

MEMORANDUM OF UNDERSTANDING
AMONG
THE CITY OF LAFAYETTE
AND
THE CITY OF WALNUT CREEK
AND
CONTRA COSTA COUNTY
FOR THE
OLYMPIC CORRIDOR TRAIL CONNECTOR STUDY

This MEMORANDUM OF UNDERSTANDING ("MOU"), effective February____, 2013 ("Effective Date"), is entered into by, and among, the City of Lafayette, a municipal corporation (LAFAYETTE), and the City of Walnut Creek, a municipal corporation (WALNUT CREEK), and County of Contra Costa, a political subdivision of the State of California (CONTRA COSTA), collectively referred to as PARTIES and each a PARTY, and WALNUT CREEK and LAFAYETTE referred to as CITIES collectively, or CITY, individually.

RECITALS

- A. The Olympic Corridor Trail Connector Study (STUDY) is a planning effort that will identify feasible alignments and a preferred alternative alignment for a pedestrian/bicycle facility connecting two well-used, paved, multi-use regional trails in Contra Costa County, the Lafayette-Moraga Trail and the Iron Horse Trail.
- B. If connected, these facilities would complete a trail network that joins most of Lamorinda, San Ramon Valley, and Central Contra Costa County. The ultimate goal of the proposal is to provide a superior connection for bicyclists and pedestrians offering the highest level of safety, convenience and comfort.
- C. COUNTY, through the support of the Southwest Area Transportation Committee (SWAT), and the Transportation Partnership and Cooperation (TRANSPAC) obtained a Transportation for Livable Communities (TLC) Grant from the Contra Costa Transportation Authority (CCTA) in the amount of \$195,000 for the purposes of conducting the STUDY.
- D. The STUDY area includes separate jurisdictional areas where individual PARTIES have discrete authority over land use, roadway operations, and public capital improvements.
- E. PARTIES intend to cooperate with, and support the conduct of the STUDY, which will develop recommendations for improved bicycle and pedestrian facilities generally along the Olympic Boulevard corridor from its terminus in the west (in the City of Lafayette) at Reliez Station Road to the Iron Horse Corridor in the east (in the City of Walnut Creek).
- F. COUNTY is assuming fiscal responsibility and project lead duties for the administration and conduct of the STUDY.
- G. STUDY-related costs shall be paid by COUNTY from TLC funds. Costs incurred by each CITY due to its participation in the STUDY are not eligible for reimbursement and will be the responsibility of that CITY.

TERMS OF UNDERSTANDING

- 1. Purpose and Scope of Work: PARTIES agree on the cross-jurisdictional need for the STUDY and desire to complete STUDY, and review implementation of the recommendations, subject to the policies and priorities of each jurisdiction. The STUDY

will identify a preferred alignment and cross-sections for the Olympic Corridor Connector. The purpose of this MOU is to define the roles of the PARTIES during the conduct of the STUDY, and during specific post-STUDY activities, as specified in Section Two.

2. Responsibilities of the PARTIES

A. Responsibilities of CITIES: CITIES agree to do all of the following during each of the following phases of the project:

1) Conduct of STUDY:

- To participate in the selection of the consultant and conduct of the STUDY;
- To respond to requests for information necessary for the conduct and progress of the STUDY in a reasonable time period;
- To attend staff, policy, and technical meetings as necessary to keep the STUDY on schedule;
- To process any necessary consultations, reviews, and approvals at respective technical and policy bodies; and
- To have control over the final recommendations of the STUDY for improvements in their respective jurisdictions.

2) Implementation of Recommendations:

- To consider adoption of the recommendations of the STUDY and incorporate next steps in to the appropriate policy documents.
- To consider implementation of the recommendations of the study, subject to the adopted policies and priorities of each CITY.
- To reasonably support other PARTIES in pursuing grant funds for the implementation of all or portions of the recommendations of the STUDY, subject to the adopted policies and priorities of each CITY.

3. B. Responsibilities of COUNTY: COUNTY agrees to do all of the following during each of the following phases of the project:

1) Conduct of STUDY:

- To participate fully in the conduct of the study.
- Respond to request for information necessary for the conduct and progress of the study in a reasonable time period,
- Attend staff, policy, and technical meetings as necessary to keep STUDY on schedule.
- Process any necessary consultations, reviews, and approvals at respective technical and policy bodies,

- To be responsible for final approval of recommendations of STUDY recommendations in COUNTY jurisdiction.
- Be solely responsible for any administrative activity necessary for conduct of study and to fulfill any requirements of CCTA.

2) Implementation of Recommendations:

- Adopt the recommendations of the STUDY and incorporate next steps in to the appropriate policy documents.
- Pursue implementation of the recommendations of the study consistent with adopted policies and priorities.
- Support other PARTIES in pursuing grant funds for the implementation of all or portions of the recommendations of the STUDY.

4. Mutual Understanding

A. PARTIES agree that implementation and maintenance of any project resulting from the STUDY will be the sole responsibility of the jurisdiction where that project is located.

B. PARTIES agree to cooperate in good faith where implementation requires joint, coordinated action. Joint implementation of any project or projects resulting from the STUDY will be subject to another agreement between or among parties.

