

REAL PROPERTY SERVICES AGREEMENT

1. **Effective Date and Parties.** Effective on March 1, 2024, the COUNTY OF CONTRA COSTA, a political subdivision of the State of California ("County"), and the CONTRA COSTA TRANSPORTATION AUTHORITY, a public agency ("hereinafter referred to as CCTA"), hereby mutually promise and agree as follows:

2. **Purpose.** CCTA, in coordination with Caltrans, is planning and implementing the I680/HWY 4 Interchange Project Phases 1, 2A & 4, (the "Project") with construction beginning as early as Spring 2025. CCTA has no right of way staff and no ability to acquire property independently and desires to contract with the County for property appraisal, acquisition, and relocation services. A separate purpose of this Agreement is to designate the County as the party to exercise the power of eminent domain for the project, consistent with the approval given by the State of California, Department of Transportation ("Caltrans"), and in accordance with Streets and Highways Code section 760 and other applicable laws.

3. **Services by County.** County will provide CCTA the following services, in connection with the acquisition of right of way, in the areas depicted in the attached Appendix "A", as directed by CCTA and in accordance with the provisions of this Agreement: appraisal review; negotiations; land rights document preparation; right of way acquisition; relocation; and/or supervision of independent contractors providing such services; condemnation and related work as required and supported by law (all of which constitute "Services").

The County warrants that it will perform these Services in accordance with accepted professional standards and procedures and applicable law.

CCTA does not have the power of eminent domain. Therefore, the County is hereby designated as the agency to exercise the power of eminent domain to acquire property and property interests required for the Project, as planned. Prior to County's Board of Supervisors consideration of any resolution of necessity, CCTA shall provide to County evidence satisfactory to the County that Caltrans has provided all necessary delegations and approvals authorizing the County to exercise the power of eminent domain in accordance with Streets and Highways Code section 760, and other applicable laws. Notwithstanding anything herein to the contrary, the Board of Supervisors of the County is understood to retain its complete independent discretion for purposes of its consideration of any resolution of necessity seeking to authorize the filing of an action to condemn property. Nothing in this agreement, express or implied, compels or requires the Board of Supervisors to adopt any resolution of necessity. The acquisition of property and property interests by condemnation is within the meaning of the term "Services."

CCTA shall ensure that its right of way agent prepares all appraisals to meet USPAP and Eminent Domain requirements and that copies of the appraisals are delivered electronically to the County as soon as practicable for review and approval. The County shall have independent discretion to determine the amount it believes to be just compensation for the property to be acquired in accordance with the requirements of Government Code section 7267.2 before the Government Code section 7267.2 offer is made on the County's behalf by CCTA's agent.

4. **Payment for Services.** CCTA shall reimburse County, at the hourly charge out rates in Attachment 1 in the attached Appendix "B", for all time that County staff perform Services for CCTA under this Agreement. CCTA shall reimburse County for: County's attorney's fees (including all charges by the Office of County Counsel and all charges by outside counsel retained by the County, which shall be within County's sole discretion to retain) incurred in connection with the Services; and costs of experts and contractors retained by County in the performance of Services. CCTA shall reimburse County for all other expenses County incurs in the performance of the Services, including but not limited to management of leases, all acquisition settlements, and any other costs of acquisition such as title fees, recording fees, and escrow costs that the County actually incurs to perform the Services. Payments by CCTA shall be made within 30 days of billing by County. Total payments shall not exceed \$320,000 unless authorized by CCTA in writing.

5. **Indemnification.** County shall defend, indemnify, and hold harmless CCTA, its officers, and employees for any claims, liabilities, damage, injury, or death of or to any person, or the property of any person, including attorney's and expert fees (collectively, "Liabilities") that arise out of the willful misconduct or the negligent acts, errors, or omissions of the County, its officers, employees, agents, and volunteers, in performing any of its or their obligations under this Agreement. Notwithstanding anything to the contrary, County shall not be obligated to indemnify CCTA, its officers and employees for any portion of Liabilities that arise out of CCTA's, or its officers' or employees' willful misconduct or negligent acts, errors, or omissions.

CCTA shall defend, indemnify, and hold harmless County, its officers, and employees for any, Liabilities that arise out of the willful misconduct or the negligent acts, errors, or omissions of CCTA, its officers, employees, agents, and volunteers, in performing any of its or their obligations under this Agreement. Notwithstanding anything to the contrary, CCTA shall not be obligated to indemnify County, its officers, and employees for any portion of Liabilities that arise out of County's, or its officers' or employees' willful misconduct or negligent acts, errors, or omissions.

6. **Independent Status.** Nothing herein shall be construed to imply that any County employee providing Services hereunder is a CCTA employee.

7. **Term.** The term of this Agreement shall commence on the effective date hereof and shall end upon termination by either party upon 30 days written notice. The rights and obligations of Paragraph 5 "Indemnification" shall survive any such termination. Within 30 days after the termination of this Agreement, CCTA shall pay the County for all unpaid charges and costs for Services the County provides, and for all expenses that it incurs during the performance of those Services, under this Agreement through the termination of the Agreement.

