

**CONTRA COSTA COUNTY REDEVELOPMENT AGENCY
NORTH RICHMOND PROJECT AGREEMENT AND WORK PROGRAM**

Section I - AGREEMENT IDENTIFICATION

- A. Redevelopment Project Area:
- B. Contractor Name: Contra Costa County
- C. Contractor Address: Public Works Department
255 Glacier Drive
Martinez, CA 94553

- D. Contractor Contact: John Pulliam
- E. Contractor Telephone: 313-2165
- F. Contractor Facsimile: xxx-xxxx
- G. Agreement Subject: North Richmond Redevelopment Area
Infrastructure Program
- H. Contractor WO#: xxxxxxxx

Section II - PARTIES

This Agreement is made and entered into as of this 22nd day of July, 2010 by and between Contra Costa County ("Contractor") through its Public Works Department and the Contra Costa County Redevelopment Agency ("Agency").

Section III - CONTRACTOR'S OBLIGATION

Contractor shall provide those services and carry out that work as described herein and in accordance with the "Project Work Program" attached hereto as Exhibit A and incorporated herein by reference, subject to the terms and conditions contained herein.

Section IV - ALLOCATION PAYMENT LIMIT

Agency's total payments to Contractor under this Agreement are estimated to be \$17,843,899, described in "Cost Estimate" attached hereto as Exhibit D which is incorporated herein by reference, subject to the terms and conditions contained herein. Agency shall make payments to the Contractor described in "Payment Provisions" attached hereto as Exhibit B which are incorporated herein by reference, subject to the terms and conditions contained herein. Agency and Contractor's special provisions, if any, are described in "Exceptions" attached hereto as Exhibit E which are incorporated herein by reference, subject to the terms and conditions contained herein.

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Section V - GENERAL CONDITIONS

This Agreement is subject to the "General Conditions" attached hereto as Exhibit C, and incorporated herein by reference.

Section VI - TERMS

The effective date of this Agreement is July 22, 2010 , and it terminates July 14, 2038 unless sooner terminated as provided herein.

Section VII - NOTICES

Any notice which may be required under this Agreement shall be in writing, shall be effective when received to the addresses set forth below, or to such addresses which may be specified in writing to the parties hereto:

Agency

Steven L. Goetz, Redevelopment Director
Contra Costa County Redevelopment Agency
2530 Arnold Drive, Suite 190
Martinez, CA 94553

Contractor

Julia R. Bueren, Director
Contra Costa County Public Works Department
255 Glacier Drive
Martinez, CA 94553

AGENCY:

CONTRA COSTA COUNTY
REDEVELOPMENT AGENCY

By: _____
Steven L. Goetz
Redevelopment Director

CONTRACTOR:

CONTRA COSTA COUNTY
PUBLIC WORKS DEPARTMENT

By: _____
Julia R. Bueren
Public Works Director

FORM APPROVED: County Counsel

EXHIBIT A

**CONTRA COSTA COUNTY REDEVELOPMENT AGENCY
NORTH RICHMOND REDEVELOPMENT PROJECT AREA
PROJECT WORK PROGRAM**

A. PROJECT DESCRIPTION

The North Richmond Redevelopment Project Area includes the North Richmond Industrial Area and the North Richmond Non-Industrial Area: The North Richmond Industrial Area consists of parcels north of Wildcat Creek and west of the Richmond Parkway. The basic plan is to undertake an infrastructure upgrade program to address deficiencies and prepare the region for redevelopment. The area currently has a range of light industrial, heavy industrial and service commercial uses. The North Richmond Non-Industrial Area consists of the remainder of the project area south of Wildcat Creek. This Work Program involves planning, design, and construction of infrastructure improvements in the industrial and non-industrial areas. Previous studies have identified the need for public improvements including, among other items: a public drainage system, flood control/levee protection, traffic & roadway improvements, storm water management, and a long term operation & maintenance plan. The purpose of this Project Agreement is to affirm previous findings, analyze current infrastructure needs, provide cost estimates, CEQA/NEPA requirements, project schedule, and all other pertinent data necessary to initiate and complete an infrastructure improvement program, or an agreed upon portion thereof, for these employment generating uses. The outcome of this Project Agreement will result in future Work Programs to address the most acute deficiencies in the area. The intent is to install the basic backbone infrastructure necessary to stimulate development, and to attract private investment dollars and participation by local property owners in a public-private partnership to finance a more comprehensive area-wide infrastructure improvement program. This initiative is consistent with the priorities recently established by the North Richmond community and from the Agency's 2010-2015, Five-Year Implementation Plan.

