

**PROJECT SPECIFIC MAINTENANCE AGREEMENT
FOR LOS GATOS
CREEK TRAIL IN TOWN OF LOS GATOS**

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 TOWN of Los Gatos; hereinafter referred to as "TOWN"; and collectively referred to as "PARTIES".

SECTION I

RECITALS

1. Encroachment Permit No. _____ was executed between TOWN and STATE on _____ to construct a Bike/Pedestrian Trail on State Route (SR) 9, hereinafter referred to as "PROJECT", and
2. In accordance with said agreement, it was agreed by PARTIES that prior to or upon PROJECT completion, TOWN and STATE will enter into a Maintenance Agreement, and
3. The PARTIES hereto mutually desire to identify the maintenance responsibilities of TOWN for the improvements of PROJECT constructed within the STATE right of way under the Encroachment Permit No. _____, and
4. There is an existing Delegated Maintenance Agreement(s), with TOWN originally dated 1-3-1975 (with Amendment #1 on 5-14-2019). This Agreement is meant to replace or supersede this earlier Delegated Maintenance Agreement (with amendments) with respect to area of Los Gatos Creek Trail as shown on Exhibit A.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

SECTION II

AGREEMENT

1. PARTIES agree this Agreement shall supersede the portion of said Delegated Maintenance Agreement executed by PARTIES on January 3rd, 1975 that are included in this Project Specific Maintenance Agreement.
2. Exhibit A consists of plan drawings and cross-sections. They delineate and describe the areas within STATE right of way which are the responsibility of the TOWN to maintain in accordance with this Agreement. Exhibit B is the insurance document, covering the project, which the Town is required to keep current.

3. If there is mutual agreement on a change in the maintenance responsibilities between PARTIES, the PARTIES can revise the Exhibit A by a mutual written execution of the exhibit.
4. TOWN must obtain the necessary Encroachment Permits from STATE's District 04 Encroachment Permit Office prior to entering STATE right of way to perform TOWN maintenance responsibilities. This permit will be issued at no cost to TOWN.
5. PEDESTRIAN/BICYCLE OVERCROSSINGS (non-vehicular) constructed as a permitted encroachment within STATE's right of way. TOWN is solely responsible for, but not limited to, the structural adequacy, lighting, fencing, guard railing, drainage facilities, graffiti removal, sweeping and debris removal, signing, and striping, slope paving and delineation. TOWN will maintain, at TOWN expense, a safe facility for pedestrian and bicycle use along the entire length of the structure, by providing structure inspection, and structure maintenance.
6. WALLS, SOUNDWALLS, AND COLUMNS - TOWN is responsible for debris removal, cleaning and painting to keep TOWN's side of any wall structure or column free of debris, dirt, and graffiti.
7. LANDSCAPED AREAS - TOWN is responsible for the maintenance of any plantings or other types of roadside improvements of PROJECT lying outside of the fenced area restricting walk-on access to the freeway.
8. PEDESTRIAN/BICYCLE PATHS, LANES, AND CYCLE TRACKS constructed as permitted encroachments within STATE's right of way, TOWN is solely responsible for all permitted improvements, including but not limited to the delineation, fencing, guard railing, drainage facilities, related structures, retaining walls, slope and structural adequacy of components of the Path. TOWN will maintain, at TOWN expense, a safe facility for pedestrian and bicycle travel along the entire length of the path by providing sweeping and debris removal when necessary; and all signing and striping, and pavement markings required for the direction and operation of that non-motorized facility.
9. LEGAL RELATIONS AND RESPONSIBILITIES
 - 9.1. Nothing within the provisions of this Agreement is intended to create duties or 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.

9.2. Neither TOWN 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 TOWN 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.

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

10. PREVAILING WAGES:

10.1. 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. TOWN 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. TOWN agrees to include prevailing wage requirements in its contracts for public works. Work performed by TOWN'S own forces is exempt from the Labor Code's Prevailing Wage requirements.

10.2. Requirements in Subcontracts - TOWN 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 TOWN's contracts.

11. INSURANCE -

11.1. SELF-INSURED - TOWN is self insured. TOWN 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 TOWN meets the coverage requirements of this section. This Letter of Self-Insurance shall also identify the Los Gatos Creek Trail location as depicted in EXHIBIT A. TOWN 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.

11.2. SELF-INSURED using Contractor - If the work performed under this AGREEMENT is done by TOWN's contractor(s), TOWN 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 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.

12. TERMINATION - This Agreement may be terminated by mutual written consent by PARTIES or by STATE for cause. TOWN's failure to comply with the provisions of this Agreement may be grounds for a Notice of Termination by STATE.

13. 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 14 above.

PARTIES are empowered by Streets and Highways Code Section 114 and 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.

