

**AGREEMENT FOR MAINTENANCE OF THE RICHMOND PARKWAY
TRANSIT CENTER PARK AND RIDE LOT IN THE CITY OF RICHMOND**

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 Alameda-Contra Costa Transit District; hereinafter referred to as “DISTRICT” and collectively referred to as “PARTIES”.

SECTION I

A. RECITALS

1. WHEREAS, STATE owns Richmond Parkway Transit Center Park and Ride Lot Facility, hereinafter referred to as “FACILITY”, located at State Highway Route 80 (SR 80) and Richmond Parkway in the City of Richmond in Contra Costa County as shown on Exhibit A, attached hereto and made a part of this Agreement, and
2. WHEREAS, DISTRICT has undertaken improvements of the FACILITY which includes new restrooms, utility connections and other appurtenant improvements, and
3. WHEREAS, FACILITY will be improved by DISTRICT under Encroachment Permit No. _____ to be issued by STATE, and
4. WHEREAS, PARTIES mutually desire to specify their respective FACILITY operating and maintenance responsibilities, including the maintenance functions to be performed by DISTRICT on STATE right of way, and to specify the terms and conditions under which such work will be performed, and
5. WHEREAS, this Agreement will supersede the Maintenance Agreement related to Richmond Parkway Transit Center park and ride lot was executed on July 16, 2004, between the PARTIES in their entirety.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

SECTION II

B. AGREEMENT

In consideration of the mutual covenants and promises herein contained, DISTRICT and STATE agree as follows:

1. DISTRICT shall perform such maintenance work as hereinafter described under Section D.
2. DISTRICT shall maintain, at DISTRICT’s expense, the entire shaded area as shown in Exhibit “A”, attached to and made a part of this Agreement.

3. Rights granted to DISTRICT under this Agreement are restricted to maintenance of FACILITY. Any other use or presence by DISTRICT or DISTRICT's authorized contractors will require a separate encroachment permit be issued to that party from STATE.
4. DISTRICT shall not, at any time, use or permit the public to use FACILITY in any manner that will interfere with or impair the primary use of FACILITY as a park and ride lot.
5. STATE reserves its right to use those FACILITY areas within STATE's right of way for future construction, reconstruction, expansion, modification, or maintenance purposes without restriction or reimbursement to any party should FACILITY be reconfigured or closed.
6. STATE reserves the option to inspect, at random, all areas of FACILITY to assure conformance with this Agreement. Such inspection does not preempt or modify DISTRICT's maintenance responsibilities assumed under this Agreement.
7. An encroachment permit from the STATE will be required for third parties if DISTRICT contracts out the FACILITY maintenance to a third-party contractor. Said contractor(s) shall be subject to the same inspections and responsibilities as specified herein for work performed directly by DISTRICT. The enforcement of parking regulations by uniformed personnel shall not require an encroachment permit.
8. DISTRICT shall not erect signs of any kind within FACILITY, except such signs as may be necessary or appropriate in connection with the operation of FACILITY or that are required by law. Such signs shall not be attached to or painted on any STATE structures or facilities except by prior written consent of STATE.
9. DISTRICT shall erect only those highway signs on the State Highway System (SHS) right of way directing users to FACILITY as are preapproved in writing by STATE.
10. Should STATE require all or a portion of STATE right of way for future SHS needs or if DISTRICT should cease operations of the FACILITY for ridesharing, including carpooling, vanpooling, and bus transit, DISTRICT shall, at STATE's written demand, remove all of, or designated portions of, DISTRICT's improvements within STATE right of way and will restore it to a standard acceptable to STATE at DISTRICT's sole expense, and all rights permitted to DISTRICT under this Agreement shall revert back to STATE.
11. STATE will retain title to STATE right of way, and upon satisfactory completion of all work under STATE issued Encroachment Permits, ownership and title to all materials, equipment and appurtenances installed on STATE right of way will automatically be vested in STATE unless otherwise agreed to by PARTIES.
12. Pursuant to Streets and Highways Code sections 670 et seq., STATE reserves the unlimited right to implement transverse crossings of its SHS; and develop the airspace

above the SHS in the future.

