

**REAL PROPERTY SERVICES**  
**AGREEMENT**

1. **Effective Date and Parties.** Effective as of \_\_\_\_\_, the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (hereinafter referred to as "County"), and the BAY AREA INFRASTRUCTURE FINANCING AUTHORITY, a Joint Powers Authority between the Metropolitan Transportation Commission and the Bay Area Toll Authority, (hereinafter referred to as "BAIFA") hereby mutually promise and agree as follows:
  
2. **Purpose.** BAIFA is planning the I-880 Express Lane Project ("Project"). BAIFA has no right-of-way staff and desires to contract with the County for various right of way services including but not limited to property appraisal, acquisition, and relocation services for certain parcels to be identified by BAIFA.
  
3. **Services by County.** The right of way services to be rendered by County to BAIFA include, but are not necessarily limited to; appraisal, appraisal review, negotiations, document preparation, acquisition, Caltrans right of way certification, and/ or supervision of independent contractors providing such services. The right- of-way services that County will provide to BAIFA are more particularly described in the "I-880 Express Lanes Project Right of Way Services" document (Scope of Services) attached hereto as Appendix A and incorporated herein by reference. The County will perform only those services authorized by BAIFA in advance under a Task Order in the form attached herein as Appendix B and according to the process established in Appendix B-1, Task Order Process, attached hereto and incorporated herein.

The County warrants that it will perform these services in compliance with accepted professional standards and procedures, and that it will, at its cost, re-perform any tasks that fail to meet generally accepted professional standards.

4. **Payment for Acquisition Costs.** BAIFA shall reimburse County for all labor costs and appropriate overhead for County real property agents' labor, including but not limited to overtime rates for evening or weekend work, at the rates specified in Appendix C, Pay Rate Schedule, attached hereto, for all work the County performs under this Agreement. BAIFA also shall reimburse County for expert, COUNTY, contractor, and other expenses, including but not limited to recording fees, title fees, and escrow costs that the County actually incurs to perform the services listed in the attached Scope of Services. BAIFA's total payments to County under this Agreement shall not exceed \$25,000. BAIFA shall pay the County within 30 days after receiving an acceptable invoice for payment from County.

5. **Indemnification.** County shall defend, indemnify and hold harmless BAIFA, its Commissioners, member agencies, officers, employees or agents thereof 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") arising 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 obligations under this Agreement. Notwithstanding anything to the contrary, County shall not be obligated to indemnify BAIFA, its Commissioners, member agencies, officers, employees or agents thereof in any manner whatsoever for BAIFA's own negligence, errors or omissions or willful misconduct or that of its Commissioners or employees.

BAIFA shall defend, indemnify and hold harmless County, its officers, and employees for any Liabilities arising out of the willful misconduct or the negligent acts, errors or omissions of the BAIFA, its Commissioners, member agencies, officers, employees or agents thereof, in performing any of its obligations under this Agreement. Notwithstanding anything to the contrary, BAIFA shall not be obligated to indemnify County, its officers, and employees in any manner whatsoever for County's own negligence, errors or omissions or willful misconduct or that of its officers or employees.

6. **Independent Status.** Nothing herein shall be construed to imply that any County employee providing services hereunder is a BAIFA 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, BAIFA shall pay the County for all unpaid charges and costs the County incurs under this Agreement through the termination date of the Agreement.
8. **Notice.** Any notice required to be provided under this Agreement shall be in writing and shall be personally delivered, or delivered by Overnight Carrier or U.S. Mail to the following addresses:

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

To BAIFA: Peter Lee, Project Manager  
Bay Area Infrastructure Financing Authority  
101 Eighth Street  
Oakland, CA 94607  
(510) 817-5716

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 BAIFA concerning the subject matter of the Agreement 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 BAIFA. The County and BAIFA 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 governing bodies of BAIFA and the County, and that is executed by their authorized representatives.
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.

*THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK*

**COUNTY OF CONTRA COSTA**

**BAY AREA INFRASTRUCTURE  
FINANCING AUTHORITY**

By \_\_\_\_\_

Name: \_\_\_\_\_  
Chair, Board of Supervisors

By \_\_\_\_\_

Andrew B. Fremier  
Deputy Executive Director, Operations

I hereby certify that this is a true and correct copy of  
an action taken and entered on the minutes of the  
Board of Supervisors on the date shown.

ATTESTED: \_\_\_\_\_

David Twa, Clerk of the Board  
of Supervisors and County  
Administrator

Recommended to the County  
Board of Supervisors for Approval:

By \_\_\_\_\_

Karen A. Laws  
Principal Real Property Agent

By \_\_\_\_\_

Julia R. Bueren  
Public Works Director

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

By \_\_\_\_\_

Deputy

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**APPENDIX "A"**  
**I-880 Express Lanes Project**  
**Right of Way Scope of Services**

1. **Administration (RPA)** – The County will perform duties that cover the general Project management for right of way acquisition. These services include but are not necessarily limited to:
  - a) Developing and monitoring right of way project schedule;
  - b) Obtaining and reviewing title reports;
  - c) Working with design team to develop property right's needs;
  - d) Attending regularly scheduled trend/staff meetings;
  - e) Attending and making presentations at public meetings, if necessary;
  - f) Soliciting COUNTYs for appraisal and relocation services;
  - g) Selecting COUNTYs, administer contracts and process payments.
  - h) Setting up individual acquisition files for each parcel;
  - i) Investigating ownerships, easements and title concerns;
  - j) Preparing and coordinating with Caltrans to secure approved R/W Certifications; and
  - k) Assist in reviewing documents for determining utility rights.
  
2. **Valuation (RPV)** – County will prepare and review appraisals. The appraisals will be in conformance with state standards. Real Estate shall have sole discretion to determine whether County's Real Estate staff or COUNTYs (MAI designated appraisers) will complete each appraisal. Valuation services provided by the County will include, but may not be limited to:
  - a) Preparing and mailing Letters of Invitation to appraise;
  - b) Providing technical information to appraisers;
  - c) Acting as liaison between appraisers and design/engineering team; and
  - d) Reviewing and approving appraisals.
  
3. **Negotiations (RPN)** – County will provide negotiation services required to acquire property for the Project. County's Principal Real Property Agent will assign County's Real Estate agents to parcels according to the agent's ability and the complexity of the appraisal and any acquisition issues. Negotiation services provided by the County will include, but may not be limited to:

- a) Review of title reports, appraisals, legal descriptions, maps and other documents in sufficient detail in preparation for negotiations;
- b) Maintaining a complete acquisition file on each property assigned; Preparing deeds, easements and right of way contracts;
- c) Initiating contact with property owner(s) or their representative to present written offer. Conducting negotiations and following up with property owners as necessary to arrive at a mutually agreeable settlement;
- d) Acting as a liaison with appraisers, relocations COUNTYs and BAIFA staff;
- e) Utilizing legal counsel where necessary in development of final agreements; and
- f) Advising Principal as to necessity of eminent domain action.

4. **Limited Condemnation-Related Services** – County and BAIFA agree that the County will not exercise the power of eminent domain to acquire property interests for the Project. BAIFA will separately contract with Alameda County to cause it to act as the agency that will exercise the power of eminent domain if any property interest cannot be acquired by negotiated purchase and sale. If directed by BAIFA in writing, the County will provide the following services:

- a) Identifying and locating parties to the eminent domain action;
- b) Preparing condemnation packages and exhibits; and
- c) Serving court filings on defendants.

## **APPENDIX "B"**

### **Task Order Process**

#### Detailed Task Order Process:

Task Orders will be numbered sequentially. The period of performance shall be as set forth in the individual Task Order. The process for developing, signing and tracking task orders is summarized as follows:

Step 1 – The BAIFA Project Manager ("BAIFA PM") prepares a draft Task Order to issue to COUNTY. The BAIFA PM may solicit feedback from COUNTY to facilitate drafting the Task Order.