TOWN OF LOS GATOS

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
Mayor/Chairmen

Tony Tavares
Director of Transportation

Initiated and Approved

By: _____
TOWN Manager

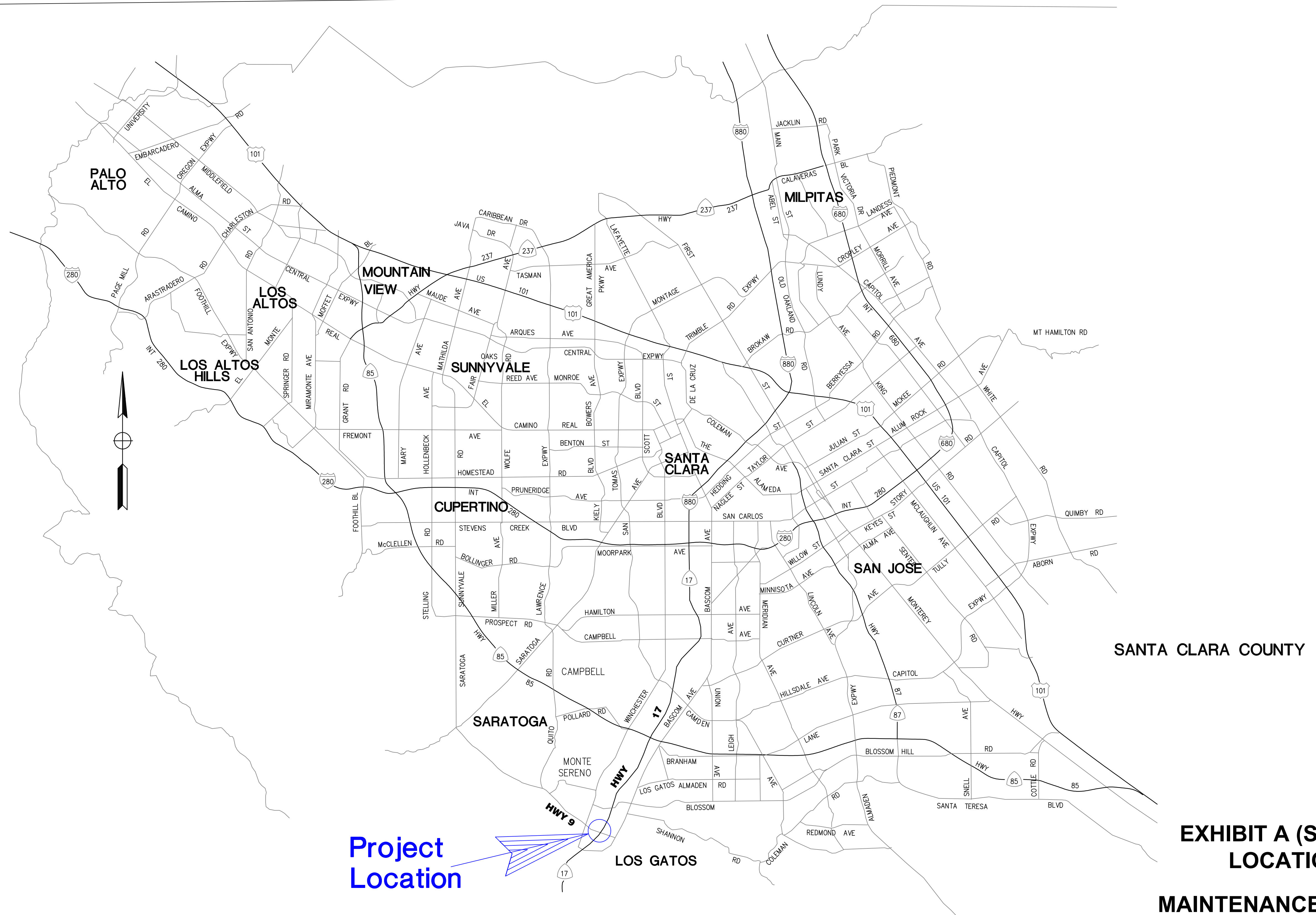
By: _____
Leah Budu
Deputy District Director
Maintenance District 04

ATTEST:

