

**PUBLIC ACCESS TRAIL CORRIDOR AGREEMENT  
BETWEEN THE CITY OF AMERICAN CANYON AND THE NAPA COUNTY  
REGIONAL PARK AND OPEN SPACE DISTRICT**

**THIS AGREEMENT** is made and entered into effective this \_\_\_\_ day of \_\_\_\_\_, 2009, in the City and County of Napa, State of California, by and between the City of American Canyon, a California municipal corporation (hereinafter referred to as "CITY"), and the Napa County Regional Park and Open Space District (hereinafter referred to as "DISTRICT"), regarding the development, operation and maintenance of a public access trail either on lands owned by the CITY or located on a public access easement held by the CITY, referred hereinafter collectively as the "Parties."

**RECITALS**

**WHEREAS**, the Parties to this AGREEMENT recognize the importance of publicly accessible recreational opportunities near the Napa River and the American Canyon Wetlands, and

**WHEREAS**, the CITY desires to implement and operate a public access trail ("Trail") within a corridor ("Trail Corridor") attached as Exhibit A, generally using an existing service road around the landfill with adequate area provided for access to the Napa River, and for construction of public safety improvements and other public access amenities, and

**WHEREAS**, this Trail Corridor proceeds around the toe of the landfill on lands on the northerly side which are partially owned by the CITY and partially subject to a non-exclusive trail easement ("Trail Easement") granted to the CITY by the Napa-Vallejo Waste Management Authority ("Authority"); on the westerly side on lands subject to the Trail Easement, a portion of which the State Lands Commission also has a non-exclusive interest in, and on the easterly and southerly sides, on lands subject to the Trail Easement, and

**WHEREAS**, the Trail Easement is a non-exclusive surface easement for use by the public for non-motorized, non-commercial, recreational trail purposes only, (except that motorized personal mobility equipment may be allowed to the extent required by the Americans with Disabilities Act), including pedestrian, bicycling, equestrian and other compatible uses, as well as motorized use by the CITY for maintenance and patrol purposes.

**WHEREAS**, the Trail Easement held by the CITY includes a variety of provisions intended to avoid an unacceptable risk of harm to members of the public or unduly interfere with lawful landfill operations, including but not limited to times of public use, types of public use and occasional and temporary cessation of public use; and

**WHEREAS**, in addition to the terms of the Trail Easement held by the CITY, the CITY has agreed to enter into a separate management plan (“Operations and Management Plan”) with the Authority, as provided in Exhibit B, for the operation and maintenance of the TRAIL; and

**WHEREAS**, the DISTRICT desires to work in partnership with the CITY in designing, constructing and operating the Trail and associated improvements and interpretive elements; and

**WHEREAS**, the CITY has the authority to assign to the DISTRICT all or portion of its rights and responsibilities for construction and operation of the Trail within the Trail Corridor, on land either owned by the CITY or which is subject to the Trail Easement.

**WHEREAS**, the DISTRICT has been awarded a grant from the State of California River Parkway Grant Program to assist with the design and construction of the Trail and interpretive elements, and said grant requires that the DISTRICT have the authority to construct and ensure public use of the Trail for a period of at least twenty years subsequent to the completion of the grant-funded improvements.

**NOW, THEREFORE**, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties acknowledge that the foregoing recitals and following facts are true and correct and further agree:

- 1. Authorization to Construct and Operate Improvements.** The CITY hereby grants to the DISTRICT the authority to construct and operate the Trail and related improvements (“Trail Related Improvements”), for a period of twenty-five (25) years from the date first above written, subject to the terms and conditions of the Public Access Trail Corridor Agreement Between the Napa-Vallejo Waste Management Authority and the City of American Canyon, dated \_\_\_\_\_, 2009 (“Corridor Agreement”), and the Operations and Management Plan which is referenced in that Agreement.
- 2. Scope of Improvements.** The Trail and Trail Related Improvements covered by this Agreement include 4-strand fencing to separate the Trail Corridor from the rest of the landfill property, gates, grading and surfacing in those areas where the Trail does not utilize the existing landfill service road, benches, interpretive materials, and signage, all generally consistent with the preliminary designs prepared by Questa Engineering for the DISTRICT in a Feasibility Study for the Napa River/San Francisco Bay Trail dated September 5, 2007, and subsequent revisions prepared by Questa Engineering for the CITY. Signage will include but not be limited to regulations for public use, directions, educational materials, and acknowledgement that the Trail and Trail Related Improvements have been constructed and are managed by the CITY and DISTRICT working in partnership.