Step 2\* – COUNTY prepares a proposal in response to the draft Task Order. A draft Task Order, as included in this Agreement as Appendix B-1, Task Order Form, attached hereto and incorporated herein by this reference, shall be provided to COUNTY for review and comment.

Step 3\* – The BAIFA PM reviews COUNTY's proposal to determine if it meets the objectives of the draft Task Order and if COUNTY's proposed costs are reasonable. The BAIFA PM may solicit early feedback from the BAIFA Operations Director at this time, if necessary. Any changes to the draft Task Order deemed appropriate by BAIFA shall be incorporated in a draft Final Task Order.

Step 4\* – The BAIFA PM forwards the draft Final Task Order to the BAIFA Contract Administrator for review and approval. Once approved, the BAIFA PM forwards two copies of the Task Order to the BAIFA Operations Director, for review and approval. The BAIFA Operations Director signs both copies of a Final Task Order to signify approval and returns them to the BAIFA PM.

Step 5 – The BAIFA PM sends both copies of the signed Final Task Order to COUNTY, who signs both copies and returns one to the BAIFA PM.

Step 6 – The BAIFA PM sends one copy of the fully executed Task Order to the BAIFA or BAIFA Task Lead who initiates work, and sends another copy to BAIFA Finance to encumber funds against the Task Order. The BAIFA PM keeps the original fully-executed Task Order for the official project record.

Step 7 – Any services added to the Agreement by a Task Order shall be subject to all applicable conditions of the Agreement. Revisions to Task Orders shall require written approval by both the BAIFA Operations Director and COUNTY. Revisions to Task Orders shall require written approval by both the BAIFA Operations Director and COUNTY.

Step 8 – The BAIFA PM is responsible for overseeing the successful conclusion of the Task Order, and will manage the progress of the work, track invoices against the Task Order budget, and track milestone completion against the Task Order schedule.

Step 9 – Once the BAIFA PM determines the Task Order is complete, the BAIFA PM will send written notification to COUNTY that the Task Order is complete and that all associated invoices are due to BAIFA within 30 days. Any balance of budget is made available to spend on future task orders at the BAIFA PM's discretion.

*\* The BAIFA Project Manager may revise the Task Order and/or COUNTY may be asked to revise the proposal based on feedback received during Steps 2 through 4.*



**APPENDIX "B-1"**  
**Contra Costa County**  
**Task Order Form**

|  |  |
|--|--|
| 1. Task Order No. (include FY)   |  |
| 2. Title of Task:  |  |
| 3. BAIFA or BAIFA Task Lead (if different from BAIFA Project Manager): |  |
| 4. Description of work:  | <i>Summarize key task expectations. For more information, see attached <u>Task Order Budget and Schedule</u> and <u>Detailed Description of Work</u> (attached).</i> |
| 5. Original Maximum Payment:   |  |
| 6. Amended Maximum Payment:  | <i>Include each amendment to maximum payment, by amendment number, for particular fiscal year.</i>   |
| 7. Completion Date:  | Date<br>Schedule attached.   |
| 8. Payment terms:  | <i>Check the one that applies (see below for more information):</i><br><input type="checkbox"/> Time and Materials<br><input type="checkbox"/> Deliverables          |

Payment Terms: Time and Materials

*Specify hourly rate for applicable personnel and include estimate of expenses.*

|                               | Personnel/Expense | Duties | Rate | Est. Hours | Total Cost |
|-------------------------------|-------------------|--------|------|------------|------------|
| 1.                            |                   |        | \$   |            | \$         |
| 2.                            |                   |        | \$   |            | \$         |
| 3.                            |                   |        | \$   |            | \$         |
| 4.                            |                   |        | \$   |            | \$         |
| <b>Total Maximum Payment:</b> |                   |        |      |            | <b>\$</b>  |

BAY AREA INFRASTRUCTURE FINANCING  
 AUTHORITY

COUNTY OF CONTRA COSTA

\_\_\_\_\_  
 Melanie Crotty,  
 Operations Director

\_\_\_\_\_  
 Karen A. Laws  
 Principal Real Property Agent

Date: \_\_\_\_\_

Date: \_\_\_\_\_