8. **Notices.** Any notice required to be given to County and CCTA hereunder will be sufficient if delivered in writing as designated below, or to such other addresses as County and CCTA may respectively designate by written notice to the other:

To County: Contra Costa County Public Works Department
c/o Principal Real Property Agent, Real Estate Division
40 Muir Road Martinez, CA 94553
(925) 957-2467

To: Ivan Ramirez, Construction Manager
Contra Costa Transportation Authority
2999 Oak Road, Suite 100
Walnut Creek, CA 94597
(925) 256-4700

Notice given by personal delivery shall be deemed complete upon delivery. Notice given by Overnight Carrier shall be deemed complete on the day after it is postmarked. Notice given by U.S. Mail shall be deemed complete on the third day after it is postmarked.

9. **Entire Agreement.** This agreement contains the entire agreement between the County and CCTA and supersedes any and all other prior agreements and all negotiations leading up to the execution of this Agreement, whether oral or in writing, between the County and CCTA. The County and CCTA acknowledge that no representations, inducements, promises, or statements, oral or otherwise, have been made by either of them or by anyone acting on behalf of them that are not embodied or incorporated by reference herein, and further agree that no other covenant, representation, inducement, promise, or statement not set forth in this agreement shall be valid or binding.
10. **Amendments and Modifications.** This agreement may not be modified or amended except in writing approved by the County and CCTA.
11. **Governing Law.** This agreement shall be governed by the laws of the State of California.
12. **Counterparts.** This agreement may be executed in one or more counterparts.
13. **Severability.** If any term or provision of this agreement is held, to any extent, to be invalid or unenforceable, the remainder of this agreement shall not be affected.
14. **No Third-Party Beneficiaries.** Nothing in this Agreement creates, nor shall it be interpreted to create any third-party beneficiaries.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

COUNTY OF CONTRA COSTA

**CONTRA COSTA
TRANSPORTATION AUTHORITY**

By _____
Federal Glover
Chair, Board of Supervisors

By _____
Newell Arnerich
Chair, Authority Board

ATTEST: _____
Monica Nino, Clerk of the Board of
Supervisors and County Administrator

ATTEST: _____
Terianne Gover
Clerk of the Board

By _____
Public Works Director

RECOMMENDED FOR APPROVAL:

By _____
Jessica L. Dillingham
Principal Real Property Agent

APPROVED AS TO FORM:

Thomas L. Geiger
County Counsel

APPROVED AS TO FORM:

By _____
Stephen M. Siptroth
Assistant County Counsel

By _____
Finnemore/Wendell
Authority Counsel

APPENDIX "A"
Pay Rate Schedule

Contra Costa County Transportation Agency (CCTA) shall reimburse the COUNTY for labor costs as detailed below:

1. COUNTY direct labor rates shall include the base salary wages paid to personnel plus fringe benefits. Total labor rate shall include direct labor rate multiplied by County's overhead rate. The total labor rate shall not exceed the range of labor rates by classification, included as Attachment 1.
2. COUNTY's overhead rate shall be a summation of division and department overhead rates. Appropriate overhead rates for COUNTY shall be developed based on procedure previously approved as described below:

In general, the division overhead rates are determined by identifying each division's total expenditures after adjustments less any non-labor generated revenue. The division expenditures are then divided by the productive hours for the division establishing the overhead rate needed to cover the remaining net cost of division expenditures. The department overhead rates are determined similar to the division rate by dividing the total department expenditures by the total billable hours. Each year overhead rates will be evaluated and adjusted to reflect the actual costs from the previous fiscal year.

3. COUNTY may adjust both labor rates and overhead rates periodically due to contracted salary increases and overhead rate changes. COUNTY shall submit any changes to rates to CCTA prior to invoicing.

ATTACHMENT 1 (Amendment 1)

Project: I680/HY 4 Interchange Project Phases 1, 2A & 4

A. Budget.

County's Services will be related to the acquisition of necessary property interests, for CCTA's above-described Project. County's charges for services under this Agreement will be allocated according to the following budget:

ADMINISTRATION	\$165,000
APPRAISAL SUPPORT	\$ 25,000
NEGOTIATIONS/ACQUISITION	\$ 45,000
CONDEMNATION SUPPORT	<u>\$ 35,000</u>
RELOCATION SUPPORT	\$ 20,000
COUNTY COUNSEL SUPPORT	\$ 30,000

TOTAL INITIAL BUDGET FOR THE PROJECT: \$320,000

B. Charge-Out Rates.

County will charge CCTA for Services under this Agreement at the following hourly rates:

REAL PROPERTY STAFF	HOURLY CHARGE OUT RATE	
Principal Real Property Agent	\$217.00	\$306.00
Supervising Real Property Agent	\$180.00	\$254.00
Senior Real Property Agent	\$160.00	\$231.00
Associate Real Property Agent	\$144.00	\$212.00
Assistant Real Property Agent	\$123.00	\$173.00
Senior Real Property Technical Assistant	\$115.00	\$162.00
Real Property Technical Assistant	\$ 99.00	\$145.00