

**GMB 1100**  
**Maintenance of State Interstate Limited Access**  
**Facilities in the City of Fife**

This Agreement is made and entered into between the Washington State Department of Transportation, hereinafter the "State," and the City of Fife, 5411 23<sup>rd</sup> Street, Fife, WA 98424, hereinafter the "City," collectively referred to as the "Parties" and individually as "Party."

WHEREAS, the City is developing a project to add capacity to the Interstate 5 (I-5) Port of Tacoma Road interchange, which will be built in phases, and

WHEREAS, the State owns and operates I-5, a limited access facility, within the City limits, and

WHEREAS, pursuant to RCW 47.52.090, WAC 468-18-050 and the "City Streets as Part of State Highways" Guidelines (Guidelines), dated April 30, 1997 as amended April 2, 2013, the City has certain maintenance and preservation responsibilities for City streets within a limited access facility, and

WHEREAS, the Parties desire to have a common, consistent and clear understanding as to which elements are to be maintained and preserved by each Party,

NOW, THEREFORE, pursuant to RCW 47.52.090, WAC 468-18-050 and Guidelines, the above recitals that are incorporated herein as if fully set forth below, and in consideration of the terms, conditions, covenants, and performances contained herein, and the attached Exhibit A that is incorporated and made a part hereof,

IT IS MUTUALLY AGREED AS FOLLOWS:

**1.0 OTHER MAINTENANCE AGREEMENTS**

1.1 All agreements between the State and the City executed prior to January 1, 2017, if any, concerning the maintenance of I-5 within the limits of the City are hereby terminated.

1.2 All provisions within any turn back agreement between the State and the City executed prior to January 1, 2017 concerning the maintenance of I-5 within the limits of the City are hereby superseded.

**2.0 MAINTENANCE AND PRESERVATION RESPONSIBILITIES**

2.1 "Maintenance" means routine preventative service and repair of an element of the limited access facility.

2.2 "Preservation" means the rehabilitation or replacement at the end of an element's useful lifespan, after deterioration or damage, when the element can no longer be cost-effectively repaired or maintained.

2.3 The City agrees to maintain and preserve City-owned signals and provide power and communications to said signals at the following intersections adjacent to I-5 at City cost:

Pacific Highway and Port of Tacoma Road  
Pacific Highway and 34<sup>th</sup> Ave. East  
20<sup>th</sup> St. East and Port of Tacoma Road  
20<sup>th</sup> St. East and 34<sup>th</sup> Ave. East  
20<sup>th</sup> St. East and 54<sup>th</sup> Ave. East

2.4 In order to maximize the efficiency of the signals in the vicinity of I-5, the State agrees to control signal operations at the following City intersections adjacent to I-5 at State cost:

Pacific Highway and Port of Tacoma Road  
Pacific Highway and 34<sup>th</sup> Ave. East  
20<sup>th</sup> St. East and Port of Tacoma Road  
20<sup>th</sup> St. East and 34<sup>th</sup> Ave. East  
20<sup>th</sup> St. East and 54<sup>th</sup> Ave. East

2.5 In accordance with the Guidelines, the State acknowledges its responsibility to maintain, control operations, and provide power and communications to signals on other State highways within the City limits.

2.6 The City agrees to maintain and preserve at City expense the cross street elements upon I-5 within City limits that are listed and described in Exhibit A, Tables 1 and 2.

2.7 The respective obligations of the State and the City relative to the maintenance and preservation of bridges on I-5 within City limits shall be as set forth in Table 3 of the Guidelines. If the State and the Association of Washington Cities update the Guidelines, the Parties agree that the updated Guidelines will apply to the maintenance and preservation of bridges.

2.8 In the event a condition arises associated with the City's maintenance and preservation responsibilities described in Section 2 that the State deems may endanger the state highway, pedestrians, or the traveling public, the State will immediately notify the City and the City agrees to immediately correct the condition. If the City does not immediately correct the condition the State reserves the right to perform the work, and the CITY agrees to reimburse the State's costs for the work.

