

RESOLUTION NO. 2016-61

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA  
AUTHORIZING THE MAYOR TO EXECUTE A MAINTENANCE  
AGREEMENT FROM THE TRANSPORTATION AGENCY FOR MONTEREY  
COUNTY (TAMC) FOR A PORTION OF TAMC RIGHT OF WAY NEAR  
ENGINEERS STATION 307+90 OF THE MONTEREY BRANCH LINE PROJECT  
IN FURTHERANCE OF THE CITY OF MARINA'S DEL MONTE BLVD. AND  
BEACH RD. IMPROVEMENT PROJECT, AND AUTHORIZING CITY  
MANAGER TO EXECUTE A CONSTRUCTION ENCROACHMENT PERMIT  
ON BEHALF OF THE CITY OF MARINA SUBJECT TO FINAL REVIEW BY  
THE CITY ATTORNEY

WHEREAS, the 2006-07 Capital Improvement Program (CIP) budget included projects for improvements to the intersection of Del Monte Boulevard and Beach Road (TI 29) and the widening of Del Monte Boulevard from Beach Road to Marina Green Drive (R28). Funding for the projects was identified as Public Facilities Impact Fees (PFIF), however, appropriations were not authorized at that time. The total estimated cost for the combined projects is \$4,058,000, and;

WHEREAS, at the regular meeting of August 7, 2007, the City Council adopted Resolution No. 2007-185, approving agreement between City of Marina and RBF Consulting of Walnut Creek, California to provide design services for Del Monte Boulevard from Beach Road to Marina Green Drive, and;

WHEREAS, at the regular meeting of December 18, 2012, the City Council adopted Resolution No. 2012-197, approving an update to the five (5) year City Capital Improvement Program (CIP). Included in the approved CIP project list was the Del Monte Boulevard & Beach Rd. Improvement project for intersection improvements, and;

WHEREAS, on July 16, 2015, City staff conducted a public meeting to discuss the proposed improvements including the proposed roundabout at the intersection of Del Monte Boulevard and Beach Road, identify project area constraints, and invite public comments for consideration of the design engineers in developing the preliminary design for City Council review, and;

WHEREAS, at the regular meeting of August 18, 2015, the City Council of the City of Marina adopted Resolution No. 2015-101, approving the construction of a Roundabout in lieu of a traffic signal for the Del Monte Boulevard and Beach Road Intersection Improvement Project, and;

WHEREAS, as the proposed project improvements include new drainage improvements within TAMC right-of-way, TAMC staff has provided a maintenance agreement for these improvements (EXHIBIT "A"), and;

WHEREAS, the Del Monte Blvd. and Beach Rd. Improvement Project includes demolition and removal of existing concrete medians, curb and gutter, and roadway sections; Reconfiguring the existing roadway, including one new traffic roundabout; Installing new concrete curb and gutter, roadway section as required, sidewalk, driveway and curb ramps; Placing an asphalt concrete overlay over the street sections to remain; Installation of a new pathway; Installation of new landscaping and irrigation; Placement of underground storm drain piping and appurtenances; New striping and pavement markings and traffic signage; and all other miscellaneous improvements, and;

WHEREAS, staff has coordinated with the Transportation Agency for Monterey County (TAMC) for the projects storm drain improvements which includes construction of a drainage basin, a portion of which lies within the Monterey Branch Line right of way, and;

WHEREAS, this maintenance agreement will require the City of Marina to bear the entire cost of constructing, operating, and maintaining the project's drainage improvements that are within the Monterey Branch Line's right of way (improvement area approximately 10 feet wide by 170 feet long). The City is also required to coordinate with TAMC should the drainage improvements conflict with the future improvements of the proposed Monterey Branch Line project, and;

WHEREAS, the adoption of the resolution to approve the agreement was continued from the April 19, 2016 City Council meeting for staff to review the reference of "Contractor" in the agreement. After reviewing the agreement with TAMC staff, the following revisions were made: Changing the wording on the Maintenance agreement (pg. 3, Item 5) from "CONTRACTOR" to "CITY", and; Deleting the 5 year renewal requirement for the Encroachment permit, and;

WHEREAS, additional minor revisions were made to the Maintenance Agreement for clarification. With approval of the agreement, staff will take the agreement for approval by the TAMC board for authorization on May 25, 2016.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby

1. Authorize the Mayor to execute a Maintenance Agreement from the Transportation Agency for Monterey County (TAMC) for a portion of TAMC Right of Way near Engineers Station 307+90 of the Monterey Branch Line Project in furtherance of the City of Marina's Del Monte Blvd. and Beach Rd. Improvement Project, and;
2. Authorize City Manager to Execute an Encroachment Permit on behalf of the City of Marina subject to final review by the City Attorney.

PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Marina, duly held on the 3<sup>rd</sup> day of May 2016, by the following vote:

AYES: COUNCIL MEMBERS: Amadeo, Brown, Morton, O'Connell, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

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Bruce C. Delgado, Mayor

ATTEST:

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Anita Sharp, Deputy City Clerk

## **Agreement for Maintenance of City Of Marina Del Monte Boulevard and Beach Road Improvements Located Within TAMC Monterey Branch Line Rail Right of Way**

Location: MBL Engineers Station 307+90

**THIS AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the Transportation Agency for Monterey County, hereinafter called "TAMC," and the City of Marina, a public agency, address: 211 Hillcrest Avenue, Marina, California 93933, hereinafter called "CITY."

