

**AGREEMENT
BETWEEN THE COUNTY OF SANTA BARBARA AND
THE LAND TRUST FOR SANTA BARBARA COUNTY FOR CONSTRUCTION OF
THE FRANKLIN TRAIL**

THIS AGREEMENT (hereinafter “Agreement”) is made by and between the:

COUNTY OF SANTA BARBARA,
hereinafter referred to as “County,”

and

LAND TRUST FOR SANTA
BARBARA COUNTY, a non-profit
public benefit corporation,
hereinafter referred to as “Land
Trust,”

with reference to the following:

WHEREAS,

A. County holds public trail easements for the Franklin Trail on private properties with the following Assessor Parcel Numbers (or portions of): 004-004-031, 004-004-028, 004-004-012, 004-004-013, 004-004-042, 155-180-063, 155-170-069, 155-190-046, 155-190-052, 155-190-053, 155-190-010, 155-190-009, 151-190-019 (“Subject Property”); and

B. County has entered into an agreement, dated September 22, 2009, with the Carpinteria Unified School District (District) which allows for a portion of the Franklin Trail to be built and operated on the Carpinteria High School campus subject to approval by the District of final design plans and specifications; and

C. Construction of the Franklin Trail by Land Trust is consistent with the mission of Land Trust and will provide significant public recreational benefit to the community at large; and

D. Land Trust, in collaboration with Friends of the Franklin Trail, has raised private charitable donations in the amount of approximately \$320,000 designated for the construction of the Franklin Trail; and

E. The Santa Barbara County Parks Commission has recommended that the County Board of Supervisors authorize the use of and allocate to the Land Trust \$75,000 from Park

Development Mitigation Funds from the South Coast East Development Mitigation Fee Fund 1404 toward the permitting and construction of the Franklin Trail; and

F. At its March 27, 2012 meeting, the California Natural Resources Agency awarded a grant from the Environmental Enhancement and Mitigation Program (EEMP) to the Land Trust in the amount of \$200,000 toward the planning, permitting and construction of the Franklin Trail; and

G. County Community Services Department agrees to coordinate with Land Trust in applying for all required planning permits and approvals necessary to allow for the construction of the Franklin Trail as described herein; and

WHEREAS, Land Trust is willing and able to construct a portion of the Franklin Trail as described herein, to the extent of available funding actually received by the Land Trust and, upon completion of construction of the applicable portion of the Franklin Trail described below, will convey any and all interest it may have in the completed trail improvements to County as a gift and service to the community without consideration (except for the Park Development Mitigation Funds.)

NOW THEREFORE, in consideration of the covenants and conditions contained herein, the parties hereby agree as follows:

A. Scope and Planning

1. County and Land Trust, with the active support of the unincorporated volunteer non-profit group organized under the name “Friends of the Franklin Trail”, have made the necessary progress in securing the trail easements, access agreements, private and public funds, preliminary trail design and engineering plans, required project review under the California Environmental Quality Act and regulatory permits needed to commence construction of the Franklin Trail.
2. This Agreement covers the initial phase of trail construction from the proposed trailhead on Meadow View Lane and Sterling Avenue in the City of Carpinteria to a point on the Rancho Monte Alegre property shown on Exhibit A (“Initial Construction Phase”). A second phase to connect the trail to Los Padres National Forest (“Second Construction Phase”) will depend on subsequent actions by the owner of Rancho Monte Alegre and the availability of funds. Work by Land Trust on the Second Construction Phase may be by mutual agreement of County and Land Trust in the form of an amendment to this Agreement.

3. The portions of the Franklin Trail to be constructed within Los Padres National Forest are under the jurisdiction of the United States Forest Service, and any portion of the Franklin Trail constructed therein shall not be subject to the provisions of this Agreement.