In the event the State finds it necessary to perform work under this Agreement under Sections 2, the City agrees to reimburse the State for 100% of its actual direct salary and direct non-salary costs. The State shall provide a detailed invoice to the City for State-work performed. The City agrees to make payment to the State within thirty (30) calendar days after the City has received a detailed invoice from the State. The City agrees that if it fails to make payment within the

prescribed time defined above, the State is authorized to withhold and expend such costs from funds credited to or to be credited to the City in the motor vehicle fund until such costs are fully recovered including interest on outstanding balances in accordance with RCW 47.24.050

### 3.0 AGREEMENT REPRESENTATIVES

3.1 The Parties have designated the following Representatives for Maintenance communications under this Agreement.

<u>CITY:</u>	<u>STATE:</u>
City of Fife	WSDOT
Kurt Hospenthal	Jeff Hastings
Public Works Superintendent	Tacoma Maintenance Superintendent
3725 Pacific Highway E.	11211 41 <sup>st</sup> Ave SW
Fife, WA 98424	Lakewood, WA 98499-4653
(253) 922-9315	(253) 983-7550
KHospenthal@cityoffife.org	HastinJ@wsdot.wa.gov

3.2 The Parties agree to meet yearly to discuss maintenance issues, including the need to make adjustments to this Agreement.

### 4.0 RIGHT OF ENTRY

4.1 The State hereby grants to the City and its authorized agents, contractors, subcontractors, and employees, a right of entry upon state-owned limited access right-of-way within or near City limits for the purpose of performing maintenance and preservation work as described in this Agreement.

4.2 The City agrees that it's authorized agents, contractors, subcontractors, and employees shall not cross limited access lines to perform maintenance and preservation work as described in this Agreement.

4.3 The City hereby grants to the State and its authorized agents, contractors, subcontractors, and employees, a right of entry upon all land in which the City has an interest for the purpose of performing maintenance and preservation work as described in this Agreement.

### 5.0 AMENDMENT

5.1 This Agreement may be amended by the mutual agreement of the Parties. Such amendments or modifications shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

## 6.0 TERMINATION

6.1 Neither the State nor the City may terminate this Agreement without the concurrence of the other Party. Termination shall be in writing and signed by both Parties.

## 7.0 INDEPENDENT CONTRACTOR

7.1 The City shall be deemed an independent contractor for all purposes, and the employees of the City or any of its contractors, subcontractors, consultants, and the employees thereof, shall not in any manner be deemed to be employees of the State.

## 8.0 INDEMNITY

8.1 To the extent authorized by law, the Parties shall protect, defend, indemnify, and hold harmless each other and their employees and authorized agents, while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from, the maintenance or preservation to be performed pursuant to the provisions of this Agreement. The Parties shall not be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of the other Party; provided that, if such claims, suits, or actions result from the concurrent negligence of (a) the City, its employees or authorized agents, and (b) the State, its employees or authorized agents, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of each Party's, its employees', and/or authorized agents' own negligence.

8.2 The Parties agree that their obligations under this section extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents while performing maintenance or preservation under this agreement. For this purpose, the Parties, by mutual negotiation, hereby waive any immunity that would otherwise be available to it against such claims under the industrial insurance provisions in 51.12 RCW 2.

8.3 This indemnification and waiver shall survive the termination of this Agreement.

## 9.0 DISPUTES

9.1 In the event that a dispute arises under this Agreement, it shall be resolved as follows: The State and the City shall each appoint a member to a disputes board; these two members shall select a third member not affiliated with either agency. The three-member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. An attempt at such dispute resolution in compliance with the aforesaid process shall be a prerequisite to the filing of any litigation concerning the dispute. The Parties shall equally share in the cost of the third disputes board member; however, each Party shall be responsible for its own costs and fees.

10.0 VENUE

10.1 In the event that a Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties hereto agree that any such action or proceedings shall be brought in Thurston County Superior Court. Further, the Parties agree that each will be solely responsible for payment of their own attorneys' fees, witness fees, and costs.


