

## REAL PROPERTY SERVICES AGREEMENT

First and Second Street Roundabouts Project  
City Project No. ST14PW02

1. **Effective Date and Parties.** Effective on \_\_\_\_\_, the COUNTY OF CONTRA COSTA, a political subdivision of the State of California ("County"), and the CITY OF NAPA, a municipal corporation ("City"), hereby mutually promise and agree as follows:
2. **Purpose.** Pursuant to a Cooperative Agreement between City and the State of California, Department of Transportation ("Caltrans"), City Agreement No. 2015-157, ("Cooperative Agreement"), City and Caltrans and are jointly working to complete the First and Second Street Roundabouts Project, City Project No. ST14PW02, ("Project"), a Federal aid project for which City requires the services of a Caltrans-qualified agency. County has said qualifications and City desires to contract with County for the real estate services necessary to implement the Project.
3. **Services by County.** County will provide City the following services, as directed by City: appraisal review and support; negotiations, land rights document preparation; right of way acquisition; right of way project management; title and escrow support; right of way certification, and/or supervision of independent contractors providing such services; and related work as required (all of which constitute "Services").

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

4. **Payment for Services.** City shall reimburse County, at the hourly charge out rates and in accordance with the budget 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 all City approved 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. If additional services are required, City and County may amend this agreement to provide for payment for those additional services. Payments by City shall be made within sixty (60) days of billing by County.

City agrees that in addition to funds set aside by this agreement for staff support, it will fund either by direct reimbursement to County, or payment directly into escrow, the agreed upon purchase price, escrow fees, and other related costs which may be a condition of sale.

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', and 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 thirty (30) days written notice. The rights and obligations of Paragraph 5 "Indemnification" shall survive any such termination. Within thirty (30) days after the termination of this Agreement, City shall pay the County for all unpaid charges and costs the County incurs 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 of Napa  
                  c/o Property Manager  
                  P.O. Box 660  
                  1600 First Street  
                  Napa, CA 94559-0660  
                  707-257-9520

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 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 a writing that is 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,**  
a political subdivision of the State of California

**CITY OF NAPA,**  
a municipal corporation

By \_\_\_\_\_  
Chair, Board of Supervisors

By \_\_\_\_\_  
Mike Parness, City Manager

ATTEST:

ATTEST:

By \_\_\_\_\_  
David Twa, Clerk of the Board of  
Supervisors and County Administrator

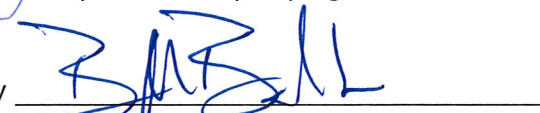
By \_\_\_\_\_  
Dorothy Roberts, City Clerk

Recommended to the County  
Board of Supervisors for Approval:

Countersigned:

By   
Karen A. Laws  
Principal Real Property Agent

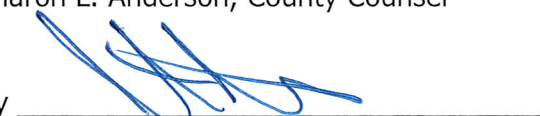
By \_\_\_\_\_  
Desiree Brun, Auditor

By   
FOR Julia R. Bueren  
Public Works Director

Approved as to Form:

By \_\_\_\_\_  
Michael Barrett, City Attorney

Approved as to Form:  
Sharon L. Anderson, County Counsel

By   
Deputy County Counsel

**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**

**Project:** First and Second Street Roundabouts from SR-29 to California Blvd.

**A. Budget.** This is a unique and complicated project with multi agency requirements including the combination of both a State and a City project. Based on the Project Schedule and Real Property Services Agreement, the County will be providing right of way services for 21 months and could continue beyond that through the construction phase of the project. The County will regularly attend project related meetings, prepare required documents, and guide the City through the States policies and procedures in both securing the required real property rights for the project and in compliance with the projects milestones, as they relate to the right of way requirements, all of which is commensurate with the administration cost.

County's Services will be related to the acquisition from eight private property owners: six (6) owners with partial fee acquisitions and temporary construction easements (TCEs), and two (2) owners with TCE's for City's above-described Project. County's charges for Services under this Agreement will be allocated according to the following budget:

ADMINISTRATION	\$ 80,000
APPRAISAL REVIEW	\$ 7,500
NEGOTIATIONS/ACQUISITION	\$ 62,000
CONDEMNATION SUPPORT	\$ 10,000
RIGHT OF WAY CERTIFICATION	\$ <u>6,000</u>
	\$ 165,500
10% contingency fee	\$ <u>16,500</u> (rounded)

**TOTAL BUDGET FOR THE PROJECT: \$182,000**

**B. Charge-Out Rates** . County will charge City for Services under this Agreement at the following hourly rates:

<b>REAL PROPERTY AGENT</b>	<b>HOURLY CHARGE OUT RATE</b>
	Hourly Rate
Principal Real Property Agent	\$208/hr to \$220/hr
Supervising Real Property Agent	\$163/hr to \$180/hr
Senior Real Property Agent	\$153/hr to \$165/hr
Assistant Real Property Agent	\$110/hr to \$125/hr
Senior Real Property Technical Assistant	\$103/hr to \$120/hr
Real Property Technical Assistant	\$ 77/hr to \$105/hr