



CONTRA COSTA
transportation
authority

ORIGINAL

Agreement No. 124
With
Contra Costa County
For
State Route 4 Widening Project – Railroad Avenue to Loveridge Road
Right-of-Way Services

November 16, 2011

AMENDMENT No. 9

WHEREAS, the Contra Costa Transportation Authority and Contra Costa County Real Property Division entered in Agreement No. 124 on January 1, 2000 with a not to exceed amount of \$60,000 to prepare title reports for certain “advance acquisition” parcels; and

WHEREAS, the parties entered into the first amendment to the Agreement on May 17, 2000 to amend the scope of services to include acquisition of the properties on Frontage Road, and accordingly increase the total compensation to \$550,000; and

WHEREAS, the parties entered into the second amendment to the Agreement on April 18, 2001 to modify the geographic limits of the project corridor; and

WHEREAS, the parties entered into the third amendment to the Agreement on May 16, 2001 to amend the scope of services to include (1) acquisition of all properties needed for the Railroad to Loveridge project, (2) demolition of the properties on Frontage Road, and to increase the total compensation to \$1,225,000; and

WHEREAS, the parties entered into the fourth amendment to the Agreement on September 19, 2001 to correct the needed funding for the third amendment by increasing the total compensation to \$1,775,000; and

WHEREAS, the parties entered into the fifth amendment to the Agreement on April 17, 2002 to include (1) demolition of all remaining properties acquired for the project, and (2) condemnation activities for certain parcels, and (3) to acknowledge an increase in the actual costs for Frontage Road demolition increasing the total compensation to \$4,070,500; and

WHEREAS, the parties entered into the sixth amendment to the Agreement on May 21, 2003 to include condemnation activities, appraisal services and Right-of-Way closeout activities increasing the total compensation to \$4,810,500; and

WHEREAS, the parties entered into the seventh amendment to the Agreement on May 17, 2006 to include additional Right of Way closeout activities and acknowledge an increase in the actual costs of condemnation activities increasing the total compensation to \$4,960,500; and

WHEREAS, the parties entered into the eighth amendment to the Agreement on May 19, 2010, to include additional Right-of-Way closeout activities increasing the total compensation to \$5,096,376; and

WHEREAS, the parties now wish to amend the scope of services to include additional Right-of-Way closeout activities, transfer activities, and property management of excess lands; therefore be it

MUTUALLY AGREED:


- (1) That Article 3 of the Agreement is amended to expand "Services by County" to include tasks set forth in the attached letter from Contra Costa County Public Works Department dated October 6, 2011; and
- (2) That Article 4 of the Agreement is amended to increase the Base Work compensation by \$79,000 for a new Total Agreement Value of \$5,175,376; and
- (3) That all other items and conditions of the Agreement shall remain in effect.

In witness whereof, the parties hereto have executed this 9th Amendment to the Agreement as of the day and year above written.

COUNTY OF CONTRA COSTA

**CONTRA COSTA TRANSPORTATION
AUTHORITY**

Chair, Board of Supervisors



David E. Durant, Chair

ATTEST: David Twa
Clerk of the Board of Supervisors
and County Administrator

ATTEST:

By: _____
Deputy

 for:

Randell H. Iwasaki, Executive Director


Recommended to the County Board of
Supervisors for Approval:

By:


Principal Real Property Agent

Approved as to form:

By:


Malathy Subramanian
Authority Counsel

By:


Public Works Director

Approved as to form and legality:
Sharon L. Anderson, County Counsel

By:


Deputy



Contra Costa County
Public Works
Department

Julia R. Bueren, Director
Deputy Directors
R. Mitch Avalon
Brian M. Balbas
Stephen Kowalewski

October 6, 2011

Susan Miller, Director of Projects
Contra Costa Transportation Authority
2999 Oak Road, Suite 100
Walnut Creek, CA 94597

R/P –Railroad Avenue to Loveridge
CCTA Contract No. 124; Amendment No. 9

Dear Ms. Miller:

The Contra Costa County has reached significant milestones on this project including delivering the transfer Grant Deed to Caltrans for acceptance, clearing of the unacceptable exceptions on the preliminary title report, and closing all of the acquisition files.

A review of the above referenced contract shows Contra Costa County has several remaining tasks to complete the project close-out. The previous budget anticipated final close out and transfer to Caltrans would be completed between June 2011 and December 2011. The final legal description for the transfer parcel was completed in February 2011.