**3. Rights and Responsibilities of the Parties.**

- a. At DISTRICT's cost, DISTRICT has the right to plan, design and construct the Trail and Trail Related Improvements. Notwithstanding anything to the contrary herein, DISTRICT shall be under no obligation to construct, install or develop the trail or the Trail Related Improvements unless and until it has received all necessary and appropriate approvals and funds required to carry out the rights and obligations of DISTRICT specified herein.
- b. Prior to any construction, DISTRICT shall provide plans and specifications to the CITY for their review and approval, which shall not be unreasonably withheld. DISTRICT understands and agrees that CITY's approval is subject to the CITY's obligation pursuant to its Corridor Agreement with the Authority to obtain Authority approval of any such plans and specifications prior to construction.
- c. DISTRICT shall coordinate with and assist CITY with the management and operation of the Trail and Trail Related Improvements, but CITY shall have the primary day-to-day responsibility for management and operation of the Trail and Trail Related Improvements, as specified in greater detail in the Operations and Management Plan.
- d. The Corridor Agreement between the CITY and the AUTHORITY requires the CITY City Manager and the AUTHORITY Manager to periodically meet and discuss the adequacy of the Operations and Management Plan and amend plan as necessary to meet the objectives of both the City and the Authority. CITY agrees that prior to approving any amendment to the Operations and Management Plan, CITY will consult with and obtain the approval of the DISTRICT General Manager for any such amendment. DISTRICT agrees that its approval will not be unreasonably withheld.
- e. In the event CITY does not manage and operate the Trail and Trail Related Improvements to the satisfaction of the DISTRICT and in compliance with the requirements of grant funding used to construct the Trail and Trail Related Improvements, DISTRICT is authorized to manage and operate the Trail and Trail Related Improvements in the manner contemplated by this Agreement.
- f. DISTRICT shall be responsible for all necessary approvals and permits for construction and execution of this AGREEMENT by the Parties, including specifically Use Permit approval and all needed building permits.
- g. DISTRICT shall keep the property free and clear of any and all liens associated with its development, construction and maintenance of the Trails and Trail Related Improvements

4. **Insurance** – Each Party to this Agreement will maintain property damage and commercial liability insurance in commercially reasonable amounts naming the other Party as an additional insured. Each Party shall provide the other Party with a certificate of insurance verifying the same prior to

commencement of use hereunder.

**4. Assignment of Interest.** Either Party may assign all or a portion of its rights, obligations and interests in this Agreement, including those set forth in the Operations and Management Plan, to a third party approved by the other Party.

**5. Resolution of Disputes.** The Parties shall make good faith efforts to promptly and directly resolve any disputes or claims related to this Agreement. If a Party determines in good faith that the other Party is in material breach of the terms of this Agreement, or that a material breach is threatened, said Party shall give written notice of such breach to the other Party, describing said breach and may demand corrective action sufficient to cure said breach. The breaching Party shall begin to cure said breach within forty-five (45) days after receipt of said notice, and diligently pursues said breach to completion. Either Party may commence an action at law or in equity in a court of competent jurisdiction to enforce the terms of the Agreement, enjoin the violation by injunction and/or recover any damages for any loss of use of the Trails or damage or injury to Trail Related Improvements, but only after first seeking to resolve the dispute through good faith efforts as provided herein.

**6. Indemnification**

a. DISTRICT agrees to indemnify, defend and hold harmless CITY, and its officers, directors, employees, volunteers, trustees, agents, and contractors, and members of the public, successors and assigns of each of them (collectively the "CITY'S Indemnified Parties") from and against all claims, damages, losses, liabilities, causes of action and judgments, and all reasonable expenses incurred in investigating or resisting the same ("Claims"), arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition or other matter related to this Agreement, unless and to the extent due to the negligence, gross negligence or willful misconduct of CITY or CITY'S Indemnified Parties; and (2) a breach of any obligation or covenant made by DISTRICT under this Agreement.

b. CITY agrees to indemnify, defend and hold harmless DISTRICT and its employees, officers, directors, agents, and contractors, successors and assigns of each of them (collectively "DISTRICT'S Indemnified Parties") from and against all Claims, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property occurring on or about the Property, if and to the extent caused by the negligence, gross negligence or willful misconduct of DISTRICT or DISTRICT'S Indemnified Parties; and (2) a breach of any obligation or covenant made by CITY under this

Agreement.

