



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT

March 10, 2020

SUBJECT: Approve Landscape Maintenance Agreement between the City of Wheatland and Caltrans for Hooper Street improvements along Highway 65

PREPARED BY: Dane H. Schilling – City Engineer, and
Asa Utterback – Coastland Engineering

Recommendation

Authorize the City Manager and Mayor to execute a Landscape Maintenance Agreement (LMA) with the California State Department of Transportation (Caltrans) related to the Hooper Street Improvement Project.

Background/Discussion

On January 28, 2020, City Council approved the plans and specifications for the Hooper Street Improvement Project and authorized the City Engineer to advertise the project for bidding. The Hooper Street Improvement Project involves the construction of some improvements within the shoulder of Highway 65 for which Caltrans requires a landscape maintenance agreement. Those improvements include curb and gutter and the conversion of some paved areas to landscaping. Caltrans will not issue an encroachment permit for the project improvements until the Maintenance Agreement is executed.

Caltrans requires the maintenance of any City constructed landscape improvements within State right of way be performed at the City's expense. The project has been advertised for bids with the bid opening scheduled for March 17th. The construction contract is planned to be awarded on March 24th and construction could begin in April 2020.

Alternatives

Alternatively, the City Council could take no action. This is not recommended as the LMA is required so that the City can construct certain parts of the Hooper Street project that are located within the State right-of-way.

Fiscal Impact

There is minimal fiscal impact as the maintenance of the curb and gutter is expected to be infrequent and is already covered under other maintenance agreements whereby the City can be reimbursed, and the landscape areas in State right-of-way will simply be shredded mulch over a landscape filter fabric.

Attachments

1. Resolution No. 11-20
2. Landscape Maintenance Agreement

RESOLUTION NO. 11-20

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHEATLAND AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE A LANDSCAPE MAINTENANCE AGREEMENT ASSOCIATED WITH THE HOOPER STREET IMPROVEMENT PROJECT

WHEREAS, on January 28, 2020, the City Council approved the plans and specifications for the Hooper Street Improvement Project ("Project") and authorized the City Engineer to advertise the project for bidding; and

WHEREAS, the Project involves the construction of certain improvements within the shoulder of existing California State Department of Transportation (Caltrans) highway right-of-way; and

WHEREAS, Caltrans requires that improvements made by others within the State highway right-of-way be subject to a landscape maintenance agreement (LMA) and be maintained by others; and

WHEREAS, the City has applied for an encroachment permit from Caltrans and the LMA must be executed by the City in order for Caltrans to issue the encroachment permit; and

WHEREAS, City staff recommends to City Council that said LMA be executed related to the Project;

NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND by the City Council of City of Wheatland, State of California, that the City Manager and Mayor are authorized to execute a landscape maintenance agreement between the City and Caltrans for the improvements to be constructed in State Highway 65 by the Hooper Street Improvement Project.

PASSED AND ADOPTED by the City Council of City of Wheatland, State of California this 10th day of March 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Rick West, Mayor

Lisa Thomason, City Clerk

**MAINTENANCE AGREEMENT
WITHIN STATE HIGHWAY RIGHT OF WAY
ON ROUTE 65 WITHIN THE CITY OF WHEATLAND**

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 Wheatland; hereinafter referred to as "CITY" and collectively referred to as "PARTIES".

SECTION I

RECITALS

1. PARTIES desire to work together to allocate their respective obligations relative to newly constructed or revised improvements within STATE's right of way by Encroachment number 0319-NCS1271.
2. This Agreement addresses CITY responsibility for the concrete curb and gutter and landscaping (collectively the "LANDSCAPING") placed within State Highway right of way on State Route 65, as shown on Exhibit A, attached to and made a part of this Agreement.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

SECTION II

AGREEMENT

1. In consideration of the mutual covenants and promises herein contained, CITY and STATE agree as follows:
 - 1.1. PARTIES have agreed to an allocation of maintenance responsibilities that includes, but is not limited to, inspection, providing emergency repair, replacement, and maintenance, (collectively hereinafter "MAINTAIN/MAINTENANCE") of LANDSCAPING as shown on said Exhibit "A."
 - 1.2. 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. 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.