C. MAINTENANCE DEFINED

Maintenance is defined in Section 27 of the Streets and Highways Code.

D. MAINTENANCE FUNCTIONS

The maintenance functions that are delegated to DISTRICT, at DISTRICT's sole expense, are as follows:

1. PAVEMENT MAINTENANCE

DISTRICT shall maintain the pavement of FACILITY.

2. LITTER AND GRAFFITI

DISTRICT shall be responsible for maintaining the entire shade area as shown in Exhibit "A" in a condition free of litter, debris (including, but not limited to, all broken glass) and graffiti.

3. SIGNS

DISTRICT shall be responsible for the installation and maintenance of signage necessary for the direction and operation of FACILITY, including not limit to, the post of parking regulations.

4. STRIPING AND PAVEMENT MARKINGS

DISTRICT shall install and maintain all striping and pavement markings required for the direction and operation of FACILITY traffic.

5. LIGHTING

DISTRICT shall be responsible for the maintenance, repair and replacement of damaged or malfunctioning electrical installations required for public safety. DISTRICT will maintain and pay 100% of maintenance and operations costs. DISTRICT will also control lighting illumination to meet or exceed STATE standards. DISTRICT shall be responsible all the energy costs and cost of maintaining those electrical facilities and shall pay for 100% of the electrical energy costs at FACILITY as identified in Exhibit C.

6. ELECTRIC VEHICLE CHARGING (EVC) STALLS

If DISTRICT desires to install EV charging stalls, DISTRICT shall apply for a separate permit and DISTRICT shall be responsible for the installation, maintenance, repair, and

replacement of damaged or malfunctioning EVC stalls, cabinet, or related appendant devices located within FACILITY.

- 6.1 DISTRICT may charge users for actual energy costs for EVC stalls however, any additional costs over the electricity costs shall be approved by STATE in writing, taking into account the direct costs expended by DISTRICT's to install, operate and maintain EVC. DISTRICT's operation of EVC stalls is intended to be cost neutral to DISTRICT.
- 6.2 An encroachment permit from the STATE will be required for third parties if DISTRICT contracts out installation and/or maintenance of EVC stalls to third party contractor(s).
- 6.3 DISTRICT shall be responsible all the energy costs EVC stalls and shall pay for 100% of the electrical energy costs as identified in Exhibit C. If DISTRICT installs and maintain a separate meter with the utility company, DISTRICT shall pay the electrical costs directly.

7. SAFETY DEVICES

DISTRICT shall be responsible for the maintenance, repair, replacement and cleaning of safety devices (located within FACILITY), including gates, fences, guardrails and markers.

8. LANDSCAPING AND GARBAGE COLLECTION

DISTRICT shall be responsible for all landscaping, irrigation, and garbage collection service at FACILITY.

9. BUS STOP, SIDEWALKS, MULTI-USE PATH AND BICYCLE RACK

DISTRICT shall be responsible for maintaining the entire shade area as shown in Exhibit "A" including the bus stop, sidewalks, ADA compliance curb and ramp, multi-use path, the bicycle lockers and the bicycle rack.

10. STRUCTURES AND DRAINAGE FACILITIES

DISTRICT shall be responsible for the maintenance, repair, replacement and cleaning of all structures (located within the entire shaded area as shown in Exhibit "A"), including restroom facilities (including electricity and water lines), sewage system, water quality swales, drainage structures and storm drainage grates. DISTRICT will be responsible for electrical energy and water usage costs of restroom facilities. Electrical energy and water usage costs will be billed directly to DISTRICT by the utility companies.

11. SECURITY

DISTRICT, at DISTRICT expense, shall provide personnel, under DISTRICT control and in accordance with Article B(7) of this Agreement, at FACILITY from approximately 6 a.m. to

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8 p.m. weekdays. Said personnel shall monitor the FACILITY and report any suspicious or criminal activity and parking violations to the appropriate authorities. DISTRICT shall provide and install a prefabricated shelter building for the use of said personnel at no cost to STATE. The presence of said personnel at the FACILITY shall not imply any assumption of liability by DISTRICT for any injury, damage, or any other loss to vehicles, property, or persons unless directly caused by DISTRICT staff or its authorized contractors. STATE shall retain its responsibility for the investigation and reporting of Part 1 crimes.

12. BUS SHELTERS AND BENCHES

Notwithstanding Article B(3) of this Agreement, DISTRICT will install bus shelters and benches in the bus waiting area of FACILITY for use by bus patrons, DISTRICT shall maintain these bus shelters, benches, and the surrounding areas in a neat and clean condition. DISTRICT or its approved contractor may also provide and maintain electrical connections to these shelters for the purposes of providing lighting and/or transit information displays. DISTRICT or its approved contractor shall arrange and pay for any necessary electrical

permits from the appropriate utilities. Any advertising display panels located on the bus shelters shall be oriented such that they are not visible from any federal-aid highway, in accordance with state and federal regulations.

13. PARKING REGULATIONS AND ENFORCEMENT METHODS

DISTRICT shall allow use of FACILITY as a park-and-ride lot for carpoolers and transit patrons. The same parking rate will apply to all users.

DISTRICT shall develop, and obtain STATE approval of, a set of parking regulations for FACILITY, which shall be enforceable per the California Vehicle Code by authorized personnel of any government body with legal jurisdiction over FACILITY.

14. PARKING FEE

14.1 COLLECTION RIGHTS

DISTRICT's operation of FACILITY is intended to be cost neutral to DISTRICT. The amount DISTRICT is to charge for parking must be approved by STATE in writing. If DISTRICT intends to increase the current parking fee, the DISTRICT must complete a "Parking Fee Study". If STATE is satisfied that the results of the Parking Fee Study establishes that the amount collected as parking fee will not dissuade public use of FACILITY and ride sharing or mass transit for their commute or will sufficiently incentivize commuters to use the FACILITY to STATE's satisfaction, STATE shall approve in writing the collection of a parking fee, establishing the reasonable amount thereof, taking into account the cost of operation and maintenance of the FACILITY, including but not limited to amounts needed to establish and maintain a reasonable capital reserve fund to be used solely for maintenance and operation of FACILITY.

Thereafter, STATE shall allow DISTRICT to establish reasonable parking fees to be collected from users of the FACILITY for the purpose of recovering DISTRICT's direct cost for maintenance and operations of FACILITY as more particularly described herein below.

14.2 FEE AMOUNT AND USE

The amount of the fee shall be set or may be adjusted by DISTRICT, subject to approval by STATE. Fees collected cannot exceed DISTRICT's direct maintenance and operations cost of FACILITY.

DISTRICT may adjust fees, as provided herein, as needed to optimized FACILITY utilization. With any adjustment to fees, overall collection cannot exceed DISTRICT's direct cost for maintenance and operations of FACILITY.

DISTRICT may set separate fees for monthly or daily users, but the same options will be offered to all drivers who park at the site to take transit or carpool.

14.3 ACCOUNTING

DISTRICT shall maintain accounting, hereinafter referred to as “DISTRICT Commuter Parking Facilities Parking Fee Account,” hereinafter referred to as “RICHMOND PARKWAY TRANSIT CENTER PARKING FEE ACCOUNT” (“PARKING FEE ACCOUNT”), for all parking fees collected at the FACILITY operated and maintained by DISTRICT. Funds in the PARKING FEE ACCOUNT shall only be used to offset costs and expenses related to maintenance and operation of the FACILITY.