By: _____
TOWN Clerk

1

By: _____
TOWN Attorney

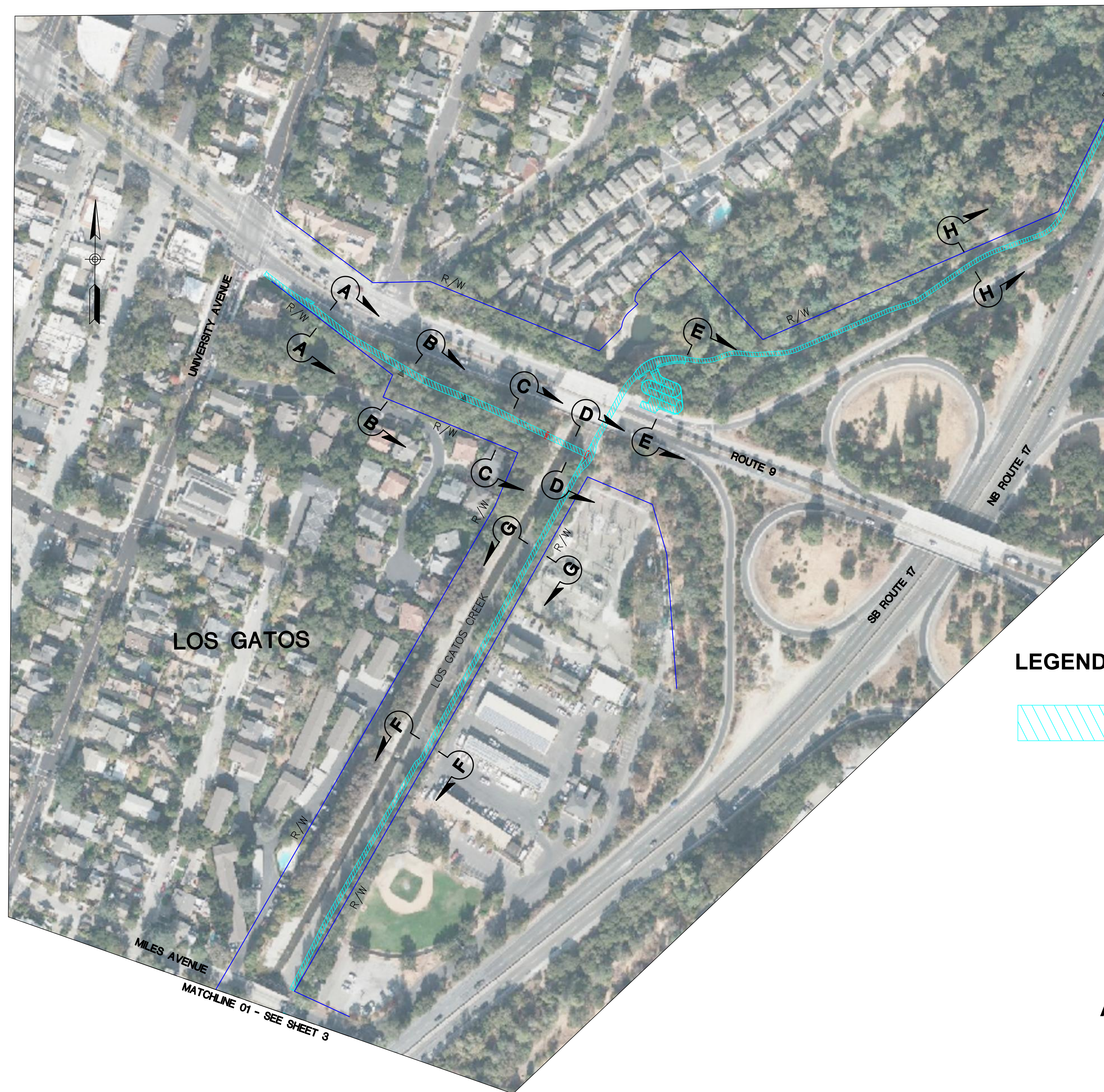


**EXHIBIT A (SHEET 1 of 4)
LOCATION MAP**

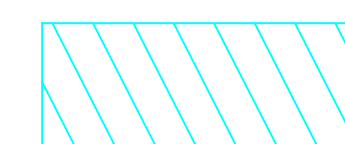
**MAINTENANCE AGREEMENT
WITH THE TOWN OF LOS GATOS
AND TRANSPORTATION DISTRICT**

04-SCI-17 PM 6.58 TO PM 7.66

NO SCALE



LEGEND



AREA WITHIN RIGHT OF WAY TO BE
MAINTAINED BY THE TOWN OF LOS GATOS

EXHIBIT A (SHEET 2 of 4)

MAINTENANCE AGREEMENT
WITH THE TOWN OF LOS GATOS
AND TRANSPORTATION DISTRICT

04-SCI-17 PM 6.58 TO PM 7.66

SCALE: 1" = 100'