### **WITNESSETH:**

- A. WHEREAS, CITY wishes to construct, operate, and maintain, subject to the terms of this Agreement, a roadway improvement project (herein called "Project"), at or near the City of Marina, County of Monterey, State of California, in the location shown on the attached Improvement Plans for the Del Monte Boulevard and Beach Road Improvement Project dated January 2016.
- B. WHEREAS, the Project includes reconstruction of the intersection of Del Monte Boulevard and Beach Road into a new "roundabout" type intersection.
- C. WHEREAS, a portion of the Project includes construction of roadway and drainage improvements on Beach Road located within the TAMC Monterey Branch Line rail right-of-way.
- D. WHEREAS, TAMC has as one of its goals and purposes the improvement of rail transit within the County of Monterey and has as an established project the return of rail transit to the Monterey Peninsula through, among other things, a "Monterey Branch Line."
- E. WHEREAS, the TAMC Board has selected the Monterey Branch Line project as the "preferred alternative" after extensive analysis and has shared the preliminary plans with the City.
- F. WHEREAS, said roadway and drainage improvements, as proposed by CITY, particularly include construction of a storm drainage system, outfall end section structure, rock slope into an existing low lying drainage area (south basin) located within the TAMC Monterey Branch Line rail right of way at the Beach Road crossing. The drainage improvements encroachment would extend into the east side of the Monterey Branch Line right of way and would be approximately 170 feet long by 10 feet wide (1,700 SF area).
- G. WHEREAS, the Drainage Report, entitled Del Monte Improvements from Beach Road to Marina Green Drive prepared by RBF Consulting on behalf of the CITY, dated July 2008, states that the southerly storm drainage basin area located approximately 100 feet north of Beach Road and Del Monte Boulevard, and between Del Monte Boulevard and the Railroad tracks, has sufficient capacity to retain and infiltrate a 100-year storm, and CITY has represented that TAMC may rely upon such Drainage Report.
- H. WHEREAS, said roadway and drainage improvements are a key element of the CITY's Del Monte Boulevard and Beach Road Improvement Project.
- I. WHEREAS, CITY will be required to modify said roadway and drainage improvements within the TAMC Rail Right of Way at no cost to TAMC in the event of a future conflict with the proposed Monterey Branch Line project.

- J. WHEREAS, the parties mutually agree that it is appropriate for the CITY and TAMC enter into a maintenance agreement for the roadway and drainage improvements located within the TAMC Monterey Branch Line Rail Right of Way.

**NOW THEREFORE, IT IS AGREED:**

1. Cost: CITY shall bear the entire cost of constructing, operating and maintaining said roadway and drainage improvements within the TAMC right of way.
2. Encroachment Permit: CITY shall obtain an Encroachment Permit from TAMC prior to entering and constructing any roadway and drainage improvements on TAMC premises and shall comply with all General and Special Conditions of Approval.
3. Construction and Maintenance: Said roadway and drainage improvements shall be constructed, operated, and maintained by CITY in accordance with referenced CITY improvement plans. Approval of this Maintenance Agreement shall not constitute a warranty by TAMC that such plans conform with federal, state and/or local codes and regulations applicable thereto. All work upon said roadway and drainage improvements shall be done to TAMC's satisfaction, and in a manner not to interfere with TAMC's operations. CITY will be required, at CITY's cost, to modify the roadway and drainage improvements within the TAMC Rail Right of Way in the event of a future conflict with the proposed Monterey Branch Line project or with TAMC's ability to utilize the right of way for construction, operation and maintenance for railway purposes, as determined by TAMC in its sole discretion. In the construction, operation, and maintenance of said roadway and drainage improvements, CITY shall keep TAMC's premises in a neat and safe condition, and free from weeds, and trash; failing which, TAMC may do so at CITY's expense. CITY shall protect the existing railroad tracks in-place and shall not allow activities that would affect the operational track profile requirements for the railway. If required by TAMC in use of TAMC's premises, CITY shall reconstruct, relocate, or alter said roadway and drainage improvements to TAMC's satisfaction. Except in emergencies, CITY shall give TAMC five (5) business day's written notice of the day and hour it proposes to do any work on said roadway and drainage improvements. CITY shall cooperate with TAMC in making any tests TAMC requires of any installation or condition which in its judgment may have an adverse effect on any of the facilities of TAMC. All costs incurred by the tests, or any corrections thereafter, shall be borne by the CITY.
4. Term of Agreement: The term of this Agreement shall begin upon execution hereof by CITY and TAMC and shall remain in force until CITY's improvements within the TAMC Right of Way shall be removed.