- c. None of the Agreement provisions are to be construed as a waiver of the Parties' rights and defenses under the Tort Claims Action (Gov. Code § 810, *et seq.*).

## 7. **Miscellaneous**

- a. Entire Agreement - This Agreement sets forth the entire Agreement of the Parties with respect to the matters contained therein, and supersedes all prior discussions, negotiations, understandings, or Agreements relating thereto, all of which are merged therein. The Parties acknowledge the recitals are accurate, complete, and incorporated herein. No amendment of this Agreement will be binding unless in writing and signed by the Parties. This Agreement will be governed by and interpreted in accordance with the laws of the State of California. The Parties may record a notice making reference to the existence of this Agreement in the official records of Napa County.

- b. Severability - If any provision of this Agreement or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions thereof, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

- c. Successors - The covenants, representations, terms, conditions, and restrictions of this AGREEMENT shall be binding upon, and inure to the benefit of the Parties hereto and their respective successors and assigns, and shall continue as covenants and servitudes running in perpetuity with the Property.

- d. Future Conveyance - Each Party shall give written notice to the other Party of an anticipated transfer of its interest in the Property at least thirty (30) days prior to the date of such transfer. A Party's rights and obligations under this Agreement shall terminate upon a transfer or conveyance made in accordance with this paragraph of a Party's entire interest in this Agreement, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

- e. Notices - All notices required or authorized by this AGREEMENT shall be in writing and shall be delivered in person or by deposit in U.S. Mail, by certified mail, postage prepaid or return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following date of deposit, whichever is earlier. Changes may be made in the names and addresses of the person to who notices are to be given by giving notice pursuant to this Paragraph.

TO DISTRICT: General Manager  
Napa County Regional Park and Open Space District  
1195 Third Street, Room 210  
Napa, CA 94559-3082

TO CITY: City Manager  
City of American Canyon  
4381 Broadway Street, Ste. 201  
American Canyon, CA 94503

**IN WITNESS WHEREOF**, the parties hereto have caused this AGREEMENT to be executed the day and year first above written.

**NCRPOSD:**

**CITY:**

\_\_\_\_\_  
Dave Finigan, President, Board of Directors

\_\_\_\_\_  
Richard J. Ramirez, City Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
NCRPOSD Secretary

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
District Counsel

\_\_\_\_\_  
City Attorney

Exhibit A  
Description of Trail Corridor

## Exhibit B Operations and Management Plan

### **A. Project Sponsor**

City of American Canyon  
4381 Broadway Street, Ste. 201  
American Canyon, CA 94503

Contact: Randy Davis, Parks and Community Services Director 707-647-4568  
Project Construction Coordinator: Cynthia Ripley, Capital Projects Coordinator,  
707-647-4331

Trail Steward: City of American Canyon Employee or Napa County Regional Parks and  
Open Space District Employee

Volunteer Coordinator: Member, Open Space Advisory Committee

### **B. Interested Parties**

1. City of American Canyon  
4381 Broadway Street  
American Canyon, CA 94503  
Contact: Randy Davis, Park and Community Services Director
  
2. Napa Vallejo Waste Management Authority  
1195 Third Street, Room 101  
Napa, CA 94559-3082  
Contact: Trent Cave, Manager
  
3. Napa County Regional Park and Open Space District  
1195 Third Street, Room 210  
Napa, California 94559

### **C. Project Location**

The Napa River Loop Trail is situated as shown on Exhibit A, Parcel Nos. 0580-200-12 and 0580-500-42.

### **D. Introduction**

The City of American Canyon and the NVWMA have agreed to construct and maintain a public access trail on the loop road around the Landfill. A formal agreement has been executed by the NVWMA and the City identifying the parties' rights and responsibilities. The American Canyon Napa River Trail – River Wetlands Loop is designated as a non-motorized, recreational foot, bicycle, and equestrian trail.



## **E. Purpose of the Operations and Management Plan**

The Operations and Management Plan (OMP), required by the trail easement, will endeavor to design, construct, and maintain the trail in a manner consistent with the Zoning Code of the County of Napa, which seeks to minimize adverse impacts on habitat and watershed and promote safe use.