B. PROJECT TIME SCHEDULE/DRAW SCHEDULE

Contractor shall undertake and complete the project according to the following schedule. Contractor shall obtain Agency's written approval prior to performing work earlier or later than set forth below. Contractor may not use funds allocated to a specific phase for any other purpose without the Agency's prior written approval. Any changes to the project schedule and/or draw schedule will be treated as an administrative amendment, in accordance with Section 8(b) of Exhibit C.

Phase 1:

<u>Month</u>	<u>Work Item</u>	<u>Estimated Expense Draw</u>
7/22/10 -- 9/30/10	Preliminary Design (includes review of previous studies)	\$5,000
10/1/10 – 1/1/11	Needs assessment of public infrastructure including, but not limited to drainage (including C-3), sewer, water, roads and related curb/gutter/sidewalk, street lighting, traffic signals, and utilities.	\$175,000
1/1/11 -- 2/1/11	Final Needs Report, Design and Phase I Bid Docs Estimates	\$40,000
3/1/11 -- 4/1/11	Environmental – NEPA & CEQA	\$10,000
4/1/11 -- 4/1/12	Construction	\$2,346,000
	Maintenance	TBD
	PW Admin	\$150,000
	Sub-Total	2,726,000
	10% Contingency	\$274,000
	Total	\$3,000,000

Phase 2:

Expenditure of future phases is dependent on the timing of remaining revenue available for

projects.

C. CONTRACTOR'S DETAILED EXPENDITURE SCHEDULE

Contractor: Contra Costa County Public Works Department

Phase 1 Budget Period: 7/22/2010 – 4/1/2012

Phase 2 Budget Period: 4/1/2012 – 7/14/38

	(a)	(b)	(c)	(d)
	Agency Funds-\$	+ Agency Funds -\$	+ Other Funds-\$	= Total
Budget Item	(Non-Bond Proceeds)	(Bond Proceeds)		
Phase 1				
Industrial Area Infrastructure Program		\$3,000,000	\$1,3000,000* \$35,000#	\$4,335,000
Phase 2				
Industrial Area and Non-Industrial Area Infrastructure Program	\$14,843,899			\$14,843,899
TOTAL	\$14,843,899	\$3,000,000	\$1,335,000	\$17,977,399

- Notes: (a) Items to be funded by Agency funds - non-Bond proceeds.
 (b) Items to be funded by Agency funds - Bond proceeds.
 (c) Estimate of other necessary expenditures funded with non-Agency monies; and indication of anticipated sources.
 (d) Contract Payment Limit, by source, for project.

* AOB Funds

Flood Control District

D. PROGRAM MONITORING

Contractor shall report at least quarterly (or more frequently if requested by the Agency) to the Agency the status of funds expended, balances remaining, and a narrative of the Project status relative to the stated Work Program, and budget schedule.

E. PERFORMANCE STANDARDS

The following performance standards will be applied in implementing the Work Program.

1. If Agency funds are used for construction, provide one (1) set of the bid documents to the Agency. Bid documents to include at a minimum plans, specifications, and quantity sheets. Upon award of the construction contract, Contractor shall provide one (1) copy of the executed construction contract and the bid schedule of the successful bidder complete with unit prices and total award amount.
2. Contractor shall follow the current Contra Costa Board of Supervisors Policy regarding Minority-Owned Business Enterprises (MBE), Women-Owned Business Enterprises (WBE), Small Business Enterprises (SBE), and Local Business Enterprises (LBE).
3. Contractor shall notify applicable local employment and referral agencies in Contra Costa County of employment opportunities for Agency funded projects and maintain documentation of such efforts. The Board of Supervisors adopted, on April 3, 1984,

an "Initial Resource" policy for employers to assure continuing employment opportunities to economically disadvantaged and unemployed residents of the County.

4. Contractor shall be responsible for evaluation of prospective consultants and contractors and subsequent award of work consistent with this Agreement.
5. Contractor shall be responsible for the Project and shall provide management of consultant and contractor activities, including responsibility for schedule, budget and oversight of the services, consistent with the scope of the budget herein.
6. If the Project involves construction, Contractor shall install a sign approved by the Agency, that identifies the Agency as a funding source, no later than 30 days after the commencement of construction. The Agency's role shall be acknowledged in any advertisements, brochures, or news releases to the media.
7. If the Project involves real property acquisition, Contractor shall follow the requirements of State law, and the Federal Uniform Acquisition and Relocation Assistance Act.
8. Additional Acts and Documents. Each party agrees to do all such things and take all such actions, and to make, execute and deliver such other documents and instruments, as shall be reasonably requested to carry out the provisions, intent and purpose of the Agreement.
9. Integration. The Agreement represents the entire Agreement of the parties with respect to the subject matter hereof. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements.
10. Amendment. This Agreement may not be changed, modified or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.
11. Assignment. The Agreement may not be assigned, transferred, hypothecated, or pledged by any party without the express written consent of the other party.

