

## LANDSCAPE MAINTENANCE AGREEMENT WITH THE CITY OF HUNTINGTON BEACH

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 \_\_\_\_\_; hereinafter referred to as "CITY" and collectively referred to as "PARTIES."

1. The PARTIES hereto mutually desire to identify the maintenance responsibilities of CITY for newly constructed or revised improvements within STATE's right of way by Encroachment Permit Number(s) \_\_\_\_\_TBA\_\_\_\_\_.
2. This Agreement addresses CITY's responsibility for the concrete driveway with curb and gutter, sidewalk, landscaping, underground sewer pipe and underground main waterpipe. (collectively the "LANDSCAPING") placed within State Highway right of way on State Route 39, as shown on Exhibit A, attached to and made a part of this Agreement.
3. Maintenance responsibilities that include, but are not limited to, inspection, providing emergency repair, replacement, and maintenance, (collectively hereinafter "MAINTAIN/MAINTENANCE") of LANDSCAPING as shown on said Exhibit "A."
4. 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.
5. When a planned future improvement is constructed and/or a minor revision has been effected with STATE's consent or initiation within the limits of the STATE's right of way herein described which affects PARTIES' division of maintenance responsibility as described herein, PARTIES will agree upon and execute a new dated and revised Exhibit "A" which will be made a part hereof and will thereafter supersede the attached original Exhibit "A" to thereafter become a part of this Agreement.
  - 5.1. The new exhibit can be executed only upon written consent of the PARTIES hereto acting by and through their authorized representatives. No formal amendment to this Agreement will be required.
6. CITY agrees, at CITY's expense, to do the following:
  - 6.1. CITY will MAINTAIN or have authorized licensed contractor with appropriate class of license in the State of California, to MAINTAIN LANDSCAPING conforming to those plans and specifications (PS&E) pre-approved by STATE.

CITY will have in place a valid necessary encroachment permits prior to the start of any work within STATE'S right of way.

- 6.1.1. An Encroachment Permit rider may be required for any changes to the scope of work allowed by this Agreement prior to the start of any work within STATE's right of way
- 6.2. CITY shall ensure that LANDSCAPED areas designated on Exhibit "A" are provided with adequate scheduled routine MAINTENANCE necessary to MAINTAIN a neat and attractive appearance including providing for water, and fertilizer necessary to sustain healthy plant growth during the entire life of this Agreement.
  - 6.2.1. To prune shrubs, tree plantings, and trees to control extraneous growth and ensure STATE standard lines of sight to signs and corner sight distances are always maintained for the safety of the public.
  - 6.2.2. To replace unhealthy or dead plantings when observed or within 30 days when notified in writing by STATE that plant replacement is required.
  - 6.2.3. To expeditiously MAINTAIN, replace, repair or remove from service any components of LANDSCAPING system that has become unsafe or unsightly.
- 6.3. To furnish electricity for irrigation system controls, and lighting system controls for all street lighting systems installed by CITY.
- 6.4. To MAINTAIN, repair and operate the irrigation systems in a manner that prevents water from flooding or spraying onto STATE highway, spraying parked and moving automobiles, spraying pedestrians on public sidewalks/bike paths, or leaving surface water that becomes a hazard to vehicular or pedestrian/bicyclist travel.
- 6.5. To control weeds at a level acceptable to the STATE. Any weed control performed by chemical weed sprays (herbicides) shall comply with all laws, rules, and regulations established by the California Department of Food and Agriculture. All chemical spray operations shall be reported quarterly (Form LA17) to the STATE to: District 12 Maintenance at 1750 E. 4<sup>th</sup> Street Suite 100 Santa Ana, CA 92705.
- 6.6. CITY shall ensure LANDSCAPING within the Agreement limits provide an acceptable walking and riding surface and will provide for the repair and

removal of dirt, debris, graffiti, weeds, and any deleterious item or material on or about the LANDSCAPING in an expeditious manner.

6.7. To MAINTAIN all parking or use restrictions signs encompassed within the area of the LANDSCAPING.

6.8. To remove LANDSCAPING and appurtenances and restore STATE owned areas to a safe and attractive condition acceptable to STATE in the event this Agreement is terminated as set forth herein.