5. Indemnification. To the fullest extent permitted by law, including California Civil Code sections 2782 and 2782.6, CITY shall defend (with legal counsel reasonably acceptable to TAMC), indemnify and hold harmless the TAMC, its officers, agents, and employees, from and against any and all claims, losses, costs, damages, injuries (including injury to or death of an employee of CITY or its contractors or subcontractors), expenses and liabilities of every kind, nature and description (including incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of CITY, any contractor or subcontractor, anyone directly or indirectly employed by them, or anyone that they control (collectively "Liabilities") relating to the construction, operation or maintenance of the Project. Such obligations to defend hold harmless and indemnify the TAMC, its officers, agents, and employees, shall not apply to the extent that such Liabilities are caused in part by the sole negligence, active negligence, or willful misconduct of the TAMC, its officers, agents, and employees. To the extent there is an obligation to indemnify under this Paragraph, CITY shall be responsible for incidental and consequential damages resulting directly or indirectly, in whole or in part, from CITY's negligence, recklessness, or willful misconduct. The CITY's obligations to defend, indemnify and hold harmless shall survive any termination of this Agreement.
  
6. Environmental Protection: CITY shall at its expense, comply with all applicable laws, regulations, rules and orders regardless of when they become or became effective, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal, hazardous waste, waste disposal, and water and air quality, and furnish satisfactory evidence of such compliance upon request of TAMC. Should any discharge, leakage , spillage, emission, or pollution of any type occur or arise from the premises covered hereunder as a result of CITY's use, presence, operations or exercise of the rights herein granted hereunder, CITY shall immediately notify TAMC and shall at CITY's expense, be obligated to clean all property affected thereby, whether owned or controlled by TAMC or any third persons to the satisfaction of TAMC (insofar as the property owned or controlled by TAMC is concerned) and any governmental body having jurisdiction in the matter. TAMC may at its option, clean TAMC's Premises; if TAMC elects to do so, CITY shall pay TAMC the cost of such cleanup promptly upon receipt of a bill therefor. CITY agrees to release, indemnify and defend TAMC from and against all liability, cost and expense (including, without limitation, any fines, penalties, judgments, litigation costs, and attorney fees) incurred by TAMC as a result of CITY's breach of this section, or as a result of any such discharge, leakage, spillage, emission or pollution, regardless of whether such liability, cost or expense is proximately caused solely and exclusively by the active negligence of TAMC, its officers, agents or employees.

7. Annual Inspection and Maintenance: CITY agrees to inspect and maintain, annually, prior or October 15 of each year, the storm drainage improvements on TAMC premises shown on the above referenced improvement plans. CITY shall maintain a Water Pollution Control Plan and said drainage improvements shall be maintained in accordance with Best Management Practices (BMP) applicable to storm drainage facilities. CITY shall provide to a letter to TAMC providing proof of BMP inspection and maintenance prior to October 15 of each year.
8. Exhibits: The following exhibits are attaché hereto and incorporated by reference:
  - Exhibit A - TAMC Encroachment Permit with Special Provisions of Approval
  - Exhibit B – Final Improvement Plans for the Del Monte Boulevard and Beach Road Improvement Project dated January 2016.
  - Exhibit C – Drainage Report, Del Monte Improvements from Beach Road to Marina Green Drive Prepared by RBF Consulting, dated July 2008.
9. Termination: TAMC may terminate this Agreement at any time for good cause. “Good Cause” includes, without limitation, the failure of CITY to comply with the terms of this Agreement for the maintenance of the roadway and drainage improvements in the manner provided herein. If CITY makes default in respect to any covenant or condition on CITY’s part hereunder and fails to correct such default within thirty (30) days after receipt of notice from TAMC to do so, TAMC may terminate this Agreement by notice to CITY and CITY shall thereupon remove said roadway and drainage improvements and restore the premises of TAMC to TAMC’s satisfaction; failing which, TAMC may arrange to do so at CITY’s expense. TAMC shall give written notice of termination to CITY at least thirty (30) days prior to the effective date of termination, which date shall be specified in any such notice.
10. Amendments and Modifications. No modification or amendment of this agreement shall be valid unless it is set forth in writing and executed by the parties hereto.
11. Governing Laws. This Agreement shall be construed and enforced according to the laws of the State of California, and the parties hereby agree that the County of Monterey shall be the proper venue for any dispute arising hereunder.
12. Construction of Agreement. The parties agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any exhibit or amendment. To that end, it is understood and agreed that this Agreement has been arrived at through negotiation, and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654. Section and paragraph headings appearing herein are for convenience only and shall not be used to interpret the terms of this Agreement.

13. Waiver. Any waiver of any term or condition hereof must be in writing. No such waiver shall be construed as a waiver of any other term or condition herein.
14. Time is of the Essence. The parties mutually acknowledge and agree that time is of the essence with respect to every provision hereof in which time is an element. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act, nor shall any such extension create a precedent for any further or future extension.
15. Execution of Agreement. Any individual executing this Agreement on behalf of an entity represents and warrants that he or she has the requisite authority to enter into this Agreement on behalf of such entity and to bind the entity to the terms and conditions hereof. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.
16. Entire Agreement. This document, including all exhibits hereto, constitutes the entire agreement between the parties, and supersedes any and all prior written or oral negotiations and representations between the parties concerning all matters relating to the subject of this Agreement.