12. Binding on Successors, Etc. This Agreement shall be binding upon the successor(s), assignee(s) or transferee(s) of the Agency. This provision shall not be construed as an authorization to assign, transfer, hypothecate or pledge this Agreement other than as provided above.
13. Severability. Should any part of this Agreement be determined to be unenforceable, invalid, or beyond the authority of either party to enter into or carry out, such determination shall not affect the validity of the remainder of this Agreement which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.
14. Counterparts. This Agreement may be executed in counterparts.
15. Survival. The following provisions in this agreement shall survive discharge:
 - (a) Exhibit C, Paragraphs 3 and 4 (Records and Retention of Records);
 - (b) Exhibit B, Paragraphs 8 and 9 (Audits and Audit Exceptions).

EXHIBIT B

PAYMENT PROVISIONS

1. **Payment Basis.** Agency shall in no event pay to the Contractor a sum in excess of the total amount specified in the Payment Limit of this Agreement. Subject to the Payment Limit, it is the intent of the parties hereto that the total payment to Contractor for all services provided for Agency under this Agreement shall be only for costs that are allowable costs (see Paragraph 3 below) and are actually incurred in the performance of Contractor's obligations under this Agreement. Contractor shall notify Agency in writing if the low bid on the construction contract exceeds the Agency's payment limit. The construction contract shall not be awarded unless the Agency agrees in writing.
2. **Payment Amounts.** Subject to later adjustments in total payments in accordance with the below provisions for Cost Report and Settlement, Audits, and Audit Exceptions, and subject to the Payment Limit of this Agreement, Agency will pay Contractor an amount equal to Contractor's allowable costs that are actually incurred, but subject to "Contractor's Detailed Expenditure Schedule" contained in the Project Work Program.

Agency's payment to the Contractor for Preliminary Engineering Utility Coordination, Advertising and Awarding Contract, Construction Engineering, and Right of Way Engineering necessary to complete the scope of work as described in this agreement shall not exceed the estimated amounts as shown on the "Contractor's Detailed Expenditure Schedule" contained in the Project Work Program and Exhibit D. Costs exceeding these amounts shall be the responsibility of the Contractor unless the costs are due to a change in the scope of work mutually agreed to by the Agency and the Contractor in writing. Any work or services in addition to the work or services described in Exhibit A shall be performed by the Contractor according to a rate mutually agreed on prior to commencement of the extra work. In no event shall Contractor be entitled to compensation for extra work unless a written authorization or change order describing the extra work and payment terms has been executed by the Agency prior to the commencement of the work.

The Contractor shall notify Agency of any cost increases beyond the estimated amounts as shown on the "Contractor's Detailed Expenditure Schedule" contained in the Project Work Program, and Exhibit A for Real Property Labor, Right of Way Acquisition, Environmental Labor, and Construction Costs. The Contractor and the Agency shall endeavor to agree upon an alternative project budget and financing prior, to be incorporated into "Contractor's Detailed Expenditure Schedule" contained in the Project Work Program (Exhibit A), prior to proceeding with the work. If, after 30 days, an alternative Project budget and financing plan is not agreed upon, this Agreement shall be deemed to be terminated by mutual consent pursuant to Exhibit C, Item 5(d).

3. **Allowable Costs.** Contractor's allowable costs are only those which are determined in accordance with California Redevelopment Law (Health & Safety Code, Section 33000 et seq.) as may be revised and amended. All of the aforesaid documents are by this reference incorporated herein.
4. **Payment Demands.** Contractor shall submit a written request to the Agency for payment in accordance with the above. Contractor requests shall be in the form of a memorandum describing the services performed, materials used, and the work order number/contract number, and such additional detail as necessary to support the request. Contractor shall submit said memoranda for payment for services rendered no later than 90 days from the completion of all aspects of the Project. Contractor requests will be reviewed by the Agency for consistency with the Work Program and budget (Exhibit A). After approval by the Agency, the memorandum will be forwarded to the County Auditor's Office, authorizing payment to the Contractor.