7. STATE may provide CITY with timely written notice of unsatisfactory conditions that require correction by the CITY. However, the non-receipt of notice does not excuse CITY from maintenance responsibilities assumed under this Agreement.

8. STATE shall issue encroachment permits to CITY at no cost to it.

9. \*STATE to remove Persons Experiencing Homelessness (PEH) and any structures, personal property, debris, and/or other items related to the encampment from the Location(s) shown in Exhibit A, subject to STATE's Encampment Removal policy, MPD 1001 R1 and applicable State and Federal law.

Nothing in this Agreement grants or waives the right of California Highway Patrol (CHP) and other law enforcement agencies having jurisdiction over the Locations shown in Exhibit A.

10. LOCAL AGENCY's graffiti removal shall be limited to removal of text only in accordance with Streets and Highway Code Section 96. Any graffiti that in any way resembles a mural, artwork, paintings, or other similar elements may not be removed. LOCAL AGENCY shall discuss such possible art with STATE's District 12 Transportation Art Coordinator before conducting any graffiti removal or remediation.

#### 11. LEGAL RELATIONS AND RESPONSIBILITIES:

11.1. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not party to this Agreement, or affect the legal liability of either PARTY to this Agreement by imposing any standard of care respecting the design, construction and maintenance of these STATE highway improvements or CITY facilities different from the standard of care imposed by law.

11.2. If during the term of this Agreement, CITY should cease to MAINTAIN the LANDSCAPING to the satisfaction of STATE as provided by this Agreement, STATE

may either undertake to perform that MAINTENANCE on behalf of CITY at CITY's expense or direct CITY to remove or itself remove LANDSCAPING at CITY's sole expense and restore STATE's right of way to its prior or a safe operable condition. CITY hereby agrees to pay said STATE expenses, within thirty (30) days of receipt of billing by STATE. However, prior to STATE performing any MAINTENANCE or removing LANDSCAPING, STATE will provide written notice to CITY to cure the default and CITY will have thirty (30) days within which to affect that cure.

11.3. 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 arising under this Agreement. It is understood and agreed that STATE shall fully defend, indemnify and save harmless CITY 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 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.

11.4. 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 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.

11.5. PREVAILING WAGES:

11.5.1. Labor Code Compliance- If the work performed under this Agreement is done under contract and falls within the Labor Code section 1720(a)(1) definition of a "public works" 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 works. Work performed by CITY'S own forces is exempt from the Labor Code's Prevailing Wage requirements.

11.5.2. Requirements in Subcontracts - CITY shall require its contractors to include prevailing wage requirements in all subcontracts when the work to be performed by the subcontractor under this Agreement is a "public works" 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.

12.

12.1. SELF-INSURED - 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 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 certification of self-insurance letter ("Letter of Self-Insurance"), satisfactory to STATE, certifying that CITY meets the coverage requirements of this section. This Letter of Self-Insurance shall also identify the LANDSCAPING location as depicted in EXHIBIT A. CITY shall deliver to STATE the Letter of Self-Insurance with a signed copy of this AGREEMENT. A copy of the executed Letter of Self-Insurance shall be attached hereto and incorporate as Exhibit B.

12.2. SELF-INSURED 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 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.

13. 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.

14. 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 & 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.

THE CITY OF HUNTINGTON BEACH, a      STATE OF CALIFORNIA  
Municipal Corporation of the State of      DEPARTMENT OF TRANSPORTATION  
California

\_\_\_\_\_  
Mayor

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

By: \_\_\_\_\_  
Andrew Chuah  
Deputy District Director  
Maintenance District 12

INITIATED AND APPROVED:

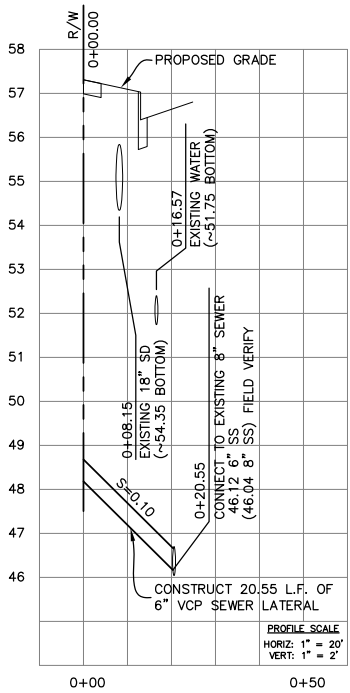
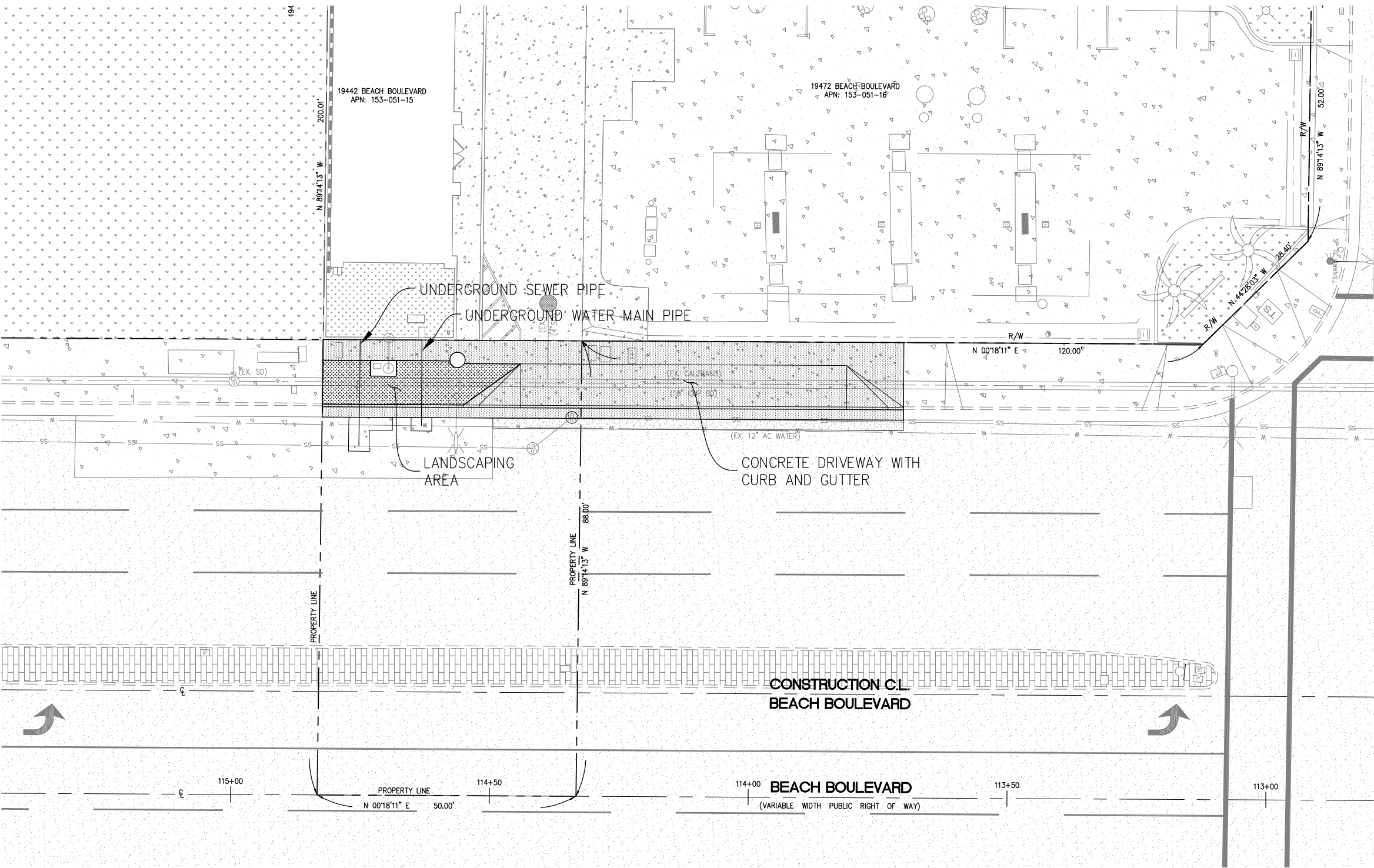
  