IN WITNESS WHEREOF, TAMC and CITY OF MARINA execute this agreement as follows:

TAMC	CITY OF MARINA
By _____ Debra L. Hale Executive Director	By: _____ Name: _____ Title: MAYOR
Dated: _____	Dated: _____
Approved as to form:  By: _____ Legal Counsel	By: _____ Name: _____ Title: CITY CLERK Dated: _____
	By: _____ Name: _____ Title: CITY ATTORNEY  Dated: _____

INSTRUCTIONS: If Consultant is a corporation (including limited liability and nonprofit corporations), the full legal name of the corporation shall be set forth together with the signatures of two specified officers. If Consultant is a partnership, the name of the partnership shall be set forth together with the signature of a partner with authority to execute this Agreement on behalf of the partnership. If Consultant is contracting in an individual capacity, the individual shall set forth the name of his or her business, if any, and shall personally sign the Agreement.

Date: 4/1/2016

Application No. 2016-03

**TRANSPORTATION AGENCY FOR MONTEREY COUNTY (TAMC)**  
**APPLICATION FOR**  
**ENCROACHMENT PERMIT (PERMIT TO ENTER AND CONSTRUCT)**

City Of Marina  
(Applicant's Name)

Of 211 Hillcrest Ave, Marina CA 93933  
(Mailing Address)

Del Monte Blvd and Beach Rd Improvement Project  
(Address of Property)

\_\_\_\_\_  
(Assessor's Parcel Number)

Applicant hereby applies for an encroachment permit for the purpose of entering and construction on TAMC property at the above-noted property, pursuant to the final policy with respect to encroachments in Monterey Peninsula Branch Line Right-of-Way for the following reasons:

Description of Use: Construction of roadway and drainage improvements for the City of Marina "Del Monte Blvd and Beach Road Improvement Project".

Proposed Starting Date: June 2016  
Estimated Date of Completion: October 2016

Drawings submitted: Plan View: Improvement Plans Dated Jan2016  
Details: See Attachments 1-A & 1-B

Applicant agrees that work will comply with the General Conditions listed on the reverse side of this application.

\_\_\_\_\_  
(Signature of Applicant)

\_\_\_\_\_  
(Phone Number of Applicant)

**\*\*\*YOUR APPROVED APPLICATION IS THE ENCROACHMENT PERMIT\*\*\***

- Encroachment Permit is approved.
- Encroachment Permit is approved with Special Conditions of Approval, which are a part of the Encroachment Permit.
- Encroachment Permit is disapproved.
- Encroachment Permit application is referred to the TAMC Board for their consideration and action.

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Date

Approved as to Form:

\_\_\_\_\_  
TAMC Counsel

\_\_\_\_\_  
Date

**Note:** Encroachment permit actions by the TAMC Executive Director may be appealed to the TAMC Board by filing an appeal with the TAMC Administrative Services Manager within fifteen (15) days of the date of notice to the applicant.

## TRANSPORTATION AGENCY FOR MONTEREY COUNTY

As condition for the granting of an encroachment permit from TAMC, I hereby agree to the following conditions:

### GENERAL CONDITIONS

1. **Hold Harmless:** Permittee shall hold harmless and defend TAMC, its officers, employees or agents, against any claims or suits, from any cause whatever, arising from the construction, maintenance or existence of the encroachment permitted pursuant to this permit.
2. **Maintenance:** Permittee shall at all times maintain the public property covered by this permit and any structures or landscaping placed thereon in a safe, neat and attractive manner.
3. **Revocability:** This permit shall be revocable at any time without cause unless otherwise specified. TAMC shall give written notice of such revocation and a reasonable time to remove the encroachment. Permittee agrees to remove the encroachment after said notice and to restore the public property to a safe condition. If permittee fails to do so, TAMC may do said work, either with its own employees or by private contract, and the permittee shall be liable for said costs.
4. **Transferability:** This permit is for the benefit of the adjacent property (other than temporary encroachments) and may be transferred to the successor of the permittee without consent of TAMC, provided, however, that no transfer of this permit shall become effective until the transferee executes an agreement with TAMC that he/she has read and accepts the terms and conditions of the permit. It shall be the duty of the permittee to notify his/her successor of this permit and the terms and conditions herein.
5. **Signs:** There shall be no signs or other forms of advertising within the area covered by this permit unless specifically authorized.
6. **Inspection Notice:** Prior to any construction activity the applicant shall contact the TAMC Inspector for a field inspection of the work to be done within the public right-of-way. A twenty-four (24) hour notice shall be given to the TAMC Inspector prior to any work activity.
7. **Insurance:**

(a) Without limiting Permittee's duty to indemnify, Permittee shall maintain, at no cost to TAMC, throughout the term of this Agreement, a policy or policies of insurance with the following coverage and minimum limits of liability (check if applicable):

- Commercial general liability insurance, including but not limited to premises, personal injury, products, and completed operations, with a combined single limit of \$1,000,000 per occurrence.
- Professional liability insurance in the amount of not less than \$1,000,000 per claim and \$3,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims made" basis rather than an "occurrence" basis, Permittee shall, upon the expiration or termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or termination of this Agreement.