5. **Right to Withhold.** Agency has the right to withhold payment to the Contractor by Agency notifying Contractor in writing if (a) the Contractor has failed to perform its duties under this Agreement, or has insufficiently documented same, or (b) the Contractor has neglected, failed or refused to furnish information or to cooperate with any inspection, review or audit of its program, work or records, or (c) Contractor has failed to sufficiently itemize or document its demands for payment.
6. **Payment Adjustments.** If any funds are expended by the Contractor in violation of any of the terms and conditions of this Agreement, Agency may make necessary adjustments in payments to Contractor on account of such unauthorized or illegal expenditure. No such action taken by Agency shall entitle Contractor to reduce salaries, wages, or supportive services for any participant or to expend less during the effective period of this Agreement than those sums called for in the Project Work Program. Any such reduction in expenditures may be deemed sufficient cause for termination. Contractor shall reimburse Agency for any allocated monies which are expended in violation of this Agreement or used for unauthorized or illegal expenditures.
7. **Cost Report and Settlement.** No later than ninety (90) days following the termination of this Agreement, Contractor shall submit to Agency a cost report in the form required by Agency, showing the allowable costs that have actually been incurred by Contractor under this Agreement. If said cost report shows that the allowable costs that have actually been incurred by Contractor under this Agreement exceed the payments made by Agency pursuant to Paragraph 2 (Payment Amounts) above, Agency will remit any such excess amount to Contractor, but subject to Payment Limit of this Agreement. If said cost report shows that the payments made by Agency pursuant to Paragraph 2 (Payment Amounts) above exceed the allowable costs that have actually been incurred by Contractor under this Agreement, Contractor shall remit any such excess amount to Agency.
8. **Audits.** The records of the Contractor may be audited by the Agency, County or State government, in addition to any certified cost report or audit required by Paragraph 7 (Cost Report and Settlement). Any certified cost report or audit required by Paragraph 7 shall be submitted to Agency by Contractor within such period of time as may be expressed by applicable State law, regulations, policies or contracts, but, in no event later than 18 months from the termination date of this Agreement. If such audit(s) show that the payments made by Agency pursuant to Paragraph 2 (Payment Amounts) above exceed the allowable costs that have actually been incurred by Contractor under this Agreement, including any adjustments made pursuant to Paragraph 7 (Cost Report and Settlement) above, then Contractor agrees to pay to Agency within 30 days of demand by Agency any such excess amount. If such audit(s) show that the allowable costs that have actually been incurred by Contractor under this Agreement exceed the payments made by Agency pursuant to Paragraph 2 (Payment Amounts) above, including any adjustments made pursuant to Paragraph 7 (Cost Report and Settlement) above, then Agency agrees to pay to Contractor any such excess amount, but subject to Payment Limit of this Agreement.
9. **Audit Exceptions.** In addition to its obligations under Paragraph 8 (Audits) above, Contractor agrees to accept responsibility for receiving, replying to and/or complying with any audit exceptions by appropriate County, Agency or State agencies occurring as a result of its performance of this Agreement. Contractor also agrees to pay to the Agency within 30 days of demand by Agency the full amount of the Agency's liability, if any, to the State government resulting from any audit exceptions, to the extent such are attributable to the Contractor's failure to perform properly any of its obligations under this Agreement.
10. **Extra Work.** Any work or services in addition to the work or services described in Exhibit A shall be performed by the Contractor according to a rate mutually agreed on prior to commencement of the extra work. In no event shall Contractor be entitled to compensation for extra work unless a written authorization or change order describing the extra work and payment terms has been executed by the Agency prior to the commencement of the work.