B. Obligations of County

1. County Community Services Department shall provide timely review, at its own expense, of Plans and Specifications, permit applications and any other documentation, but in no case shall such review exceed more than fifteen (15) days following submittal by Land Trust.
2. County shall provide the owners of the Subject Property and any other affected property owners with a copy of this Agreement once executed. Land Trust shall notify affected property owners within two (2) business days of the dates that the Land Trust anticipates working on such portions of the Subject Property.
3. Land Trust shall notify County upon completion of trail construction. Upon County's inspection and written acceptance of completion of construction of all portions of the Franklin Trail constructed by Land Trust, County shall accept all responsibilities for ownership, management, monitoring, maintenance and use of those portions of the Franklin Trail constructed by Land Trust. County shall acknowledge acceptance of completion or notify Land Trust of any deficiencies within twenty-one (21) days after Land Trust notifies County of completion of trail construction. Failure of the County to notify Land Trust of any deficiencies within such twenty-one (21) days shall be deemed acceptance of completion of construction by the County.
4. After County's acceptance of completion of construction and conveyance by Land Trust of all portions of the Franklin Trail constructed by Land Trust, County shall indemnify, defend and hold harmless Land Trust and its agents, officers, board members, trustees, employees, donors and grantors from and against all claims, damages, losses, causes of action and expenses, including attorneys' fees, for any personal injury, bodily injury, loss of life or damage to property which arise from or are in any way related to the operation or use of the portions of the Franklin Trail constructed by Land Trust by any person or entity, except as to claims, damages, losses, judgments, causes of action and expenses, including attorneys' fees, which are caused in whole or in part by the gross negligence, recklessness, or willful misconduct of Land Trust and its agents, officers, board members, trustees, employees, donors and grantors, and independent contractors (including without limitation, volunteers), and all other persons suffered or permitted to work by, at the direction of, or subject to the control of the Land Trust.

C. Obligations of Land Trust

1. Prior to the commencement of any construction Land Trust shall prepare and submit to County plans and specifications for construction of the Franklin Trail (“Plans and Specifications”) and any supplemental Plans and Specifications as may be required to address any County recommendations or corrections thereto.

2. Land Trust shall construct those portions of the Franklin Trail in accordance with the Plans and Specifications approved by County, using licensed, insured and qualified contractors and subcontractors. Community volunteers supervised by Land Trust may also be utilized, but may not perform work that requires licensure.

3. Land Trust shall apply for and receive all required regulatory permits and approvals of Plans and Specifications prior to beginning work.

4. Land Trust shall prepare a construction budget and demonstrate to County that it has sufficient funds to complete the Initial Construction Phase, including Land Trust’s planning, permitting and project management costs, prior to beginning construction. If sufficient funds to complete the Initial Construction Phase are not available, the scope of work will be reduced to match the available funding. Notwithstanding anything to the contrary contained herein, Land Trust shall have no obligation to fund or perform work beyond the funding it actually receives for the Franklin Trail project.

5. Land Trust shall name the County as an additional insured on its existing policy or policies of insurance in conformance with County’s standard insurance and indemnity requirements and shall cause any contractor hired by the Land Trust to perform construction of any portion of the Franklin Trail to name the County as an additional insured during the periods of construction and shall provide County Certificates of Insurance and Additional Insured Endorsements evidencing same. Such insurance will cover only the course of construction of the project and need not include completed operations insurance, unless such coverage is included in the applicable policy in existence as of the date the County is named thereunder in conformance with County’s standard insurance and indemnity requirements.

6. Land Trust shall keep such business records pursuant to this Agreement in accord with its established records policy and shall maintain such records for at least seven (7) years following the completion of construction. All accounting records shall be kept in accordance with generally accepted accounting practices. County shall have the right to audit and review all such documents and records at any time during Land Trust’s regular business hours or upon reasonable notice

D. General Provisions

1. This Agreement sets forth the entire agreement and understanding between the parties; any modification must be executed in writing by both parties.
2. Notices given pursuant to this Agreement shall be in writing and delivered to:

County of Santa Barbara
Director of Community Services Department
Community Services Department – Parks Administration
610 Mission Canyon Road
Santa Barbara, CA 93105

Executive Director
Land Trust for Santa Barbara County
P.O. Box 91830
Santa Barbara, CA 93190-1830

IN WITNESS THEREOF, the parties have executed this Agreement to be effective upon the date of signature by both parties.

BY:

“Land Trust”
Land Trust for Santa Barbara County

Warren P. Miller, President

Date

“COUNTY”
COUNTY OF SANTA BARBARA

ATTEST:
CHANDRA L. WALLAR
CLERK OF THE BOARD

By: _____
DOREEN FARR, CHAIR
Board of Supervisors

By: _____
Deputy Clerk

Date: _____

APPROVED AS TO FORM:
DENNIS A. MARSHALL
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, C.P.A.
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Auditor-Controller
Gregory E. Levin
Advanced and Specialty Accounting

APPROVED:

Ray Aromatorio, ARM, AIC
Risk Manager