5. Mutual Indemnification:

A. COUNTY hereby agrees to indemnify, defend, assume all liability for and hold harmless each of the CITIES and its officers, employees, agents and representatives, to the maximum extent allowed by law, from all actions, claims, suits, penalties, obligations, liabilities, damages to property, costs and expenses (including, without limitation, any fines, penalties, judgments, actual litigation expenses and experts' and actual attorneys' fees), environmental claims or bodily and/or personal injuries or death to any persons, arising out of or in any way connected to the negligence or willful misconduct of COUNTY, its officers, agents or employees in connection with or arising from any of its activities under to this Agreement. This indemnity shall apply except as to the respective sole negligence or willful misconduct of each of the CITIES, as the case may be, in which case County shall be relieved of indemnifying the party responsible for engaging in sole negligence or willful misconduct.

B. LAFAYETTE hereby agrees to indemnify, defend, assume all liability for and hold harmless COUNTY and WALNUT CREEK and their respective officers, employees, agents and representatives, to the maximum extent allowed by law, from all actions, claims, suits, penalties, obligations, liabilities, damages to property, costs and expenses (including, without limitation, any fines, penalties, judgments, actual litigation expenses and experts' and actual attorneys' fees), environmental claims or bodily and/or personal injuries or death to any persons, arising out of or in any way connected to the negligence or willful misconduct of LAFAYETTE, its officers, agents or employees in connection with or arising from any of its activities under this Agreement. This indemnity shall apply except as to the sole negligence or willful misconduct of COUNTY or WALNUT CREEK, as

the case may be, in which case, LAFAYETTE shall be relieved of indemnifying the PARTY responsible for engaging in sole negligence or willful misconduct.

- C. WALNUT CREEK hereby agrees to indemnify, defend, assume all liability for and hold harmless COUNTY and LAFAYETTE and their respective officers, employees, agents and representatives, to the maximum extent allowed by law, from all actions, claims, suits, penalties, obligations, liabilities, damages to property, costs and expenses (including, without limitation, any fines, penalties, judgments, actual litigation expenses and experts' and actual attorneys' fees), environmental claims or bodily and/or personal injuries or death to any persons, arising out of or in any way connected to the negligence or willful misconduct of WALNUT CREEK, its officers, agents or employees in connection with or arising from any of its activities under to this Agreement. This indemnity shall apply except as to the sole negligence or willful misconduct of either COUNTY or LAFAYETTE, as the case may be, in which case, WALNUT CREEK shall be relieved of indemnifying the PARTY responsible for engaging in sole negligence or willful misconduct.
6. MOU Modification: This MOU may be modified only by the written approval of the legislative bodies of all PARTIES.
 7. MOU Termination: Unless terminated earlier, this MOU will terminate immediately upon implementation of the recommendations of the STUDY by all PARTIES. Any PARTY may terminate this MOU with or without cause by serving sixty (60) days written notice on the other PARTIES.
 8. Counterparts. The PARTIES hereto recognize and agree that separate counterpart signature pages may be used to execute this MOU, but that all such pages constitute one and the same MOU.
 9. Construction. The section headings and captions of this MOU are, and the arrangement of this instrument is, for the sole convenience of the PARTIES to this MOU. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this MOU. This MOU will not be construed as if it had been prepared by one of the PARTIES, but rather as if all PARTIES have prepared it. The PARTIES to this MOU and their respective counsel have read and reviewed this MOU and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting PARTY will not apply to the interpretation of this MOU. The recitals are, and will be enforceable as, a part of this MOU.
 10. No Third-Party Beneficiaries. This MOU is intended solely for the benefit of the PARTIES hereto, and no third party will have any right or interest in any provision of this MOU or as a result of any action or inaction of any PARTY in connection therewith.
 11. Governing Law and Venue. This MOU will be governed and construed in accordance with California law.
 12. Entire MOU: This MOU contains the entire understanding of the PARTIES relating to the subject of this MOU. Any representation or promise of the PARTIES relating to STUDY shall not be enforceable unless it is contained in this MOU or in a subsequent written modification of this MOU executed by all the legislative bodies of all PARTIES.

IN WITNESS WHEREOF, the PARTIES hereto have executed this MOU on the Effective Date.

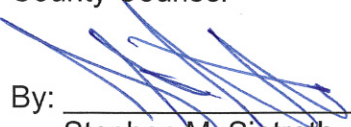
COUNTY OF CONTRA COSTA
("COUNTY")

By: _____
Federal D. Glover
Chair, Board of Supervisors

Attest:

By: _____
David Twa
Clerk of the Board of Supervisors

Approved as to form:
Sharon Anderson
County Counsel

By:  _____
Stephen M. Siptroth
Deputy County Counsel

CITY OF LAFAYETTE ("LAFAYETTE")

By: _____
Mike Anderson
Mayor

Attest:

By: _____
Joanne Robbins
City Clerk

Approved as to form:
Best Best & Krieger LLP

By: _____
Malathy Subramanian
City Attorney

CITY OF WALNUT CREEK ("WALNUT
CREEK")

By: _____
Cindy Silva
Mayor

Attest:

By: _____
Suzie Martinez
City Clerk

Approved as to form:

By: _____
Bryan Wenter
City Attorney