- [ X] Comprehensive automobile liability insurance covering all motor vehicles, including owned, leased, hired and non-owned vehicles used in providing services under this Agreement, with a combined single limit of not less than \$1,000,000 per occurrence.
- (b) All insurance required under this Agreement shall be with a company acceptable to TAMC and authorized by law to transact insurance business in the State of California. Unless otherwise provided herein, all such insurance shall be written on an occurrence basis; or, if any policy cannot be written on an occurrence basis, such policy shall continue in effect for a period of two years following the date of Permittee's completion of performance hereunder.
- (c) Each policy of insurance required under this Agreement shall provide that TAMC shall be given written notice at least thirty days in advance of any change, cancellation or non-renewal thereof. Each policy shall provide identical coverage for each subcontractor performing work under this Agreement, or be accompanied by a certificate of insurance for each subcontractor showing identical insurance coverage.
- (d) Commercial general liability and automobile liability policies shall provide an endorsement naming TAMC, its officers, agents, and employees, as additional insured's and shall further provide that such insurance is primary to any insurance or self-insurance maintained by TAMC, and that no insurance of any additional insured shall be called upon to contribute to a loss covered by Permittee's insurance.
- (e) Workers Compensation Insurance. If during the performance of this contract, Permittee employs one or more employees, then Permittee shall maintain a workers' compensation plan covering all of its employees as required by Labor Code Sec. 3700, either (a) through workers' compensation insurance issued by an insurance company, with coverage meeting the statutory limits and with a minimum of \$100,000.00 per occurrence for employer's liability, or (b) through a plan of self-insurance certified by the State Director of Industrial Relations, with equivalent coverage. If Permittee elects to be self-insured, the certificate of insurance otherwise required by this agreement shall be replaced with consent to self-insure issued by the State Director of Industrial Relations. The provisions of this paragraph apply to any subcontractor employing one or more employees, and Permittee shall be responsible for all subcontractors' compliance herewith.
- 8. Engineering Provisions:** Permittee shall follow the American Railway Engineering and Maintenance of Way Associations 2004 Manual for Railway Engineering engineering specification for work performed on the TAMC Railroad Right-of-Way.

