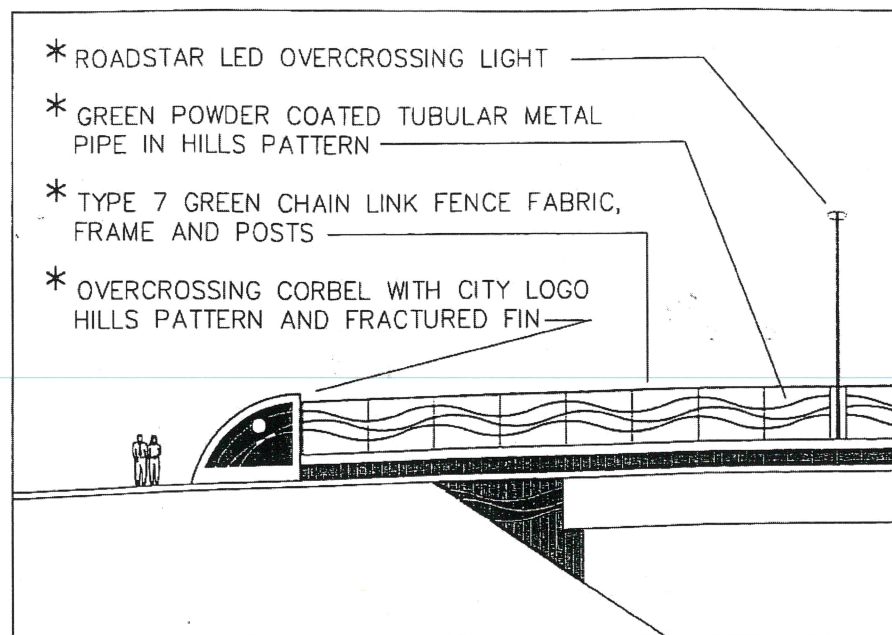
04 - ALA - 880

POST MILES 22.6/24.2

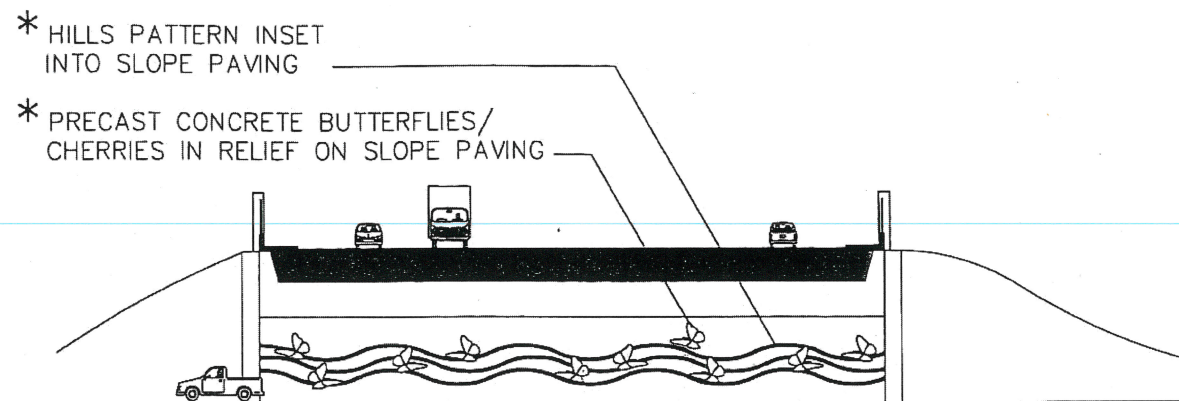
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ROUTE 880 / MARINA BOULEVARD

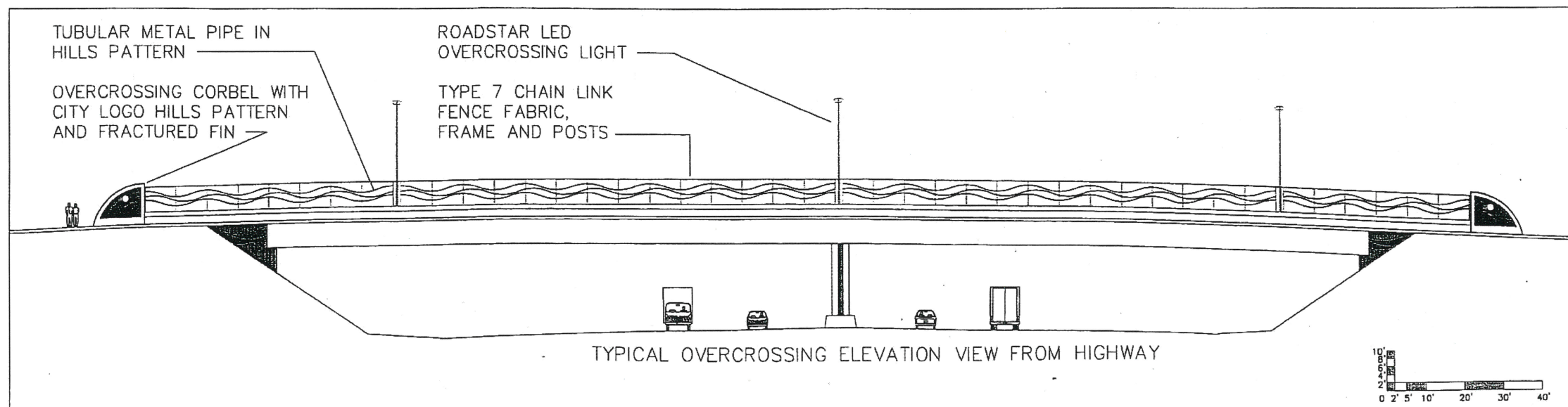
EXHIBIT "B"



ROUTE 880 / DAVIS STREET



2:1 SLOPE PAVING PATTERN UNDER MARINA BOULEVARD AND DAVIS STREET OVERCROSSINGS



LEGEND

*  Maintained by CITY

LOCATION 1
LOCATION 3

MAINTENANCE AGREEMENT WITH THE CITY OF SAN LEANDRO

04-ALA-880

POST MILES 22.6/24.2

Sheet 1 of 1

Date: 06/2015