\_\_\_\_\_  
Director of Public Works  
REVIEWED AND APPROVED:

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

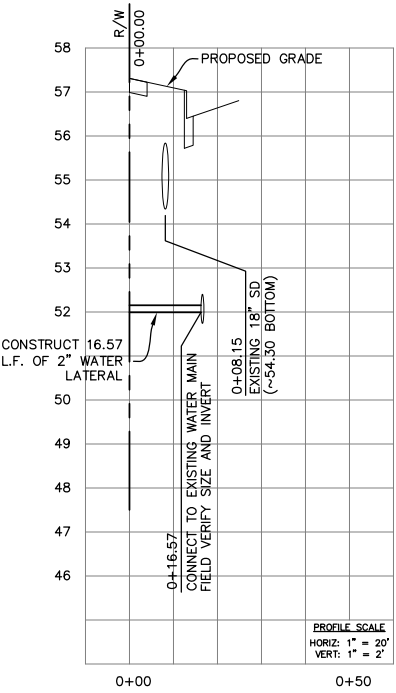
APPROVED AS TO FORM:

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

# EXHIBIT 'A'



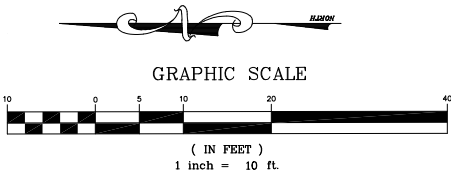
SEWER LATERAL STA.: 114+75.58



WATER LATERAL STA.: 114+63.50

## LEGEND:

- LANDSCAPING TO BE MAINTAINED BY CITY
- LANDSCAPING TO BE MAINTAINED BY CITY



DIST	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET NO.:	TOTAL SHEETS
12	Orange	SR-39	ORA 2.172	1	1
<b>MAINTENANCE EXHIBIT</b>					
SITE ADDRESS: G&M OIL COMPANY FACILITY No.: 70 19442 BEACH BOULEVARD HUNTINGTON BEACH, CA 92648					
SCALE: 1" = 10'-0"		DRAWN BY: K.N.		CHECKED BY: M.P.	
<b>CITY OF HUNTINGTON BEACH</b>					





# CITY OF HUNTINGTON BEACH

2000 MAIN STREET

CALIFORNIA 92648

## HUMAN RESOURCES DEPARTMENT

### Exhibit B

CALTRANS DISTRICT 12  
1750 E. 4<sup>TH</sup> STREET, SUITE 100  
SANTA ANA, CA 92705

December 17, 2024

ATTN: Sarah Rodriguez

RE: Statement of Self Insurance for CITY OF HUNTINGTON BEACH Related to Project Specific Maintenance Agreement with State of California Department of Transportation ("STATE") for the maintenance concrete driveway with curb and gutter, sidewalk, landscaping, underground sewer pipe and underground main waterpipe at 19442 Beach Blvd.

Dear Sarah Rodriguez

The purpose of this letter is to certify that the CITY is self-insured and self-funded covering third-party claims arising out of its general operations (for example, commercial general liability and automobile liability insurance). Further the CITY is self-insured covering workers' compensation claims and has received the consent of the State Department of Industrial Relations to do so.

Each fiscal year, as a part of its budgetary process, the CITY appropriates funds specifically to satisfy valid third-party claims and workers' compensation claims, which may be brought against the CITY.

The CITY certifies its self-insured, general liability coverage for bodily injury liability and property damage liability, meets the required coverage amounts in section 12.1 (INSURANCE) of the Maintenance Agreement, specifically general liability insurance, coverage of bodily injury liability and property damage liability in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. The CITY further represents that regarding any claims made in connection with the Maintenance Agreement by the STATE, the STATE will be first-in-line regarding the reserved, self-insured amounts.

If you need any additional information regarding this letter, please direct those inquiries through my office.

Sincerely,

DeAnna Soria  
Risk Manager