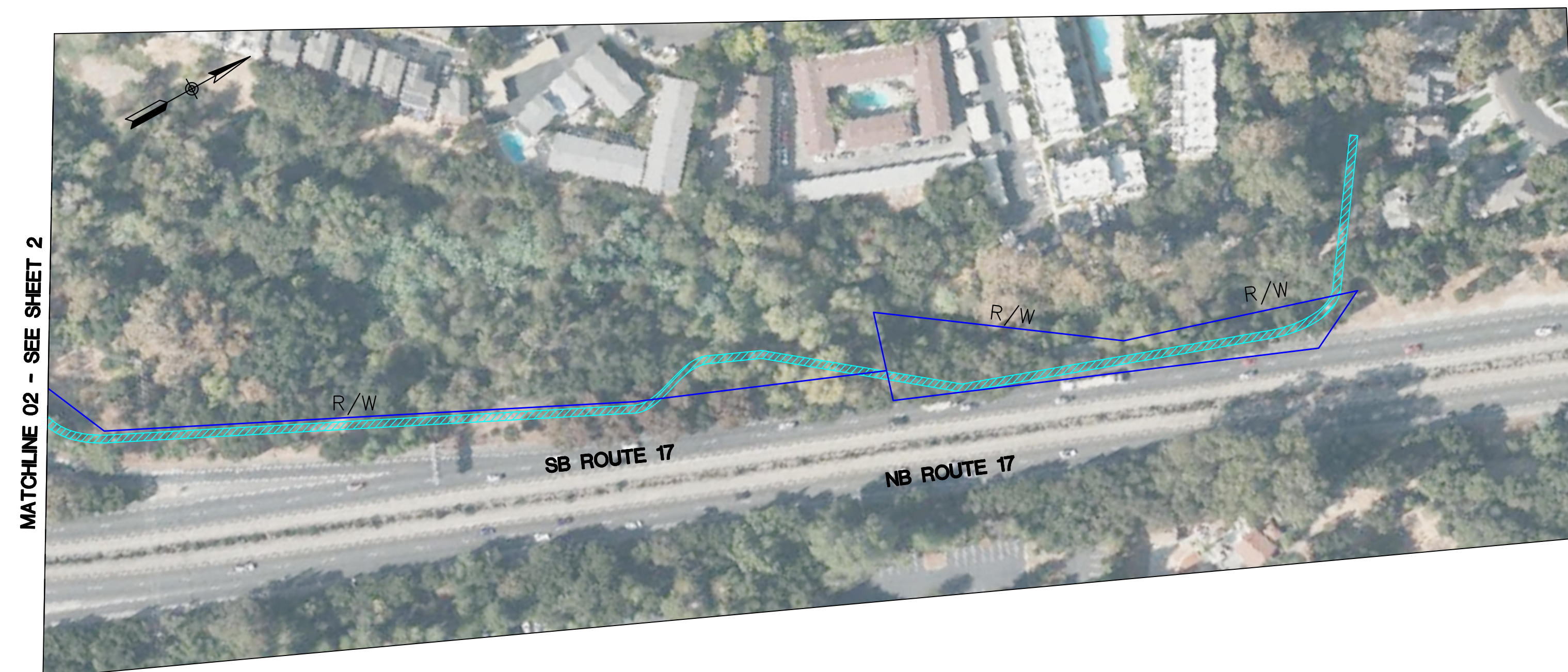
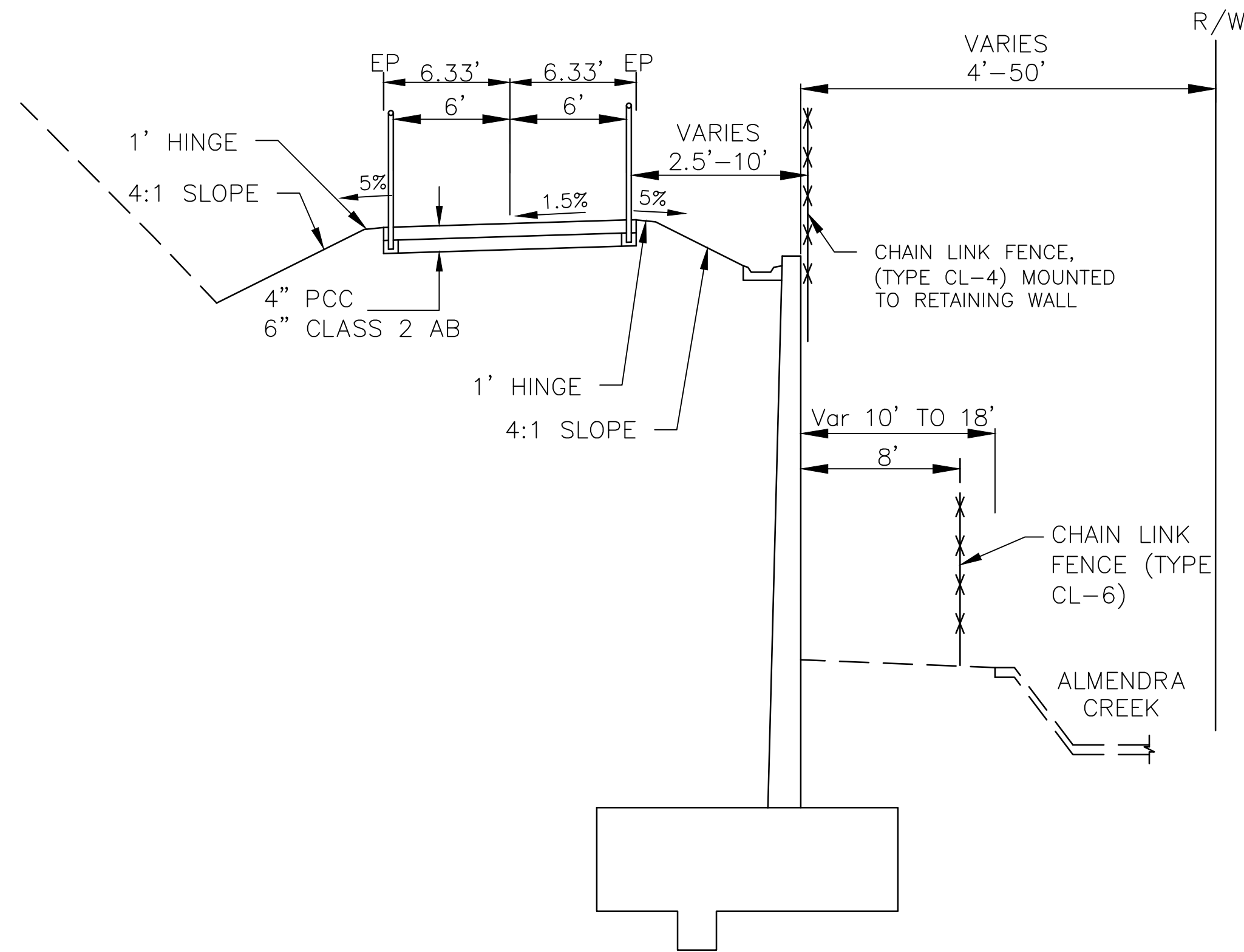


EXHIBIT A (SHEET 3 of 4)

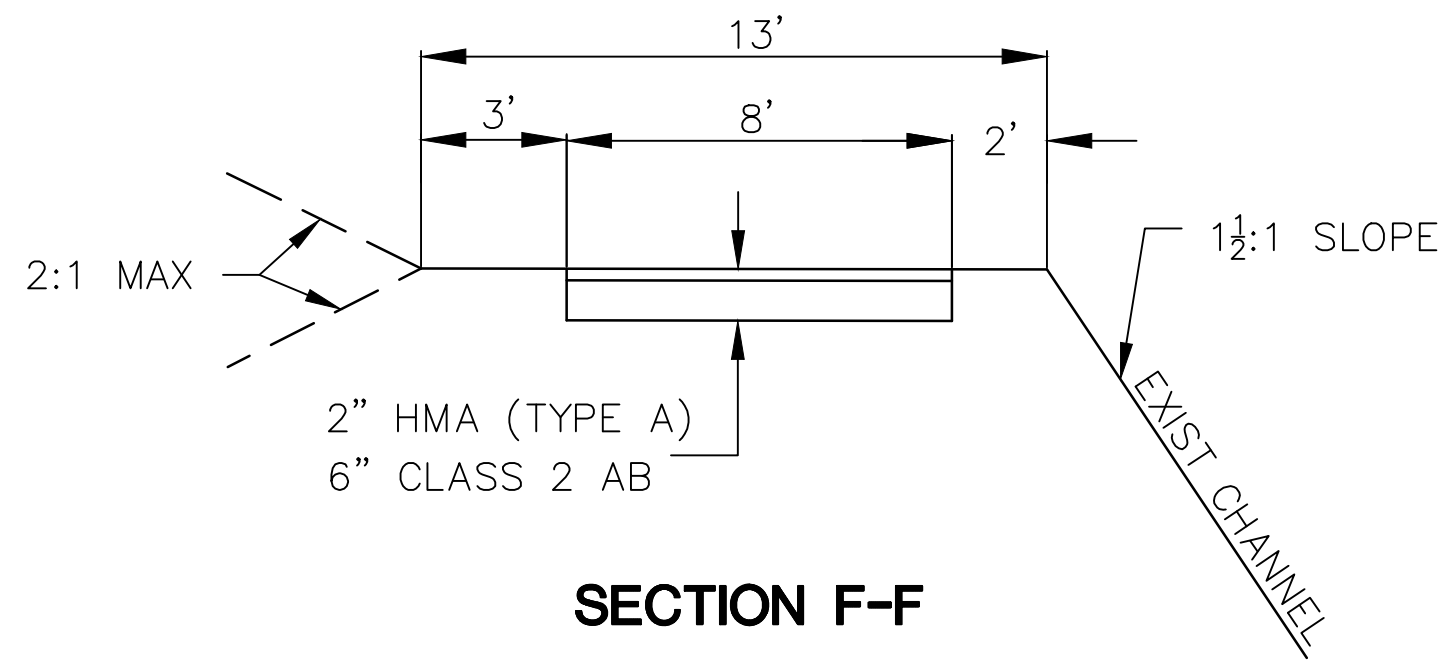
**MAINTENANCE AGREEMENT
WITH THE TOWN OF LOS GATOS
AND TRANSPORTATION DISTRICT**

