

**RESOLUTION NO. 2003-199**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
AUTHORIZING THE MAYOR TO EXECUTE THE LANDSCAPE MAINTENANCE  
AGREEMENT AT LAGUNA/BOND AND STATE ROUTE 99 INTERCHANGE**

**WHEREAS**, the City of Elk Grove plans to provide landscape improvements to the Laguna/Bond and State Route 99 Interchange to enhance and improve the appearance of the interchange as well as the surrounding areas; and

**WHEREAS**, Orsee Design Associates have submit landscape improvement plans for the area to the State of California for review; and

**WHEREAS**, the State of California requires a 20-year maintenance agreement with the City for the areas proposed for landscape improvements; and

**WHEREAS**, the State of California will approve landscape plans and issue a permit to construct after receipt of an executed Landscape Maintenance Agreement between the State of California and the City of Elk Grove.

**NOW THEREFORE BE IT RESOLVED AND ORDERED**, that the City Council of the City of Elk Grove authorizes the Mayor to execute the Landscape Maintenance Agreement at Laguna/Bond and State Route 99 Interchange with the State of California.

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove on this 15<sup>th</sup> day of October 2003.

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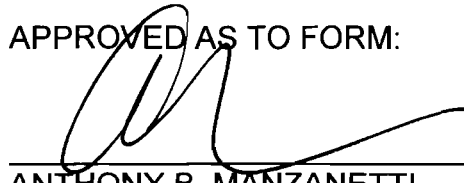
SOPHIA SCHERMAN, MAYOR of the  
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI,  
CITY ATTORNEY

FREEWAY MAINTENANCE AGREEMENT

For

Laguna-Bond Road/SR-99 Interchange

THIS AGREEMENT is made and entered into effective in duplicate this 15<sup>th</sup>, day of Oct., 2003, by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE," and the CITY of Elk Grove hereinafter referred to as "CITY,"

WHEREAS, the parties desire to provide for CITY to maintain a landscaped area within State Highway right of way at the SR-99/Laguna-Bond Road Interchange as shown on Exhibit "A".

WHEREAS, said freeway Interchange landscaping conforming to the prior agreements has now been completed, or is nearing completion, and the parties hereto mutually desire to clarify the division of Maintenance responsibility as to separation structures, CITY streets or portions thereof, and landscaped areas within said freeway limits.

NOW THEREFORE, IT IS AGREED:

1. This Agreement supplements, but does not otherwise modify or displace, the prior Freeway Maintenance Agreement executed on June 4, 2003, with respect to the Freeway Section modified by this project as shown in the attached Exhibit "A".

2. When a planned future improvement has been constructed and/or a minor revision has been effected within the limits of the freeway herein described which affects the parties division of Maintenance, STATE will provide a new dated and revised Exhibit "A", which, when executed by CITY, will supersede the attached current original Exhibit "A" and will become part of this Agreement.

3. In consideration of the mutual covenants and promises herein contained, CITY agrees:

- A. To assume all responsibility for maintenance and plant replacement for twenty (20) years of the area identified in Exhibit A.
- B To have STATE perform final inspection of the installed landscaping prior to CITY beginning plant maintenance.
- C To furnish water and fertilizer necessary to sustain healthy growth.
- D To control weeds at a level acceptable to STATE.
- E To keep grass and lawn areas mowed and trimmed to eye-pleasing appearance.

- F To use only those pesticides and fertilizers approved by STATE and in a manner consistent with label and legal restrictions.
- G To replace unhealthy or dead plantings as they are observed or within thirty (30) days when notified by STATE that plant replacement is required.
- H To keep the entire landscaped area policed and free of litter and deleterious material.
- I To prune shrubs and tree plantings in a manner consistent for controlling extraneous growth.
- J To maintain and operate irrigation system in a manner that prevents water from flooding onto the State Highway travel lanes or shoulders.
- K To allow random inspection by a STATE Landscape Specialist for that area.
- L If for any reason CITY is unable to maintain the described area in a manner satisfactory to STATE, to reimburse STATE, on presentation of a bill, for all costs incurred by STATE forces or a Contractor for restoring and maintaining that facility.
- M All work by CITY will be done at no cost to STATE.
- N To remove landscaping and restore area to its original condition prior to the landscape planting or to a condition acceptable to STATE representatives in the event this Agreement is terminated under the terms set forth in Section 5.

4. LEGAL RELATIONS AND RESPONSIBILITIES:

- A Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or affect the legal liability of either party to the Agreement by imposing any standard of care with respect to the maintenance or State highways or CITY property different from the standard of care imposed by law; further, nothing in this Agreement shall be construed as a waiver of any available defense or immunity available to STATE or CITY.
- B It is understood and agreed that neither STATE nor any officer or employee thereof is responsible for any 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 delegated to CITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall defend, indemnify and save harmless STATE, its officers and employees from all claims, suits or actions of every name, kind and description

brought for or on account of injuries to or death of any person or damage to property resulting from anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.

- C It is understood and agreed that neither CITY nor any officer or employee thereof is responsible for any 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 delegated to STATE under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, STATE shall defend, indemnify and save harmless CITY, its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injuries to or death of any person or damage to property resulting from anything done or omitted to be done by STATE under or in connection with any work, authority or jurisdiction delegated to State under this Agreement.

## 5. TERM OF AGREEMENT

This Agreement shall be effective upon the date of its execution by CITY and STATE and shall remain in full force and effect for a period of twenty (20) years from the effective date and shall terminate automatically at the end of that period unless it is renewed in writing at least two weeks before the date set for termination. This Agreement may also be terminated by either party upon sixty (60) days' notice to the other party. Failure by CITY to comply with provisions set forth in Section 3 would be grounds for Notice of Termination by STATE. It being understood and agreed, however, that the execution of this Freeway Maintenance Agreement shall not affect any preexisting obligations of CITY to maintain designated areas pursuant to prior written notice from STATE that work in such areas, which CITY has agreed to maintain pursuant to the terms of other Agreements, has been completed.

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

STATE OF CALIFORNIA  
Department Of Transportation

CITY OF ELK GROVE

JEFF MORALES  
Director of Transportation

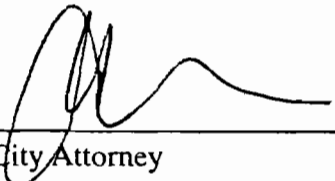
By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
District Director

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

Approved as to form and procedure:

\_\_\_\_\_  
Attorney  
Department of Transportation

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



**CERTIFICATION  
ELK GROVE CITY COUNCIL RESOLUTION NO. 2003-199**

STATE OF CALIFORNIA        )  
COUNTY OF SACRAMENTO    )       ss  
CITY OF ELK GROVE         )

**I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on the 15<sup>th</sup> day of October 2003 by the following vote:**

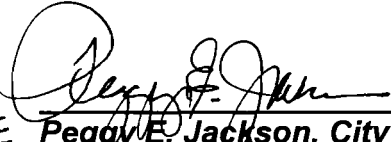
**AYES 3:       COUNCILMEMBERS: Soares, Briggs, Cooper**

**NOES 0:       COUNCILMEMBERS:**

**ABSTAIN 0: COUNCILMEMBERS:**

**ABSENT 2: COUNCILMEMBERS: Scherman, Leary**



  
\_\_\_\_\_  
**Peggy E. Jackson, City Clerk  
City of Elk Grove, California**