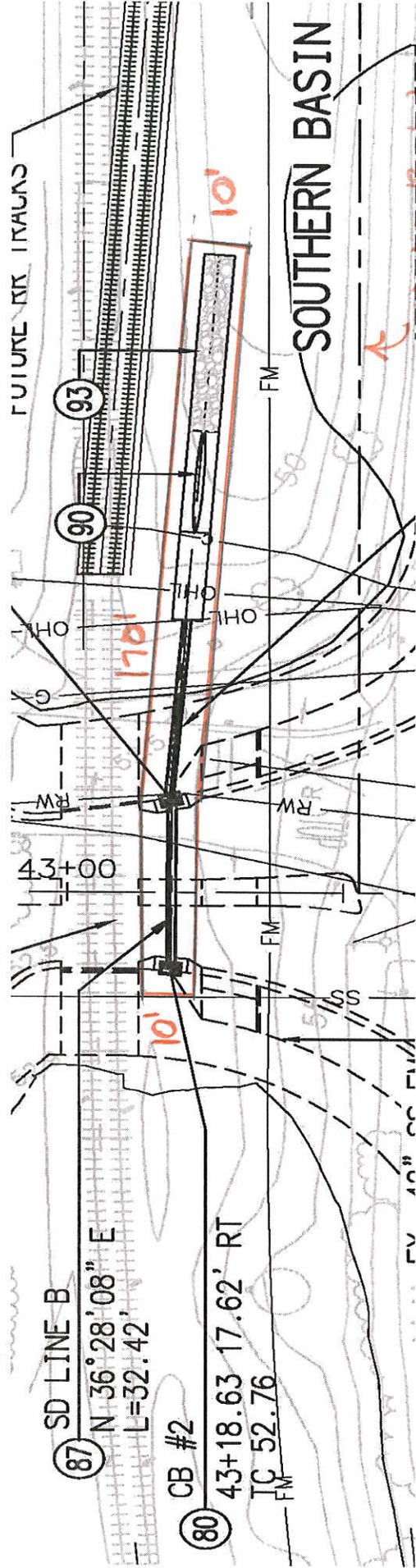
### **Special Conditions of Approval**

- a. The work of construction shall be conducted in accordance with the City of Marina Plans and Specifications for the “Del Monte Boulevard and Beach Street Improvements Project” dated January 2016.
- b. The top of slope for the proposed storm drainage outfall (south basin) shall be adequately offset so that it does not conflict with the proposed second track line location of the Monterey Branch Line (MBL) rail project.
- c. The City of Marina is responsible for all maintenance of the roadway and drainage improvements constructed on TAMC property pursuant to this Encroachment Permit. The City of Marina shall execute a Maintenance Agreement between TAMC and Marina no later than July 1, 2016 and **this Encroachment Permit shall not be effective until such execution.**
- d. The City of Marina will be required to modify the roadway and drainage improvements within the TAMC right of way in the event of a future conflict with the Monterey Branch Line (MBL) rail project.
- e. The City of Marina indemnifies the TAMC for injury or loss arising out of the City installed facilities.
- f. The City of Marina shall maintain a Water Pollution Control Plan and apply the plan’s Best Management Practices to the use of the site.
- g. The City of Marina shall obtain any applicable local land use jurisdiction permits/approvals prior to occupying the site.
- h. Workers Compensation Insurance shall be maintained at a minimum of \$1,000,000.00 per occurrence.
- i. Unless revoked earlier pursuant to Paragraph 3 of General Conditions, this Encroachment Permit shall terminate if and when the Agreement for Maintenance related to this property and approved by the City of Marina on DATE is breached or terminated.

DELMONTE - BEACH FOUNDABOOT

STORM DRAIN

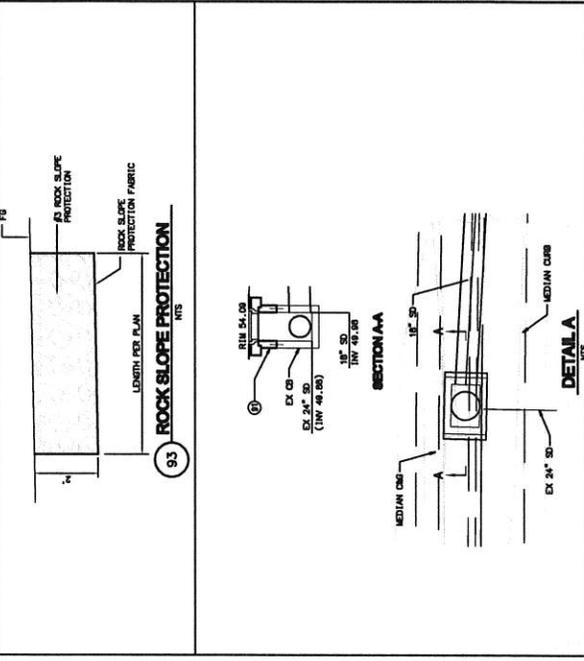
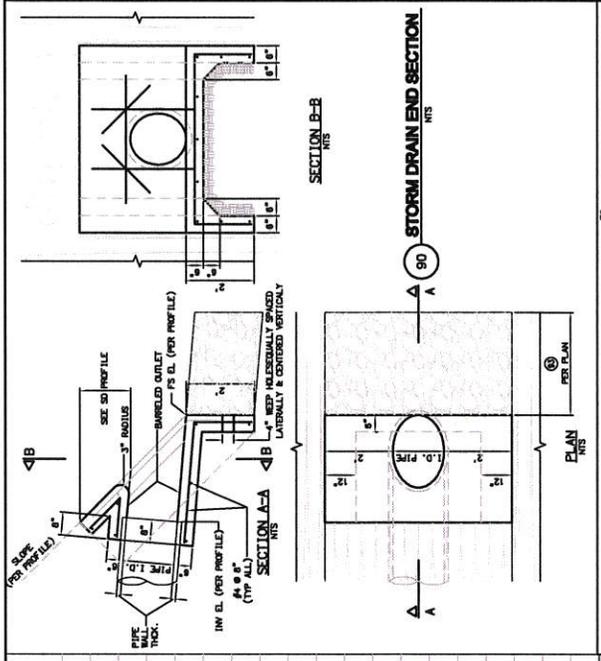
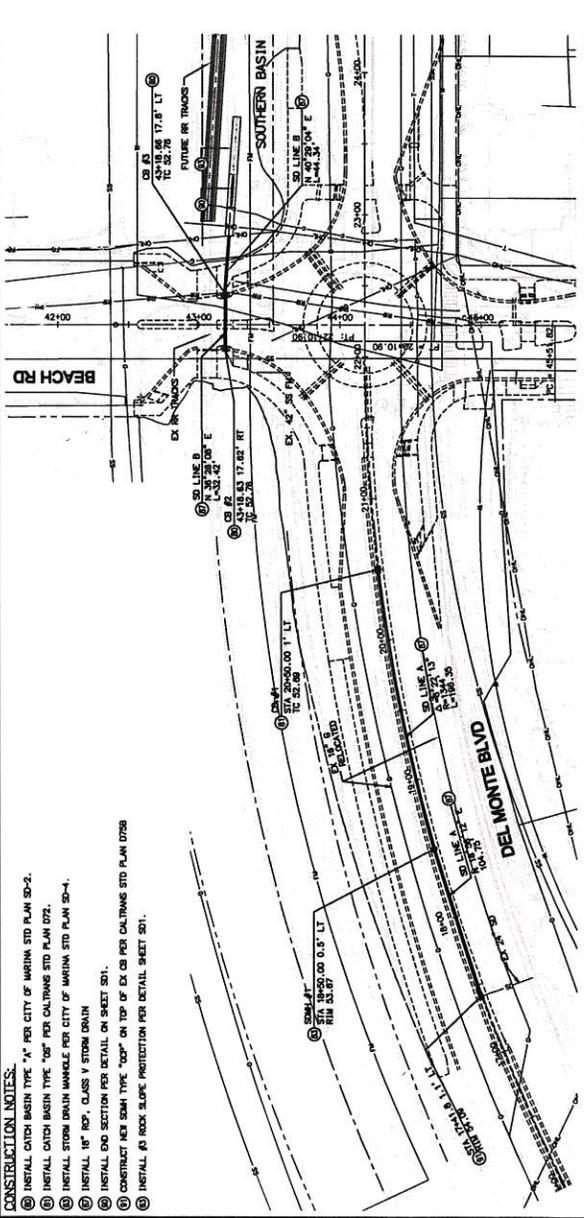
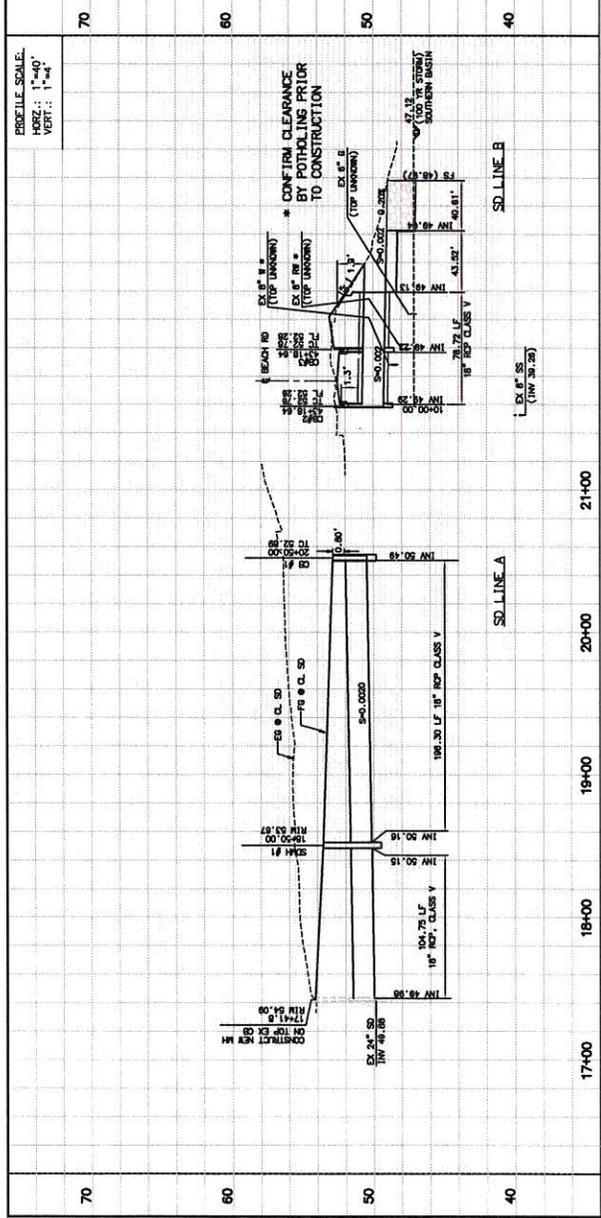
ENCROACHMENT =  $170'L \times 10'W = 1700 \text{ SF}$   
 INTO TAMC ROW.



