

REAL PROPERTY SERVICES AGREEMENT

1. **Effective Date and Parties.** Effective _____, the COUNTY OF CONTRA COSTA, a political subdivision of the State of California ("County"), and the CITY OF BERKELEY, a Charter City organized and existing under the laws of the State of California ("City"), hereby mutually promise and agree as follows:
2. **Purpose.** The City has no right of way staff and desires to contract with the County for various real estate services.
3. **Services by County.** County will provide City the following services, as directed by City: appraisal and appraisal review; negotiations; land rights document preparation and right of way acquisition; relocation; management of all leasing and disposal of real property; arrange for and maintain necessary property insurance; contract administration; manage all property and asset management functions; supervision of independent contractors providing such services; and related work as required (all of which constitute "Services").

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

4. **Payment for Services.** City shall reimburse County, at the hourly charge out rates in Appendix "A", attached hereto, for all time that County real property agents perform Services for City under this Agreement. City shall reimburse County for costs of experts and contractors retained by County in the performance of the Services. City 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 City shall be made within 30 days of billing by County.
5. **Indemnification.** County shall defend, indemnify, and hold harmless the City, 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 City, its officers and employees for any portion of Liabilities that arise out of City's, or its officers' or employees' willful misconduct or negligent acts, errors, or omissions.

City 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 the City, its officers, employees, agents, and volunteers, in

performing any of its or their obligations under this Agreement. Notwithstanding anything to the contrary, City 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 City 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, City 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 City hereunder will be sufficient if delivered in writing as designated below, or to such other addresses as County and City may respectively designate by written notice to the other:

To County: Contra Costa County Public Works Department
c/o Real Estate Division
255 Glacier Drive
Martinez, CA 94553
(925) 313-2220

To City: City Manager
City of Berkeley
2180 Milvia Street
Berkeley, CA 94704

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 the City 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 City. The County and City 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 City.

11. **Governing Law.** This Agreement shall be governed by and construed in accordance with California law.
12. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.
13. **Severability.** If any term or provision of this Agreement shall, to any extent, be held 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.

COUNTY OF CONTRA COSTA

CITY OF BERKELEY

By _____
Chair, Board of Supervisors

Signed by:

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

Dee Williams-Ridley
Interim City Manager

By _____
Julia R. Bueren
Public Works Director

Countersigned by:

City Auditor

RECOMMENDED FOR APPROVAL:

Attested by:

By _____
Karen A. Laws
Principal Real Property Agent

City Clerk

APPROVED AS TO FORM:
SHARON L. ANDERSON, COUNTY COUNSEL

APPROVED AS TO FORM:
City Attorney

By _____
Deputy County Counsel

By _____

APPENDIX "A"
Pay Rate Schedule

City 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 the City prior to invoicing.

ATTACHMENT 1

REAL PROPERTY AGENT

HOURLY CHARGE OUT RATE

Hourly Rate

Principal Real Property Agent	\$150/hr to \$220/hr
Supervising Real Property Agent	\$125/hr to \$180/hr
Senior Real Property Agent	\$112/hr to \$165/hr
Assistant Real Property Agent	\$ 86/hr to \$125/hr
Senior Real Property Technical Assistant	\$ 81/hr to \$120/hr
Real Property Technical Assistant	\$ 70/hr to \$105/hr