## **F. Trail Construction Co-coordinator Responsibilities**

1. Overseeing all facets of new trail construction  
Interacting with Contractors and appropriate Agencies to ensure that safety, signage, compliance, and other agreements are adhered to during construction
2. Overseeing trail maintenance and patrol
3. Coordinating with Volunteer Coordinator to recruit volunteer efforts to perform trail construction and maintenance
4. Prior to construction, submitting a Fire Safety Plan and Contractor Safety Plan to appropriate agencies

## **G. Trail construction will not commence until the following steps are taken:**

1. Authority has reviewed the Trail Construction Documents
2. Operations and Management Plan has been reviewed by all interested parties
3. The trail agreement has been signed
4. The combined Fire Safety and Trail Safety Plan is filed and approved by all interested parties
5. Trail construction personnel will have all the necessary bonds and insurance
6. The trail construction personnel will follow the route flagged according to the construction documents and will stay within the approved corridor as shown on Exhibit A ??
7. City Inspectors will oversee the contractor
8. The American Canyon Sanitary Landfill Post Closure Plan has been amended to the satisfaction of the California Integrated Waste Management Board.

## **H. Volunteers**

1. Volunteers will work only on projects that are appropriate for their skill level
2. Volunteers will be supervised directly by the City and contractor
3. Volunteers will be provided tools and given safety instruction
4. Volunteers will be covered under City insurance

## **I. Fire Safety Plan - The Fire Safety Plan will address:**

1. Procedures for reporting a fire

2. Personnel procedures
3. Fire safety equipment contractor will have on site, e.g. Nomex, fire tents, etc.
4. Procedures to be taken on 'red flag days' (days of extreme fire danger)
5. Procedures to ensure that all power equipment is fire safe
6. Training to be given contractor's employees regarding fire safety

## **J. Signage Plan**

1. The Trail shall have trail signage consistent with the remainder of the American Canyon Napa River Trail System.
2. City will be responsible for preparing and installing signage

## **K. Use Regulations**

The Napa River Loop Trail regulations will be based on City of American Canyon Park Department and Napa County Regional Park and Open Space District park use regulations and will be as follows:

1. Open Sunrise to Sunset Only
2. Observe and follow all trail signs
3. Stay on mapped trails
4. Pets on leash at all times
5. No smoking
6. No open fires
7. No firearms
8. Do not pick wildflowers nor disturb or remove wildlife plants or trees
9. Do not litter
10. Leave gates as you find them
11. Fishing permitted at designated sites
12. Kayak Landing permitted at designated beach only.

## **L. Special Equestrian/Mountain Bike Use Regulations**

1. Pedestrians and Bikes yield to horses.
2. Use caution when approaching or overtaking another recreationist, and make your presence known well in advance
3. Maintain control of your animal/ speed at all times
4. Wear a helmet when riding
5. Do not disturb wildlife or livestock (grazing goats)

## **M. Trail Patrols**

The Trail Steward will patrol the trail twice per month for the first six months after trail construction is complete to monitor use and the performance of the new trail. After six months, the Trail Steward will patrol the trail an average of once a month, supplemented by volunteer patrols.

**N. Volunteer Patrol Responsibilities:**

City will oversee recruitment of volunteers. Napa County Regional Park and Open Space District will provide initial training of volunteers to perform patrol duties; City will manage volunteers and reporting of trail conditions by volunteers.

- 1. Monitor trail conditions
- 2. Inspect trail sign conditions and visibility
- 3. Remove and pack out litter, animal waste
- 4. Inspect fencing for safety Eucalyptus Road
- 5. Remove graffiti
- 6. Volunteer Training will include:
  - Inspecting trail structures
  - General repair of trail
  - Sign and fence maintenance
  - Identifying potential hazards to public safety and procedures for advising City
  - City may request that the landowner repair wear and tear on the trail and facilities arising from maintenance use of the trail corridors, per the trail easement agreement.

**O. Trail Closure**

The Napa River Trail is intended as a four-season trail, for public visitor use throughout the year. However, due to weather, fire, other emergency conditions or maintenance procedures which threaten public health and safety or other adverse conditions, the City or NVWMA may enact temporary closures to public use. Trail closures will be posted at Wetlands View Area trailhead.

**P. Trespass**

If trespass occurs from the trail corridor into neighboring properties, the City, working with NVWMA as appropriate, will employ reasonable and appropriate measures to deter trespass, including installation of additional signage, fencing, or rehabilitation of any resulting short cuts or breach of the fences onto the landfill slope.

**NVWMA:**

**CITY:**

\_\_\_\_\_  
Trent Cave, Manager

\_\_\_\_\_  
Richard J. Ramirez, City Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