SD LINE B  
 18" STORM DRAIN  
 OUTFALL END SECTION  
 ROCK SLOPE PROTECTION

TAMC ROW

RFI JOB NO: 35-100762	DATE: 01/16	SD1	SHEET
DRAWN BY: AT	DATE: 01/16	13 OF 24	
DESIGNED BY: AT	DATE: 01/16	STREET IMPROVEMENT PLANS STORM DRAIN PLAN AND PROFILE DEL MONTE BLVD	
CHECKED BY: JAH	DATE: 01/16	DEL MONTE BLVD AND BEACH ROAD IMPROVEMENT PROJECT	
MICHAEL BAKER INTERNATIONAL 500 Ygnacio Valley Road, Suite 300 Phonix (625) 985-1460 - MIBAKER@TLCOM		CITY OF MARINA	
JENNIFER A. HARMON		R.C.E # 63909	



		<b>Michael Baker International</b> 500 Yorba Valley Blvd, Suite 200 Yorba Linda, CA 92686 Phone: (949) 946-1400 • MBKINTERNL.COM		<b>SD1</b> SHEET <b>13</b> OF 24
PLAN APPROVED BY: <b>JENNIFER A. HANSON</b> DATE: <b>07/16</b>		CITY OF MARINA R.C.E. #2648 DATE: <b>07/16</b>		STREET IMPROVEMENT PLANS STORM DRAIN PLAN AND PROFILE DEL MONTE BLVD DEL MONTE BLVD AND BEACH ROAD IMPROVEMENT PROJECT CITY OF MARINA
PLAN NO. <b>35-100762</b> REF. JOB NO. <b>35-100762</b> DESIGNER BY: <b>AT</b> DATE: <b>07/16</b>		CHECKED BY: <b>JENNIFER A. HANSON</b> DATE: <b>07/16</b>		PROJECT NO. <b>35-100762</b> SHEET NO. <b>13</b> OF <b>24</b>