City of Wheatland Hooper St. Landscape Maintenance Agreement YUB 65 PM 1.13

2. CITY agrees, at CITY expense, to do the following:
 - 2.1. CITY may install, or contract, authorizing a licensed contractor with appropriate class of license in the State of California, to install and thereafter will MAINTAIN LANDSCAPING conforming to those plans and specifications (PS&E) pre-approved by STATE.
 - 2.2. 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 then current edition of the State Maintenance Manual.
 - 2.3. CITY will submit the final form of the PS&E, prepared, stamped and signed by a licensed landscape architect, for LANDSCAPING to STATE's District Permit Engineer for review and approval and will obtain and have in place a valid necessary encroachment permit prior to the start of any work within STATE'S right of way. All proposed LANDSCAPING must meet STATE's applicable standards.
 - 2.4. 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.
 - 2.5. 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.
 - 2.6. CITY contractors will be required to obtain an Encroachment Permit prior to the start of any work within STATE's right of way.
 - 2.7. To furnish electricity for irrigation system controls, water, and fertilizer necessary to sustain healthy plant growth during the entire life of this Agreement.
 - 2.8. To replace unhealthy or dead plantings when observed or within 30 days when notified in writing by STATE that plant replacement is required.
 - 2.9. 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.
 - 2.10. 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.
 - 2.11. 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 Maintenance at 703 B Street Marysville, Ca 95901.

City of Wheatland Hooper St. Landscape Maintenance Agreement YUB 65 PM 1.13

- 2.12. 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.
 - 2.13. To furnish electricity and MAINTAIN lighting system and controls for all street lighting systems installed by and for CITY.
 - 2.14. To inspect LANDSCAPING on a regular monthly or weekly basis to ensure the safe operation and condition of the LANDSCAPING.
 - 2.15. To expeditiously MAINTAIN, replace, repair or remove from service any LANDSCAPING system component that has become unsafe or unsightly.
 - 2.16. To MAINTAIN all sidewalks/bike paths within the Agreement limits of the STATE highway right of way, as shown on Exhibit A, at CITY expense. MAINTENANCE includes, but is not limited to, concrete repair, replacement and to grind or patch vertical variations in elevation of sidewalks/bike paths for an acceptable walking and riding surface, and the removal of dirt, debris, graffiti, weeds, and any deleterious item or material on or about sidewalks/bike paths or the LANDSCAPING in an expeditious manner.
 - 2.17. To MAINTAIN all parking or use restrictions signs encompassed within the area of the LANDSCAPING.
 - 2.18. To allow random inspection of LANDSCAPING, street lighting systems, sidewalks/bike paths and signs by a STATE representative.
 - 2.19. To keep the entire landscaped area policed and free of litter and deleterious material.
 - 2.20. All work by or on behalf of CITY will be done at no cost to STATE.
3. STATE agrees to do the following:
 - 3.1. 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.
 - 3.2. Issue encroachment permits to CITY and CITY contractors at no cost to them.
4. LEGAL RELATIONS AND RESPONSIBILITIES:
 - 4.1. 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.

City of Wheatland Hooper St. Landscape Maintenance Agreement YUB 65 PM 1.13

- 4.2. 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.
- 4.3. 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.
- 4.4. 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.
5. PREVAILING WAGES:
- 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 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.

City of Wheatland Hooper St. Landscape Maintenance Agreement YUB 65 PM 1.13

5.2. 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

6.1 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 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.

6.2 SELF-INSURED using Contractor - If the work performed on this Project is done under contract CITY shall require its contractors 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. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE.

7. 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.

8. 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.

2/26/20

City of Wheatland Hooper St. Landscape Maintenance Agreement YUB 65 PM 1.13

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 WHEATLAND

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
Rick West, Mayor

TOKS OMISHAKIN
Director of Transportation

Initiated and Approved

By: _____
James Goodwin, CITY Manager

By: _____
Deputy District Director
Maintenance District

ATTEST:

By: _____
Lisa Thomason, CITY Clerk

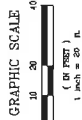
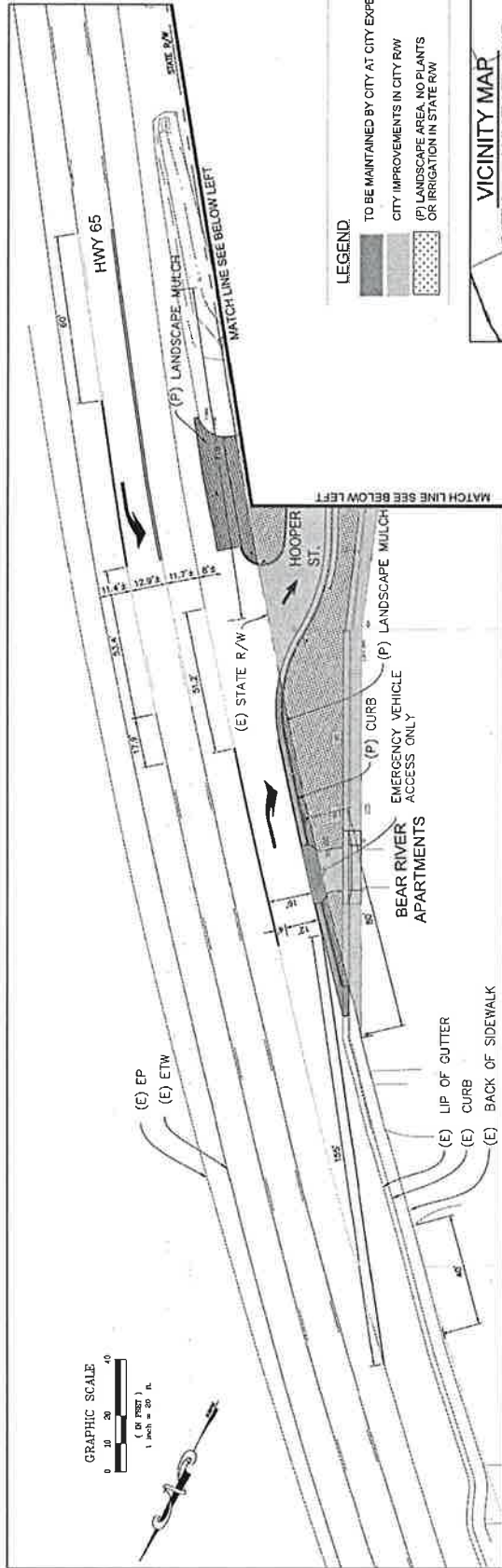
As to Form and Procedure:

By: _____
Jennifer Buckman, CITY Attorney

EXHIBIT "A" MAINTENANCE AGREEMENT WITH THE CITY OF WHEATLAND

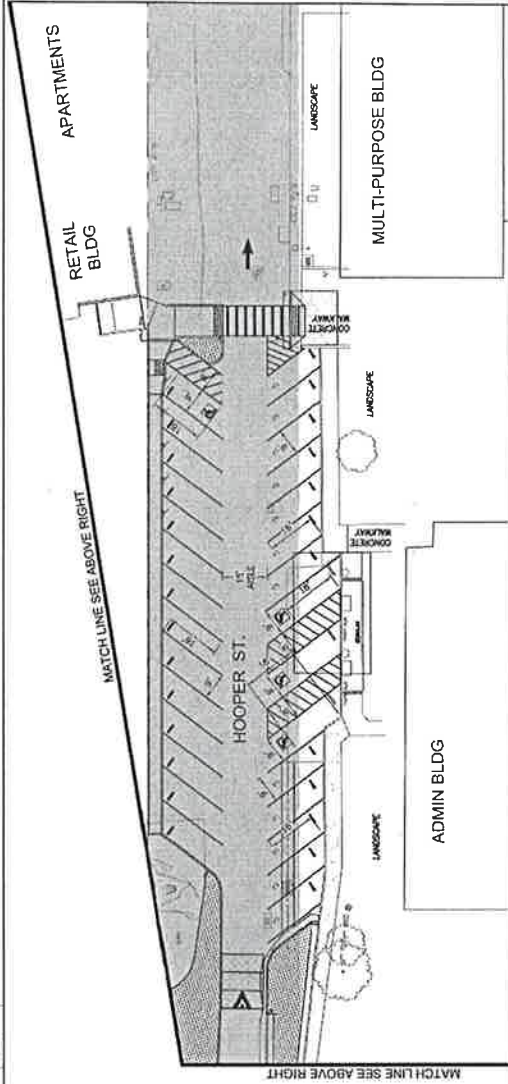
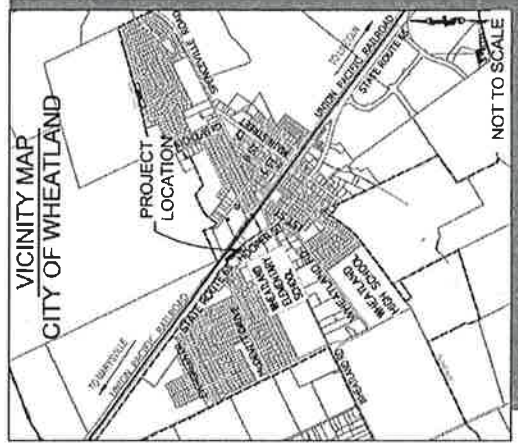


Coastland Civil Engineering, Inc.
11641 Becker Dr., Ste 170, Auburn, CA 95603
530.888.9929



LEGEND

[Pattern]	TO BE MAINTAINED BY CITY AT CITY EXPENSE
[Pattern]	CITY IMPROVEMENTS IN CITY R/W
[Pattern]	(P) LANDSCAPE AREA, NO PLANTS OR IRRIGATION IN STATE R/W



HOOPER STREET IMPROVEMENT PROJECT
Encroachment Permit Application # 0319-NGS1271