Funds and staff time that had been previously appropriated in the prior amendment for the close out of the project and ultimate transfer of right of way to the State have been impacted by: 1) unanticipated maintenance costs for 75 Bliss Avenue at the end of the U-Haul lease (sewer, rollup door & alarm), 2) the negotiations and working with the Title Company to identify and clear encumbrances on the updated preliminary title report for the transfer parcel especially parcel 24, 3) meetings regarding the acceptable utilities that will become CCUAs and JUAs, 4) unanticipated BART license agreement and time expended on the BART, Caltrans and County easement exchanges, 5) negotiating and accepting quit claim from AT&T to clear title of transfer parcel and, 6) finding utilities on parcel 58006 that need amended utility agreements.

It is assumed at this time that management of the three excess parcel will continue until through June 2013, but does not include activities or costs to sell the three excess parcels. A contract amendment in the amount of \$79,000 is needed for the following:

- Managing the escrow until recording and obtaining title insurance
- Meeting with Nolte, Mark Thomas and Caltrans to identify and manage the utility issues on excess parcel 58006.
- Assisting on identifying the utility JUAs and CCUAs
- Meeting with Caltrans and obtaining their concurrence on the title exceptions
- Managing the excess parcels including utility clearance, weed abatement and taxes
- Managing the BART License (eBART construction lay-down yard)
- Selling parcel 58006 to the City of Pittsburg

Sincerely,

Debra L. Baker

Supervising Real Property Agent

DB:fp

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"Accredited by the American Public Works Association"

255 Glacier Drive Martinez, CA 94553-4825

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Historical Summary of Contract Amendments
CT 124, Contra Costa County

Date	Contract Amendment	Amount of Amendment	Total Contract Amount	Description
Jan 1, 2000	Original Contract	\$ -	\$ 60,000	Contract as originally written covered only securing title reports for the advance acquisition properties along Frontage Road prior to the certification of the environmental document. (Originally Caltrans was to have been responsible for the right-of-way acquisition after the environmental document was complete).
May 17, 2000	Amendment No. 1	\$ 490,000	\$ 550,000	Caltrans subsequently determined that it did not have sufficient staff to undertake right-of-way acquisition for this project. This amendment was written to cover the preparation of appraisals, county staff time, right of way engineering, and relocation services for the acquisition of properties, but only along Frontage Road.
Apr 18, 2001	Amendment No. 2	\$ -	\$ 550,000	Amendment #2 simply extends the geographic limits further east to State Route 160, thereby including the Somersville Road area. There is no increase in the contract value.
May 16, 2001	Amendment No. 3	\$ 675,000	\$ 1,225,000	Amendment #3 requests an increase of \$675,000 for appraisals, county staff, right-of-way engineering, and relocation services for properties required for Harbor Street Bridge and Mainline construction. It included an estimate of \$300,000 for demolition of Frontage Properties and \$100,000 for County Counsel services to file Orders of Possession.
Sep 19, 2001	Amendment No. 4	\$ 550,000	\$ 1,775,000	Amendment #4 corrects an error in the amendment #3 by including the difference of \$550,000 that had been inadvertently excluded. (On a separate matter, the County's request letter noted that following the receipt of bids, the demolition costs for the Frontage Road properties were \$517,000 rather than the initial estimate of \$300,000 included in Amendment # 3 and depending upon actual expenditures, a subsequent amendment might be necessary to cover this increase.)

Historical Summary of Contract Amendments
CT 124, Contra Costa County

Date	Contract Amendment	Amount of Amendment	Total Contract Amount	Description
Apr 17, 2002	Amendment No. 5	\$ 2,295,500	\$ 4,070,500	Amendment #5 requests an increase of \$2,295,500 to cover the following activities: \$1,500,000 for demolition of the acquired parcels east of Railroad Ave., an additional \$250,000 for condemnation activities (in addition to the \$100,000 included in Amendment #3), \$258,000 for the balance of the actual demolition costs on Frontage Road, \$188,000 for additional County labor and expenses, \$87,500 for property management activities related to Frontage demolition, and \$12,000 for anticipated consultant expenses.
May 21, 2003	Amendment No. 6	\$ 740,000	\$ 4,810,500	Amendment #6 requests an additional \$740,000 to cover the following activities: \$575,000 for additional condemnation and legal activities anticipated to cover trial expenses not previously budgeted (amount assumes only one of three remaining property acquisition will go to trial); \$30,000 for updated appraisal services and \$135,000 for additional County labor and expenses to cover right-of-way closeout activities.
May 17, 2006	Amendment No. 7	\$ 150,000	\$ 4,960,500	Amendment #7 requests additional funds for the County labor and expenses to cover right-of-way closeout activities, including clearing title report exceptions and preparation of the transfer package to the State.
May 19, 2010	Amendment No. 8	\$ 135,876	\$ 5,096,376	Amendment #8 requests additional funds for the County labor costs associated with the completion of the right-of-way closeout activities, completion of the transfer package to the State, and property management and sales of excess lands. Amendment amount includes \$31,076 effective retroactively as of April 1, 2009.
Nov 16, 2011	<i>Proposed</i> Amendment No. 9	\$ 79,000	\$ 5,175,376	Amendment #9 requests additional funds for the County to complete the right-of-way closeout activities (acceptance by Caltrans of the Deed Transfer already approved by the County Board), purchase title insurance, coordinate with the survey engineer for utility JUAs and CCUAs, attend the final coordination meetings, sell one of the project excess parcels to the City of Pittsburg, and manage the three other project excess parcels until June 2013 or sooner if directed by Authority staff to sell the remaining project excess parcels.