11.0 AUDITS/RECORDS


11.1 All records in support of all costs incurred with respect to maintenance or preservation by State, that is to be reimbursed by the City, shall be maintained by the State for a period of six (6) years. The State of Washington shall have full access to and the right to examine said records, during normal business hours, and as often as it deems necessary. The State agrees that said maintenance or preservation performed herein is subject to audit by either or both Parties and/or their designated representatives, and/or the federal/state government.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Party's date last signed below.

CITY OF FIFE:

WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION:

By:   
~~Subir Mukerjee~~ Hyun Kim  
City Manager


By:   
Troy Cowan, Assistant Region Administrator for  
Maintenance and Operations

Date: 9/26/2017

Date: 10-16-2017

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By:   
Printed: Greg Amann  
Assistant City Attorney

By:   
Mark Schumock  
Assistant Attorney General

Date: 9/26/17

Date: 8/22/17

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**Exhibit A**

**Table 1 – City Cross Street Maintenance and Preservation Responsibilities Within I-5 State-owned Right of Way**

<b>Maintenance/Preservation Responsibility</b>	<b>Clarifying Notes</b>
Roadway Structure	Includes Shoulders. 54 <sup>th</sup> not included as the north end of 54 <sup>th</sup> is SR 99.
Sidewalks or Shared-use path/trail	Cleaning, sweeping, and correcting joint displacements.
Truncated Domes	
Curb and Gutter	Not on bridges
Median Islands, Median Curbing, and Channelization Islands	Cleaning, sweeping, repair. Ramp channelization islands not included if the island surface is plain asphalt or concrete (not stamped or patterned).
Vegetated Islands	
Catch Basins and Grate Inlets	Vactor structure and 1 <sup>st</sup> run of pipe. Replace lids, seal and adjust as needed, repair associated pavement failures. NPDES compliance.
Pavement Markings	Striping and plastic or durable markings. 54 <sup>th</sup> not included State will maintain crosswalks and stop bars across ramps.
Snow and ice control	Roadway and sidewalks or shared-use paths. Includes removal of sand. 54 <sup>th</sup> roadway not included north of the SB ramp terminal as the north end of 54 <sup>th</sup> is SR 99..
Vegetation Management	Prevent vegetation encroachment on shoulders, lanes, sidewalks/trails, sight distance triangles, sign visibility, and roadway hardware (guardrail, J boxes, etc.)  Provide 8' head clearance over sidewalks/trails.  Edge of pavement grading to maintain drainage off of pavement.  Control noxious weeds.  Landscaping of vegetated strips, round-a-bout centers, islands, raised beds, and landscaping within 10' of the cross street roadway or sidewalk, whichever is on the outside. Includes any other landscaped areas listed in Table 3, if any. City standard will apply to the maintenance level of service for landscaping.  Landscaping irrigation.

**Table 1 – City Cross Street Maintenance and Preservation Responsibilities Within I-5 State-owned Right of Way (Continued)**

<b>Maintenance/Preservation Responsibility</b>	<b>Clarifying Notes</b>
Multi-post Signs over 20 square feet.	Wash, remove graffiti, and report poor retro-reflectivity or damage to the STATE.
Other Signs, Guideposts and Object Markers	Wash as needed, remove graffiti, replace when retro-reflectivity requires, and repair 3 <sup>rd</sup> party damage.  Does not include sign bridges, signs hung from State bridges, ramp entrance, ramp stop & do not enter signs and signs attached to the same posts.
Illumination	Party that pays for power maintains.
Sweeping and Cleaning	Including sidewalks and pedestrian pathways on/thru islands.
Litter Control	Cross street section including sidewalk + 10 feet on each side. Includes dead animal removal.
Graffiti Removal	Graffiti not on structures and reachable without lifts or hoists.
City Trunk Lines	Replace manhole lids, seal and adjust as needed, repair associated pavement failures.
City Utilities	Utility permit requirements control.
Guardrail / Barrier	
Bridges	In accordance with City Streets as Part of State Highways (Guidelines), Table 3.

**Table 2 – Site Specific Variances**

<b>Location</b>	<b>Maintenance/Preservation Responsibility</b>	<b>Variance</b>
None		