EXHIBIT C

GENERAL CONDITIONS

1. **Compliance with Law.** Contractor shall submit to and comply with all Federal, State and local laws and regulations applicable to public agencies with respect to its performance hereunder.
2. **Inspection.** Contractor's performance, place of business and records pertaining to this Agreement are subject to monitoring, inspection, review and audit by authorized representatives of the Agency, the County, and the State of California.
3. **Records.** Contractor shall keep and make available records for inspection by authorized representatives of the Agency, County, and the State of California during the Contractor's regular business hours pertaining to this Agreement and such additional records as may be required by the Agency.
4. **Retention of Records.** The Contractor and Agency agree to retain all documents pertaining to this Agreement for three years from the date of final payment to the Construction Contractor, except as follows:
 - (a) Records that are the subject of audit findings shall be retained for three years after such findings have been resolved.
 - (b) Records for any displaced persons shall be retained for three years after (s)he has received final payment.
5. **Termination.**
 - (a) **Failure to Perform.** In the event the Contractor fails to perform properly any of its obligations hereunder and such failure of performance is not cured by the Contractor within thirty (30) days after receipt of written notice from the Agency, the Agency may, in addition to any other remedies, complete the Contractor's obligations in any reasonable manner it chooses, take possession of any real or personal property associated with the Project, and construct, operate or maintain the Project as the Agency may deem necessary to fulfill requirements of the adopted Redevelopment Plan. The Contractor agrees to reimburse the Agency for any costs or expenses incurred by the Agency because of said failure to perform and also agrees to convey title to any real property acquired by Contractor with Project funds should Agency request such title.
 - (b) **Cessation of Funding.** In the event the Agency funding for this Agreement ceases, this Agreement is terminated.
 - (c) Failure by the Contractor to perform properly any of its obligations under this Agreement may be cause for suspension of all obligations of the Agency thereunder.
 - (d) If termination of this Agreement is by mutual consent, the Agency and Contractor will bear a proportional share of all costs relative to the committed financing incurred prior to termination.
6. **Entire Agreement.** This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.
7. **Further Specifications for Operating Procedures.** Detailed specifications of operating procedures and budgets required by this Agreement including, but not limited to, monitoring, auditing, billing or regulatory changes, may be developed and set forth in written "Informal Agreement" entered between the Contractor and the Agency. Such "Informal Agreements" when entered shall not be modifications to this Agreement except to the extent that they further detail or clarify that which is already required hereunder.

Further, any "Informal Agreement" entered may not enlarge in any manner the scope of this Agreement, including any sums of money to be paid the Contractor as provided herein. "Informal Agreements" may be approved for, and executed on behalf of the Agency by the Agency Executive Director or his Designee.

8. **Modifications and Amendments.**

- (a) General Agreements. This Agreement may be modified or amended only by a written document executed by the Contractor and the Agency.
- (b) Administrative Amendments. Subject to the Payment Limit, only the Payment Provisions and the Project Work Program may be amended by a written administrative amendment executed by the Contractor and the Agency Executive Director or his Designee, provided that such administrative amendments may not materially change the Payment Provisions or the Project Work Program.
- (c) Extension of Term for Performance. Without requiring Contractor to provide consideration in addition to that supporting this Agreement, the Agency may grant Contractor an extension of time for performance, beyond that time specified above under Section VI - TERMS. Any such extension must be in writing and shall be at the sole discretion of the Agency.

9. **Disputes.** Disagreements between the Agency and Contractor concerning the meaning, requirements, or performance of this Agreement shall be mutually resolved and subject to final determination in writing by the Executive Director of the Agency. Neither party shall understandably withhold its consent to implementation and accomplishment of the overall purpose for which this Agreement is drafted.

10. **Retained Powers.** All powers not explicitly invested in the Contractor remain in the Agency.

EXHIBIT D

COST ESTIMATE
Phase 1
Contra Costa County
Public Works Department

Project Name: Industrial Area Infrastructure Program
Project Location: North Richmond
Project Length: 2 years
Date of Estimate: July 22, 2010
Prepared By:

<u>Description</u>	<u>Total</u>
North Richmond Industrial Area Infrastructure Program – Phase 1	

Detailed Breakdown of Costs

<u>Item</u>	<u>Cost</u>
Preliminary Design (includes review of previous studies)	\$5,000
Needs assessment of public infrastructure including, but not limited to drainage (including C-3), sewer, water, roads and related curb/gutter/sidewalk, street lighting, traffic signals, and utilities.	\$175,000
Final Needs Report, Design and Phase I Bid Doc Estimates	\$40,000
Environmental – NEPA & CEQA	\$10,000
Construction	\$2,346,000
Maintenance	TBD
PW Admin	\$150,000
Sub-Total	\$2,726,000
10% Contingency	\$274,000
Total	\$3,000,000

COST ESTIMATE
Phase 2
Contra Costa County
Public Works Department

Project Name: Industrial Area and Non-Industrial Area Infrastructure Program
Project Location: North Richmond
Project Length: 26 years

Date of Estimate: September 19, 2011
Prepared By: S. Goetz

Description Total

North Richmond
Infrastructure Program – Phase 2

Detailed Breakdown of Costs

Item Cost

Public infrastructure including, but not limited to drainage (including C-3), sewer, water, roads and related curb/gutter/sidewalk, street lighting, traffic signals, bicycle facilities, parks and utilities.	\$14,843,899
Total	\$14,843,899

EXHIBIT E
EXCEPTIONS