Administration and Projects Committee Meeting STAFF REPORT

Meeting Date: November 3, 2011

Subject	State Route 4 Widening – Railroad Avenue to Loveridge Road - Amendment No. 9 to Contract No. 124 with Contra Costa County for additional Right-of-Way Services (Project 1405).
Summary of Issues	Contra Costa County has been providing Right-of-Way acquisition and closeout services for the SR4 Widening – Railroad Avenue to Loveridge Road Project. All acquisitions have been completed. A contract amendment is necessary to provide additional funds for the completion of the remaining Right-of-Way closeout activities, completion of the transfer activities, and property management services of excess project parcels.
Recommendations	Authorize the Chair to execute Amendment No. 9 to Contract 124 which provides an additional \$79,000 for additional project Right-of-Way closeout activities, transfer activities, and excess land management. The revised not-to-exceed amount of the contract will be \$5,175,376.
Financial Implications	Sufficient funds are programmed in the <i>2008 Measure C Strategic Plan</i> , as amended.
Options	The Authority could elect not to approve this request. However, remaining Right-of-Way activities for the project would be delayed.
Attachments	<ul style="list-style-type: none"> A. Amendment No. 9 to Contract No. 124. B. Letter from Contra Costa County dated October 6, 2011. C. Historical summary of contract amendments.
Changes from Committee	

Background

Contract No. 124 provides for the necessary County staff resources (along with needed sub-consultants) to conduct Right-of-Way acquisition and closeout efforts for the State Route 4

Widening – Railroad Avenue to Loveridge Road Project. Services under this agreement are very broad and include title reports, appraisals, property owner negotiations, building demolitions, relocation services, condemnation proceedings (including retention of legal counsel), excess property management services, and final Right-of-Way transfer to the State of California Department of Transportation (Caltrans).

In July 2011, the County Board of Supervisors approved the Deed Transfer of the project Right-of-Way to Caltrans. Caltrans is currently proceeding with the formal acceptance of the property Deed Transfer. This is a significant project milestone. However, necessary Right-of-Way services and activities are still required to complete the project closeout.

The remaining project closeout services and activities include coordination meetings with the project team, working with the title company and Caltrans to finish eliminating non-applicable title exceptions from the title report, purchasing title insurance required by Caltrans, working with the project survey engineer to complete necessary utility Joint Use Agreements (JUAs) and/or Consent to Common Use Agreements (CCUAs), managing the BART lease agreement related to BART's use of a project excess parcel for an eBART construction lay-down yard, and property management services of project excess parcels.

The project has four excess parcels. One of the excess parcels will be sold to the City of Pittsburg upon the completion and resolution of utility easement issues. It is assumed at this time that the other three excess parcels will be managed and maintained by the County until at least June 2013 or when Authority staff directs the County to sell the parcels via auction or if a willing third party is interested in purchasing any of the excess parcels. In late 2010, a previous attempt was made by the County to sell one of the excess parcels via auction, but no bids on the property were received.

The necessary ongoing project Right-of-Way closeout activities have caused the depletion of the available contract funds. A contract amendment is required to replenish contract funds for the required Right-of-Way closeout activities. The estimated additional cost to complete the Right-of-Way activities for the project is \$79,000. The tasks to be performed are described in the attached letter from the County dated October 6, 2011.

The current contract budget and the proposed Amendment No. 9 does not include County services and costs associated with the sale of the project excess parcels with the exception of the parcel that is to be sold to the City of Pittsburg which is anticipated to occur within the next several months.