04-SCI-17 PM 6.58 TO PM 7.66

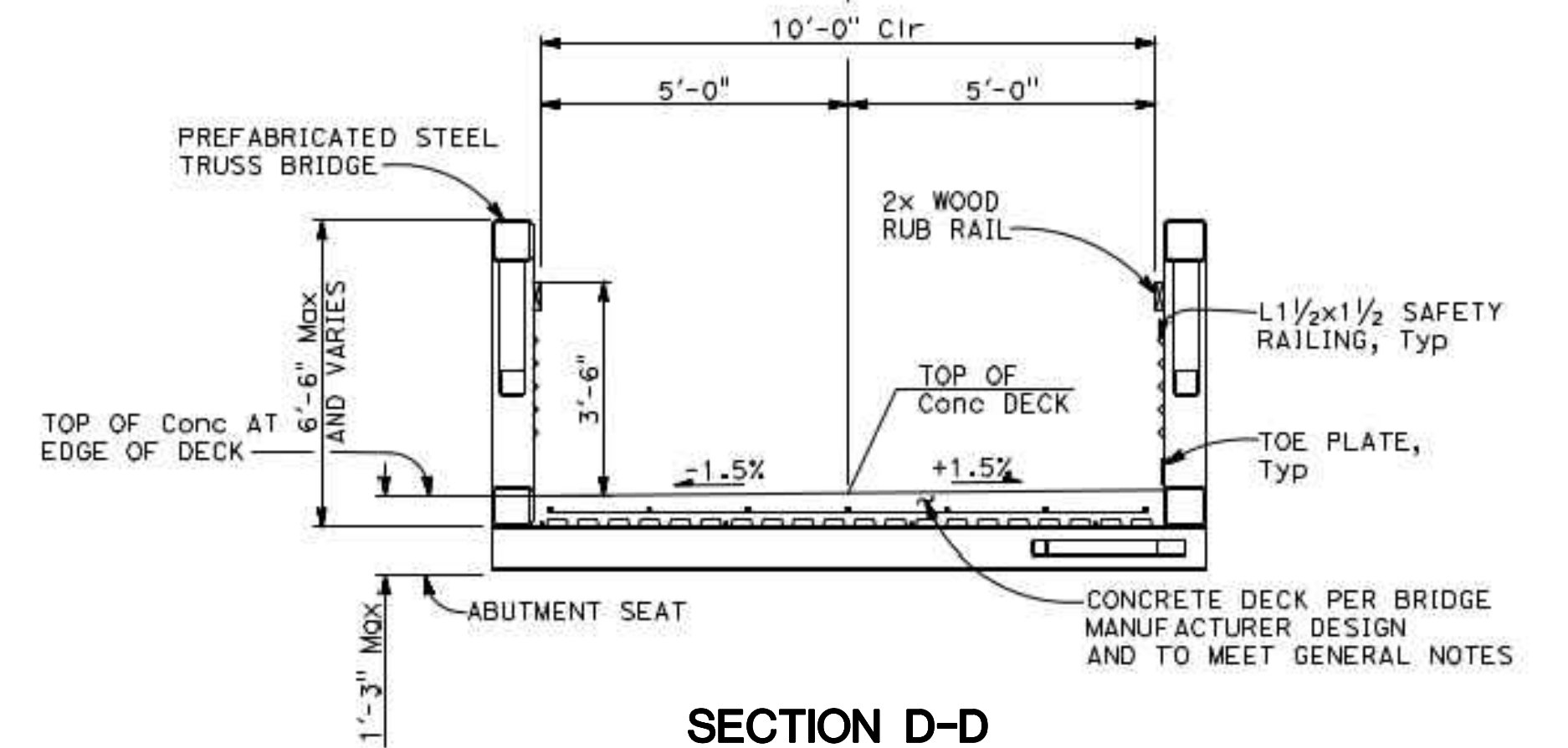
SCALE: 1" = 100'