CITY OF MARINA  
 ENCROACHMENT PERMIT  
 DRAWING ATTACHMENT 1-B

April 29, 2016

Item No. **8g(1)**

Honorable Mayor and Members  
of the Marina City Council

City Council Meeting of  
May 3, 2016

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2016,  
AUTHORIZING THE MAYOR TO EXECUTE A MAINTENANCE  
AGREEMENT FROM THE TRANSPORTATION AGENCY FOR  
MONTEREY COUNTY (TAMC) FOR A PORTION OF TAMC RIGHT OF  
WAY NEAR ENGINEERS STATION 307+90 OF THE MONTEREY  
BRANCH LINE PROJECT IN FURTHERANCE OF THE CITY OF  
MARINA'S DEL MONTE BLVD. AND BEACH ROAD IMPROVEMENT  
PROJECT, AND AUTHORIZING CITY MANAGER TO EXECUTE A  
CONSTRUCTION ENCROACHMENT PERMIT ON BEHALF OF THE  
CITY OF MARINA SUBJECT TO FINAL REVIEW BY THE CITY  
ATTORNEY**

**RECOMMENDATION:**

It is recommended that the City Council:

1. Authorizing the Mayor to execute a Maintenance Agreement from the Transportation Agency for Monterey County (TAMC) for a portion of TAMC Right of Way near Engineers Station 307+90 of the Monterey Branch Line Project in furtherance of the City of Marina's Del Monte Blvd. and Beach Rd. Improvement Project, and;
2. Authorizing City Manager to Execute an Encroachment Permit on behalf of the City of Marina Subject to final review by the City Attorney

**BACKGROUND:**

The 2006-07 Capital Improvement Program (CIP) budget included projects for improvements to the intersection of Del Monte Boulevard and Beach Road (TI 29) and the widening of Del Monte Boulevard from Beach Road to Marina Green Drive (R28). Funding for the projects was identified as Public Facilities Impact Fees (PFIF), however, appropriations were not authorized at that time. The total estimated cost for the combined projects is \$4,058,000.

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At the regular meeting of December 18, 2012, the City Council adopted Resolution No. 2012-197, approving an update to the five (5) year City Capital Improvement Program (CIP). Included in the approved CIP project list was the Del Monte Boulevard & Beach Rd. Improvement project for intersection improvements.

On July 16, 2015, City staff conducted a public meeting to discuss the proposed improvements including the proposed roundabout at the intersection of Del Monte Boulevard and Beach Road, identify project area constraints, and invite public comments for consideration of the design engineers in developing the preliminary design for City Council review.

At the regular meeting of August 18, 2015, the City Council of the City of Marina adopted Resolution No. 2015-101, approving the construction of a Roundabout in lieu of a traffic signal for the Del Monte Boulevard and Beach Road Intersection Improvement Project.

As the proposed project improvements include new drainage improvements within TAMC right-of-way, TAMC staff has provided a maintenance agreement for these improvements (**EXHIBIT “A”**).

**ANALYSIS:**

The Del Monte Blvd. and Beach Rd. Improvement Project includes demolition and removal of existing concrete medians, curb and gutter, and roadway sections; Reconfiguring the existing roadway, including one new traffic roundabout; Installing new concrete curb and gutter, roadway section as required, sidewalk, driveway and curb ramps; Placing an asphalt concrete overlay over the street sections to remain; Installation of a new pathway; Installation of new landscaping and irrigation; Placement of underground storm drain piping and appurtenances; New striping and pavement markings and traffic signage; and all other miscellaneous improvements.

Staff has coordinated with the Transportation Agency for Monterey County (TAMC) for the projects storm drain improvements which includes construction of a drainage basin, a portion of which lies within the Monterey Branch Line right of way.

This maintenance agreement will require the City of Marina to bear the entire cost of constructing, operating, and maintaining the project’s drainage improvements that are within the Monterey Branch Line’s right of way (improvement area approximately 10 feet wide by 170 feet long). The City is also required to coordinate with TAMC should the drainage improvements conflict with the future improvements of the proposed Monterey Branch Line project.

The adoption of the resolution to approve the agreement was continued from the April 19, 2016 City Council meeting for staff to review the reference of “Contractor” in the agreement. After reviewing the agreement with TAMC staff, the following revisions were made:

- Changing the wording on the Maintenance agreement (pg. 3, Item 5) from “CONTRACTOR” to “CITY”.
- Deleting the 5 year renewal requirement for the Encroachment permit.

Additional minor revisions were made to the Maintenance Agreement for clarification. With approval of the agreement, staff will take the agreement for approval by the TAMC board for authorization on May 25, 2016.

**FISCAL IMPACT:**

There is no fiscal impact at this time.

**CONCLUSION:**

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

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Edrie Delos Santos, P.E.  
Senior Engineer, Engineering Division  
Community Development Department  
City of Marina

**REVIEWED/CONCUR:**

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Nourdin Khayata, P.E.  
Acting City Engineer  
City of Marina

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Layne P. Long  
City Manager  
City of Marina