

**MEMORANDUM OF UNDERSTANDING
BETWEEN CONTRA COSTA COUNTY AND CITY OF MARTINEZ
FOR THE PACHECO BOULEVARD IMPROVEMENTS PROJECT
FROM BLUM ROAD TO MORELLO AVENUE
(ALIGNMENT STUDY)**

This MEMORANDUM OF UNDERSTANDING, dated _____ day of _____, 2015 (this “MOU”), is entered into by Contra Costa County, a political subdivision of the State of California (“COUNTY”) and the City of Martinez, California (“CITY”).

RECITALS

- A. The Pacheco Boulevard Improvements Project, from Blum Road to Morello Avenue (PROJECT), is a project to realign and widen Pacheco Boulevard within unincorporated Contra Costa County and the City of Martinez from Blum Road to Morello Avenue.
- B. COUNTY and CITY general plans both reflect ultimate four lane configurations along Pacheco Boulevard (ROADWAY), within the PROJECT limits.
- C. The COUNTY and CITY have reviewed the alignment and width of the ROADWAY within the PROJECT limits and recommends an alignment study to more specifically define the potential PROJECT improvements.
- D. The COUNTY and the CITY agree that this alignment study for the PROJECT will include topographic mapping, traffic analysis, and alternative analysis with environmental considerations.
- E. The parties intend to define herein the understanding by which COUNTY and CITY are to implement the alignment study.
- F. The sole funding for the alignment study is Contra Costa Transportation Authority (CCTA) Measure C funds. CITY and COUNTY will develop a program budget for project funding purposes. Based on a program budget that is mutually agreeable to both parties, COUNTY will request appropriation of Measure C funds from the Contra Costa Transportation Authority (CCTA) to conduct an alignment study for the PROJECT and assign CITY as co-sponsor for the Measure C funds to be used for the study.
- G. The CITY will serve as the implementing agency, and the COUNTY will assist the CITY in the review and approval of the study deliverables.

UNDERSTANDING

Now, therefore, it is hereby acknowledged, CITY and COUNTY agree as follows:

1. **PURPOSE.** The Purpose of this MOU is to set forth the parties' goals and expectations with respect to implementing the alignment study phase of the PROJECT. This MOU shall only be construed to create the specific rights and obligation set forth herein, and is not intended, and shall not be construed, to create any rights or obligations beyond those that do not otherwise exist under the law.
2. **ALIGNMENT STUDY AND ALTERNATIVES.** CITY will complete a traffic analysis, an alignment study and develop alternatives identifying environmental considerations for each segment for the PROJECT within the COUNTY and the CITY. The alignment study will include design level mapping for the PROJECT and will determine alternative horizontal and vertical ROADWAY alignments, along with right-of-way requirements, and develop planning level cost estimates. All work within the jurisdictional boundaries of COUNTY shall be performed to the satisfaction of COUNTY, in accordance with COUNTY standards and requirements. All work within the jurisdictional boundaries of CITY shall be performed to the satisfaction of CITY, in accordance with CITY standards and requirements.
3. **INVOICING AND PAYMENT.** COUNTY will invoice CITY no less than quarterly for reimbursement of COUNTY'S costs incurred in assisting the CITY in the review and approval of project deliverables. CITY shall submit said COUNTY costs along with its own costs to CCTA for reimbursement on a quarterly basis. CITY will reimburse COUNTY no less than 30 days after payment of said costs are received from CCTA. CITY shall only reimburse COUNTY if payment for COUNTY costs is received from CCTA.
4. **FUTURE PROJECT PHASES.** CITY and COUNTY may agree to seek funding for future PROJECT phases, including, but not limited to environmental clearance, preliminary engineering, right-of-way, and construction phases. If the CITY and COUNTY decide to proceed with future PROJECT phases using Measure J funds, CITY and COUNTY shall enter into a subsequent agreement or MOU, as mutually agreed upon by both parties. Nothing in this MOU commits either County or CITY to seek funding for future PROJECT phases or to construct PROJECT improvements.
5. **HOLD HARMLESS.**
 - (a) Nothing in this MOU is intended to affect the legal liability of any party by imposing any standard of care, with respect to the work performed hereunder, different from the standard of care imposed by law.
 - (b) CITY shall defend, hold harmless, and indemnify COUNTY, and its officers, agents and employees, against any and all claims, demands, damages, costs, expenses or liability related to or arising out of CITY's performance of this MOU, except for liability arising out of the sole negligence or willful misconduct of COUNTY, or its officers, agents or employees.

(c) COUNTY shall defend, hold harmless, and indemnify CITY, and its officers, agents and employees, against any and all claims, demands, damages, costs, expenses or liability related to or arising out of COUNTY's performance of this MOU, except for liability arising out of the sole negligence or willful misconduct of CITY, or its officers, agents or employees.

6. **TERM OF MOU.** This MOU will expire upon the completion of the tasks set forth in Sections 2 and 3 of this MOU. In the event that CCTA discontinues reimbursement for PROJECT costs, CITY and/or COUNTY may terminate this MOU and work on PROJECT.
7. **MOU MODIFICATION.** This MOU shall be subject to modification only with the written consent of the legislative bodies of each party hereto.
8. **ACCOUNTABILITY.** The parties shall provide strict accountability of any and all funds and shall report to each other all receipts and disbursements. In accordance with Section 3 of this MOU, reporting shall consist of 1) COUNTY shall provide invoice reimbursement requests to the CITY, and 2) CITY shall provide COUNTY copies of reimbursement requests submitted to CCTA.
9. **USE OF FUNDS.** Funds contributed for the project shall be used solely for the PROJECT, and in accordance with the referenced CCTA Cooperative Agreement and funding appropriation.
10. **MOU 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.
11. **ENTIRE MOU.** This MOU contains the entire understanding of the parties relating to the subject matter of this MOU. No promise, representation, warranty or covenant not included in this MOU has been or is relied upon by any party.
12. **COUNTERPARTS.** This MOU may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original with all counterparts constituting but one and the same instrument. The execution of this MOU will not become effective until counterparts have been executed by both parties. Faxed signatures on this MOU or any notice, consent or amendment required under this MOU are binding.
13. **NOTICES.** All correspondence regarding this MOU, including invoices, payments, and notices shall be directed to the following persons at the following addresses and facsimile numbers, which may be changed by written notice from one party to the other:

COUNTY:

Julia R. Bueren, Public Works Director
255 Glacier Drive
Martinez, CA 94553

CITY:

Tim Tucker, City Engineer
525 Henrietta Street
Martinez, CA 94553

14. GOVERNING LAW; VENUE. This MOU will be governed and construed in accordance with California law. The venue of any litigation arising out of this MOU will be Contra Costa County.

IN WITNESS WHEREOF, the parties have each executed this MOU as of the date first set forth above.

CONTRA COSTA COUNTY:

CITY OF MARTINEZ:

By: _____
Julia R. Bueren, Public Works Director

By: _____
City Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
County Counsel

By: _____
City Attorney