DISTRICT agrees to submit annual reports detailing the receipt of collected parking fees and documentation establishing the estimated cost of operation and maintenance of FACILITY for that year. DISTRICT will submit annual reports within two months after the close of the fiscal year to the following address:

District Office Chief
Office of Transit & Active Transportation
Mail Station 10-D
P.O. Box 23660
Oakland, CA 94623-0660

14.4 FEE COLLECTION

DISTRICT, or its contractor(s), shall provide and maintain all equipment and personnel required to collect the parking fees, including ticket machines and any associated protective housing, entry and exit gates (if required), regulatory signs, and electric, telephone, or internet connections.

15. UTILITY BILLS

STATE shall invoice DISTRICT for the utility costs incurred in the operation of electrical facilities identified in Exhibit C at the proportion agreed to under Exhibit C. DISTRICT shall pay STATE within thirty (30) days of receiving invoice.

16. REVISING EXHIBITS

All exhibits can be updated by mutually authorized representatives of PARTIES duly PARTIES can revise Exhibits by mutually amending or replacing the Exhibits. STATE will provide a new dated and revised Exhibit, which will be made part to this Agreement when it is executed by all PARTIES, which will thereafter supersede the previous Exhibit and become part of this Agreement.

E. RELATIONS AND RESPONSIBILITIES

1. LEGAL RELATIONS

1.1. Nothing within the provisions of this Agreement is intended to create duties or

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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.

- 1.2. Neither DISTRICT 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, under or in connection with any work, authority or jurisdiction conferred upon STATE under this Agreement. It is understood and agreed that STATE shall fully defend, indemnify and save harmless DISTRICT 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, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.

1.3. 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 DISTRICT under or in connection with any work, authority or jurisdiction conferred upon DISTRICT under this Agreement. It is understood and agreed that DISTRICT 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 DISTRICT under this Agreement.

2. PREVAILING WAGES

2.1. Labor Code Compliance- If the work performed on 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. DISTRICT 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. DISTRICT agrees to include prevailing wage requirements in its contracts for public work. Work performed by DISTRICT's own forces is exempt from the Labor Code's Prevailing Wage requirements.

2.2. Requirements in Subcontracts - DISTRICT 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 DISTRICT's contracts.

3. INSURANCE

3.1. DISTRICT is self-insured. DISTRICT 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 and \$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 DISTRICT meets the coverage requirements of this section. This Letter of Self-Insurance shall also identify the FACILITY location as depicted in EXHIBIT "A". DISTRICT 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.

4. TERMINATION - This Agreement may be terminated by timely mutual written consent by PARTIES or by STATE for cause. DISTRICT's failure to comply with the provisions of this Agreement may be grounds for a Notice of Termination by STATE.
5. 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 set forth in Article E(4) above.

PARTIES are empowered 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.

ALAMEDA-CONTRA COSTA
TRANSIT DISTRICT

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
General Manager

TONY TAVARES
Director of Transportation

Initiated and Approved

By: _____
_____ Manager

By: _____
LEAH BUDU Date
Deputy District Director
Maintenance District

ATTEST:

By: _____
DISTRICT Clerk

As to Form and Procedure:

By: _____
DISTRICT Attorney

By: _____
Attorney
Department of Transportation

EXHIBIT "A"

(Plan map identifying the applicable STATE Routes (Freeway proper) and DISTRICT facilities)

EXHIBIT C

TRAFFIC SIGNAL AND LIGHTING

Effective _____, 20____

BASIS OF COST DISTRIBUTION

BILL PAID BY DISTRICT TO UTILITY COMPANY

<u>Route and PM</u>	<u>Location</u>	<u>Type of Facility</u>	No of Facilities	Cost Distribution includes maintenance, materials and electrical costs	
				STATE	DISTRICT
80, PM 6.2	Richmond Parkway Transit Center Park and Ride Lot	Lights		0%	100%
80, PM 6.2	Richmond Parkway Transit Center Park and Ride Lot	EVC stalls (If desire)		0%	100%