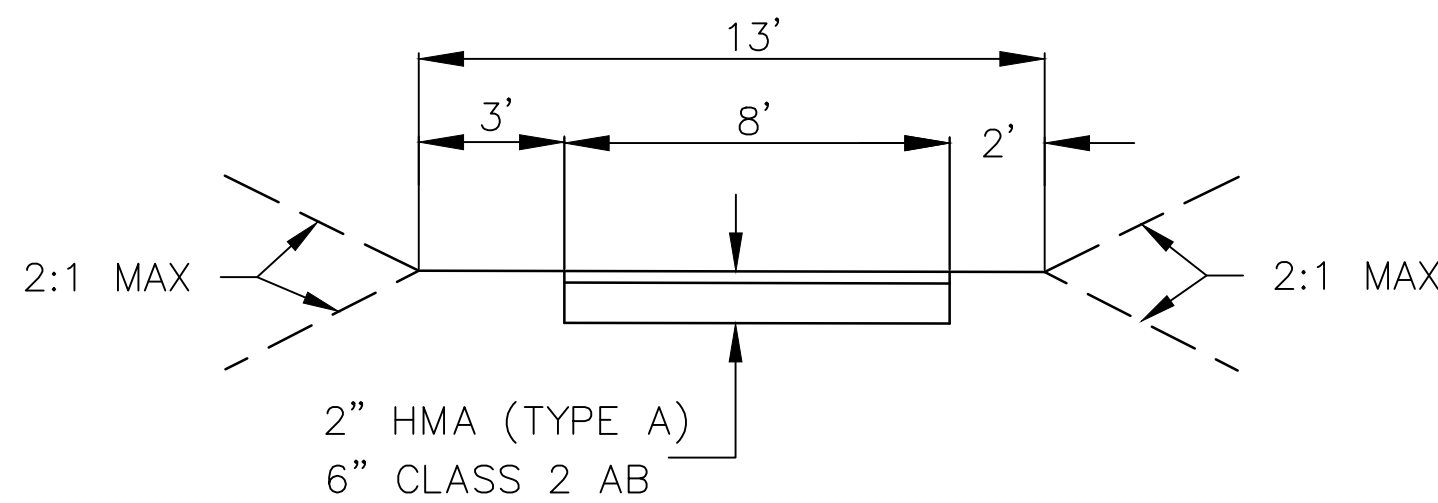
SECTION B-B



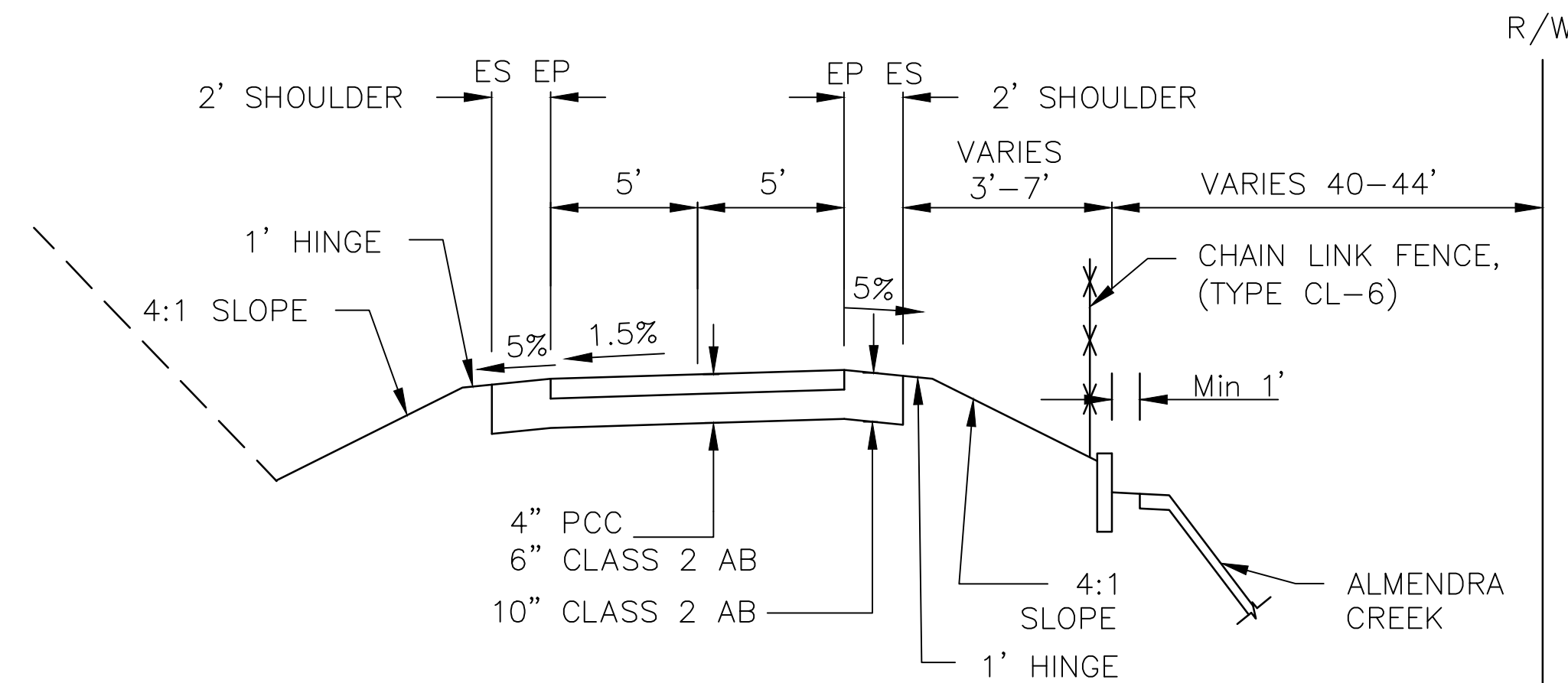
SECTION F-F



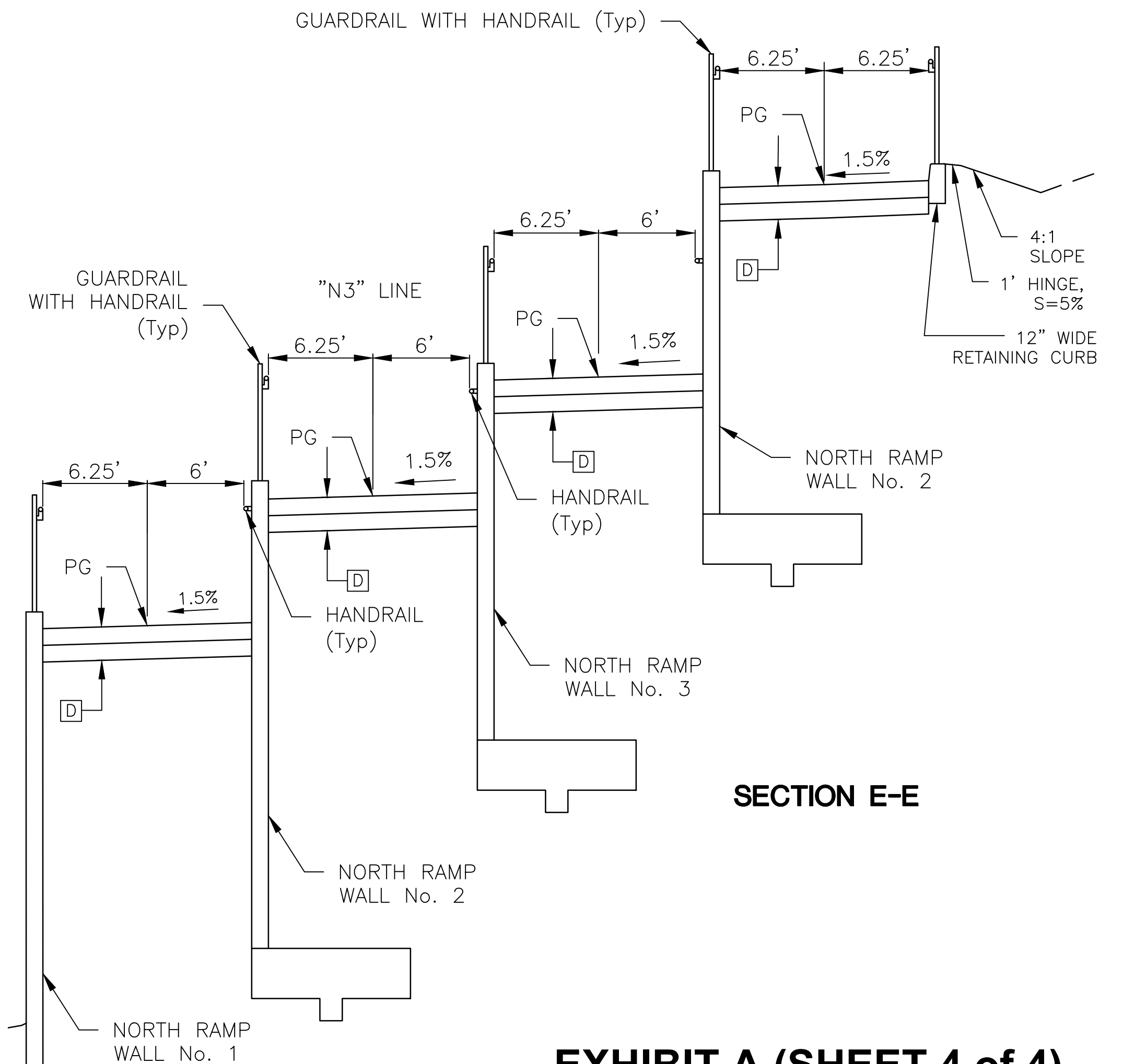
SECTION D-D



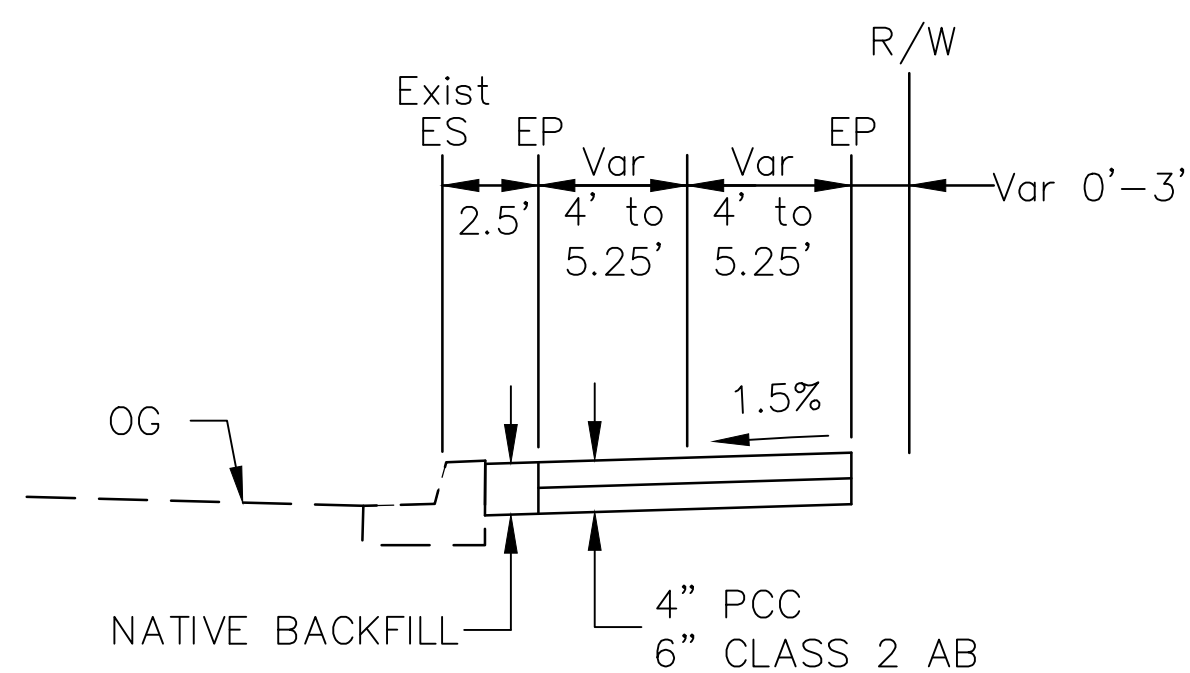
SECTION H-H



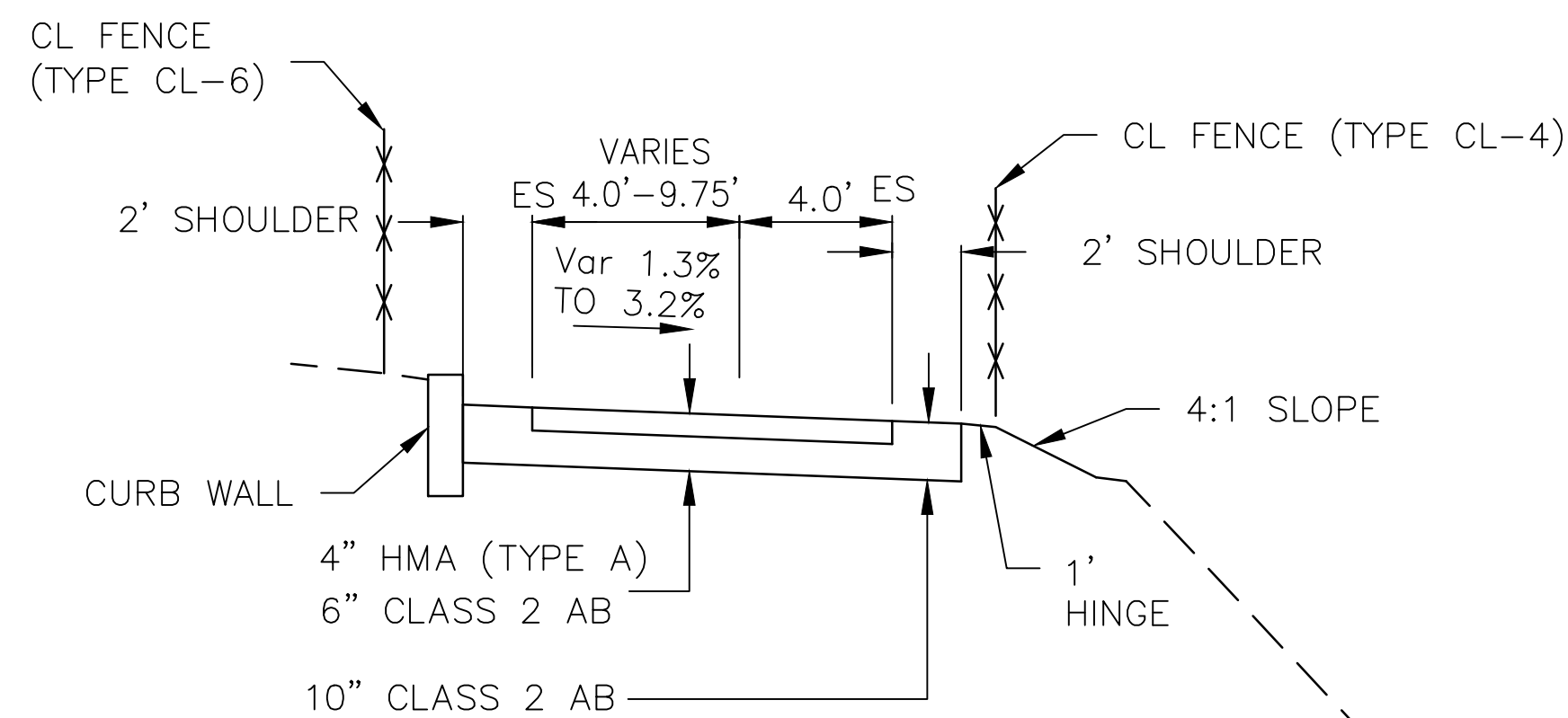
SECTION C-C



SECTION E-E



SECTION A-A



SECTION G-G

EXHIBIT A (SHEET 4 of 4) **CROSS SECTIONS** **MAINTENANCE AGREEMENT** **WITH THE TOWN OF LOS GATOS** **AND TRANSPORTATION DISTRICT**

04-SCI-17 PM 6.58 TO PM 7.66

NO SCALE

Pooled Liability Assurance Network Joint Powers Authority

**1750 Creekside Oaks Drive, Suite 200, Sacramento, CA 95833
916-244-1100**

Liability Certificate of Coverage

Evidence of Coverage

Certificate Holder: State of CA Department of Transportation

Attn: Leah Budu

Covered Party LG Parks and Public Works

Description of Covered Activity: As respects evidence of general and auto liability coverage regarding **Project Specific Maintenance At**
for the Town of Los Gatos Creek Trail in the Town of Los Gatos

Memorandum of Coverage Number:	GAL 2022 2023	Effective Date: 7/1/2022	Expiration Date: 6/30/2023
Limits:	\$5,000,000 (per occurrence)		
The Following Coverage is in effect:	General and automobile liability as defined in the Memorandum of Coverage on file with the covered party named above.		

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the Liability Memorandum of Coverage.

This is to certify that the coverage listed above has been issued to the Covered Party named above for the coverage period indicated, notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate may be issued or may pertain. The coverage afforded as described herein is subject to all the terms, exclusions, and conditions of the Memorandum of Coverage of the PLAN, which is available for your review upon request.

Coverage is in effect from 12:01 a.m. Pacific Time of effective date to 12:01 a.m. Pacific Time of expiration date as stated above and will not be canceled, limited, or allowed to expire except upon 30-day notice to the certificate holder.

Date Issued: 9/28/2022

Renewal: Yes

Excess Certificate Issued: No

Authorized Representative Signature:

