

Subject	Route 4 (e) Widening Project – Loveridge Road to Somersville Road (Project 1406) Authorization to enter into a Memorandum of Understanding (MOU) with the City of Pittsburg
Summary of Issues	Because the SR4 (e) Widening Project – Loveridge Road to Somersville Road includes work within the jurisdictional limits of the City of Pittsburg (City), it is helpful to have a MOU with the City to define the terms and conditions under which the project is to be managed, engineered, advertised, awarded, administered, constructed, financed, and maintained.
Recommendations	Authorize the Executive Director to enter into a MOU with the City of Pittsburg (draft copy attached), and delegate authority to make non-substantive changes or minor amendments to the MOU as he deems appropriate.
Financial Implications	None
Options	The APC could decide not to enter into a MOU with the City for this project; however, this action could impede construction of the project.
Attachments	A. Draft MOU (CCTA Agreement 14.06.01)
Changes from Committee	<i>None</i>

Background

Construction of the mainline portion of SR4 (e) Widening – Loveridge Road to Somersville Road (Project 1406) is scheduled to begin in summer of 2009. Work for this project includes areas within the jurisdictional limits of the City of Pittsburg. This City work consists mainly of constructing a 8-inch sanitary sewer along the California Avenue corridor from the intersection of SR4 w/b on/off ramps to west of Carion Court, and frontage improvements along the north side of California Avenue corridor from east of the SR4 w/b on/off ramps to west of Carion Court.

City staff has been integrally involved in the design efforts for this project by reviewing plans and attending numerous design meetings. The Authority, in cooperation with Caltrans, intends to administer the construction work within the City's jurisdictional limits under a no fee encroachment permit with the City. The enclosed MOU (14.06.01) was written to establish roles and responsibilities between the Authority and the City including design approval, funding, construction inspection, and project acceptance by the City.

MEMORANDUM OF UNDERSTANDING 14.06.01

State Route 4 Widening Project Loveridge Road to Somersville Road

This MEMORANDUM OF UNDERSTANDING (MOU), entered into on _____, 2008, by and between the Contra Costa Transportation Authority, a local public entity, referred to herein as "AUTHORITY," and the City of Pittsburg, a municipal corporation, referred to herein as "CITY."

RECITALS

WHEREAS, AUTHORITY and State of California, Department of Transportation (STATE), not a party to this MOU, propose highway improvements on Route 4 from 0.9 kilometers west of Loveridge Road Overcrossing to 0.3 kilometers west of Somersville Road Undercrossing said highway improvements consisting of widening freeway from four lanes to eight lanes and including a wide median for future mass transit, reconstruction of the Loveridge Road Overcrossing and conforming improvements to the local road network including Loveridge Road and California Avenue, hereinafter referred to as "PROJECT"; and

WHEREAS, Loveridge Road and California Avenue are within the jurisdictional limits of the CITY; and

WHEREAS, CITY requires extension of an 8-inch sanitary sewer along the California Avenue corridor from the intersection of the Route 4 W/B On / Off Ramps to west of Carion Court, and frontage improvements along the north side of California Avenue corridor from east of the Route 4 W/B On / Off Ramps to west of Carion Court, hereinafter referred to as "CITY WORK"; and

WHEREAS, by Resolution No. 02-9705 of the City Council, the CITY approved a Deferred Improvement Agreement for Subdivision 8575 with Pittsburg Properties, LLC, not a party to this MOU, which establishes a mechanism for funding frontage improvements along the north side of California Avenue; and

WHEREAS, the conforming improvements to California Avenue made necessary by PROJECT, are to some extent duplicated by the frontage improvements contemplated under the Deferred Improvement Agreement and encompassed as part of the CITY WORK; and

WHEREAS, Pacific Gas and Electric Company (UTILITY), not a party to this MOU, is required by the STATE, to rearrange, relocate, or reconstruct overhead electric distribution facilities, outside the state highway right of way; and

WHEREAS, UTILITY proposes to rearrange, relocate, or reconstruct its overhead electric distribution facilities along the north side of California Avenue within the CITY right of way; and

WHEREAS, the CITY desires that UTILITY's overhead facilities to be rearranged, relocated, or reconstructed along the north side of California Avenue be converted to an underground system; and

WHEREAS, AUTHORITY has prepared or shall cause to be prepared the drawings and specifications and shall, in cooperation with Caltrans, not a party to this MOU, who will advertise, award, and administer the construction contract for PROJECT in order to bring about the earliest possible completion of PROJECT; and

WHEREAS, AUTHORITY and CITY contemplate design and construction of CITY WORK as part of PROJECT as described in the drawings and specifications for State Contract No. 04-228594 dated July 2008 and made a part of this MOU by reference; and

WHEREAS, it is desirable to clarify the rights and responsibilities between the AUTHORITY and CITY as to the PROJECT, CITY WORK and those rearranged, relocated or reconstructed UTILITY facilities, or portions thereof and appurtenant facilities thereto within the CITY right-of-way; and

WHEREAS, AUTHORITY and CITY intend to define herein the terms and conditions under which the PROJECT is to be managed, engineered, advertised, awarded, administered, constructed, financed, and maintained.

Now therefore, the parties do hereby agree as follows:

SECTION I

AUTHORITY AGREES:

- A. To act as PROJECT proponent and to be responsible for overall management (such as schedule, budget, and oversight of consultants), design, and preconstruction activities.
- B. Authority will cooperate with Caltrans, who will advertise, administer, and construct the PROJECT, including, construction contract administration and construction management oversight of CITY WORK. CITY is responsible for construction management interface of work occurring in CITY's jurisdiction.
- C. AUTHORITY has obtained environmental clearance for PROJECT under a Negative Declaration/Environmental Assessment/Initial Study.
- D. To prepare or cause to be prepared plans and specifications approved by CITY for PROJECT, and furnish CITY three complete full-size sets of plans, three

complete reduced sets (11x17) of plans, electronic CAD files of plans, and electronic files of the project specifications.

- E. To require necessary encroachment permits for required work within CITY rights-of-way, in accordance with CITY's standard permit procedures.
- F. To provide funding for PROJECT from funds available for the State Route 4 Widening Project (Loveridge Road to Somersville Road) for all costs exceeding the amounts to be funded by the CITY as set-forth in Article B of Section II of this MOU.
- G. To provide an AUTHORITY representative for PROJECT as a contact for the CITY's representative during the construction phase of the PROJECT.
- H. Upon completion and acceptance of PROJECT, to furnish CITY with one complete full-size set and one reduced set (11-x17) of as-built or Record Drawings, and the corresponding electronic files for the CITY WORK portion of the PROJECT.
- I. Neither CITY nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by AUTHORITY under or in connection with any work, authority or jurisdiction delegated to AUTHORITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, AUTHORITY shall fully defend, indemnify and save harmless CITY from all claims, suits or actions of every name, kind and description brought for or on account of injury (as denned in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by AUTHORITY under or in connection with any work, authority or jurisdiction delegated to AUTHORITY under this Agreement.

SECTION II

CITY AGREES:

- A. To review draft plans, specifications and Engineer's estimate (PS&E) and provide comments to AUTHORITY in a timely manner.
- B. To provide funding for CITY WORK as follows:
 - 1. The actual cost for the design and construction of the 8-inch sanitary sewer, including all associated change orders, shall be paid to AUTHORITY.
 - 2. The amount of a Cash Deposit (\$264,156.95 and accrued interest) being held by the City in a separate account for Deferred Improvement Agreement - Subdivision 8587, Loveridge Center (recorded December 26, 2002, as Document No. 2002-0497079) shall be paid to AUTHORITY for

the design and construction of the frontage improvements along the north side of California Avenue corridor from east of the Route 4 W/B On / Off Ramps to west of Carion Court.

- C. To pay to AUTHORITY the entire balance of the said funds described in Article B of Section II of this MOU within 30 days after award of PROJECT construction contract and written request by AUTHORITY. If the cost for the frontage improvements is less than the said Cash Deposit, the balance and any accrued interest shall be retained by AUTHORITY and may be used to offset any costs incurred by AUTHORITY for the overhead to underground conversion by UTILITY.
- D. Upon submittal of a completed application, to promptly provide AUTHORITY an encroachment permit and waive the encroachment permit fee for work within the CITY right-of-way for PROJECT with said right-of-way free and clear from private entity encumbrances.
- E. For features affecting CITY, to provide quality assurance activities, including a qualified representative of CITY who shall have authority to accept or reject work and materials or to order any actions needed for public safety or the preservation of property and to assure compliance with all provisions of the encroachment permit(s) issued to AUTHORITY and AUTHORITY's contractor. CITY's representative shall have no direct contact with STATE'S contractor, but shall make all comments and recommendations to STATE'S Resident Engineer.
- F. Upon completion of construction of PROJECT within CITY's right-of-way to the satisfaction of AUTHORITY and CITY, CITY will accept all PROJECT work lying within CITY's right-of-way, pursuant to CITY issued encroachment permit referenced in Article E of Section II of this MOU, as complete. Upon acceptance of PROJECT construction contract by AUTHORITY, all improvements within CITY right-of-way will become property of CITY and CITY will accept control of and maintain, at its own cost and expense, those portions of PROJECT lying within CITY's right of way.
- G. Neither AUTHORITY nor any officer or employee thereof is responsible for any 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 delegated to CITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless AUTHORITY from all claims, suits or actions of every name, kind and description brought for or on account of injury (as denned in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.

SECTION III

IT IS MUTUALLY AGREED:

- A. Each of the CITY and the AUTHORITY renders its services under this MOU as an independent agency. None of CITY's or the AUTHORITY's agents or employees shall be agents or employees of the other party to this MOU.
- B. No amendment, alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
- C. Any notices that may be required under this MOU shall be in writing and shall be delivered by hand delivery, electronic delivery with electronic confirmation of delivery or by certified or express mail, addressed to the other party as follows:

AUTHORITY

Contra Costa Transportation Authority
3478 Buskirk Avenue, Suite 100
Pleasant Hill, CA 94523
Attn: Executive Director
FAX: (925) 256-4701

CITY

City of Pittsburg
Engineering Department
65 Civic Avenue
Pittsburg, CA 94565
Attn: City Engineer
FAX (925) 252-6928

- D. Each party agrees to do all such things and take all such actions, to make, execute and deliver such other documents, instrument, and improvements as shall be reasonably requested to carry out the provisions, intent and purpose of this MOU.

**CONTRA COSTA
TRANSPORTATION AUTHORITY**

CITY OF PITTSBURG

By: _____
David E. Hudson, Chair

By: _____
Marc S. Grisham, City Manager

Attest: _____
Robert K. McCleary, Executive Director