

12783

C.2

Contract 362

AGREEMENT

1. **Effective Date and Parties.** Effective as of November 14, 2012, the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (hereinafter referred to as "County"), and the CONTRA COSTA TRANSPORTATION AUTHORITY, a public agency, (hereinafter referred to as "CCTA"), hereby mutually promise and agree as follows:
2. **Purpose.** CCTA is planning the I-80/San Pablo Dam Road Interchange Improvement Project (Measure J Project #7002) to be constructed prior to FY2015. CCTA 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 CCTA.
3. **Services by County.** The services to be rendered by County to CCTA include, but are not necessarily limited to right-of-way services, including appraisal, appraisal review, negotiation land rights document preparation, right of way acquisition, relocation and/ or supervision of independent contractors providing such services.

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.** CCTA shall reimburse County for all labor costs and appropriate overhead for County real property agents' labor including but not limited to the following: CCTA shall reimburse County for all labor costs and appropriate overhead for County labor including overtime rates for evening or weekend work (See Appendix "A" for pay rates). CCTA shall reimburse County for expert, consultant, contractor and other expenses (such as recording fees, title fees, court expenses, etc.) at the actual cost incurred. Total payments shall not exceed \$413,000.

County shall not perform work in excess of \$30,000 until the Executive Director or his designee authorizes it in writing, and CCTA shall not be liable for any work performed in excess of \$30,000 prior to such authorization.

CCTA agrees that in addition to the funds set aside by the Agreement for staff support, it will fund, either by direct reimbursement to the County, or payment directly into escrow, the agreed-upon purchase price, relocation costs, and other related costs (such as title, condemnation, and consultant legal fees, demolition and clearance costs which may be a condition of sale.

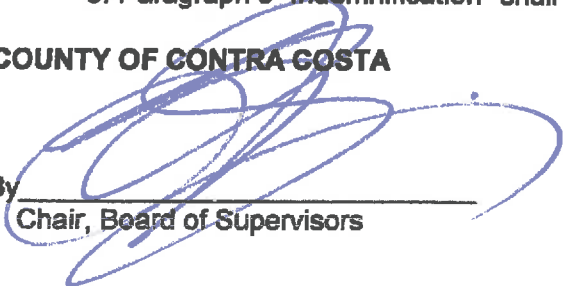
5. **Indemnification.**

County shall defend, indemnify and hold harmless CCTA 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") 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 CCTA, its officers, and employees in any manner whatsoever for CCTA's own negligence, errors or omissions or willful misconduct or that of its officers or employees.

CCTA 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 CCTA, its officers, employees, agents and volunteers, in performing any of its obligations under this Agreement. Notwithstanding anything to the contrary, CCTA 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 CCTA 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.

COUNTY OF CONTRA COSTA

By 
Chair, Board of Supervisors

**CONTRA COSTA
TRANSPORTATION AUTHORITY**

By 
Don Tatzin
Chair

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

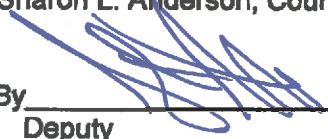
By 
Randell H. Iwasaki
Executive Director

Recommended to the County
Board of Supervisors for Approval:

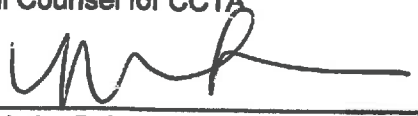
for By 
Karen Laws
Principal Real Property Agent

By 
Julia R. Bueren
Public Works Director

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

By 
Deputy

Approved as to Form:
Legal Counsel for CCTA

By 
Malathy Subramanian
Legal Counsel

APPENDIX "A"
Pay Rate Schedule

The CCTA 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, included as Attachment 2. Appropriate overhead rates for COUNTY shall be developed based on procedure previously approved by CCTA 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 CCTA prior to invoicing.

REAL PROPERTY AGENT

HOURLY CHARGE OUT RATE

Principal Real Property Agent
Supervising Real Property Agent
Senior Real Property Agent
Assistant Real Property Agent
Senior Real Property Technical Assistant

Hourly Rate
\$145/hr to \$220/hr
\$120/hr to \$180/hr
\$110/hr to \$165/hr
\$ 85/hr to \$125/hr
\$ 80/hr to \$120/hr



Contra Costa County Public Works Department

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

October 11, 2012

Ross Chittenden, Deputy Executive Director, Projects
Contra Costa County Transportation Authority
2999 Oak Road, Suite 100
Pleasant Hill, CA 94523

R/E-Proposal and Cost Estimate
for Right of Way Services
I-80 San Pablo Dam Road
Interchange Project – Phase 1

Dear Mr. Chittenden:

Contra Costa County Real Estate Division is pleased to provide a cost estimate and scope of services for various right of way services to be provided to the Contra Costa Transportation Authority (CCTA) for the I-80 San Pablo Dam Road Inter-Change Project. This proposal is based on preliminary information (see attached Exhibit A) that was provided to us by CCTA staff. It appears that approximately 15 properties will be impacted by some type of right of way acquisition.

The Real Estate Division has been providing right of way services to CCTA and other agencies for various highway projects for more than 23 years. The division has the experience and skills, and has demonstrated the ability to successfully deliver these services in a timely and effective manner under very aggressive construction schedules.

We have met or exceeded those schedule expectations in every instance. All work performed is in compliance with all State and Federal laws, the Uniform Relocation Assistance and Real Property Acquisition Policies Act, and local procedures. We also follow Caltrans District 4 processes that facilitate the successful review and ultimate transfer of right of way.

Our division has unique expertise and qualifications. First, the division is certified by the State of California as a level 3 certified agency. This certification qualifies us to perform and review all the technical work for every right of way function without Caltrans direct oversight or approvals. This is a tremendous advantage in being able to streamline processes and accelerate right of way schedules. Second, the division has developed expertise in disciplines such as environmental assessment review and demolition. Third, we have direct and immediate access to legal counsel familiar with the state highway projects and eminent domain proceedings. Fourth, there are a number of other county divisions/departments that can support and immediately react

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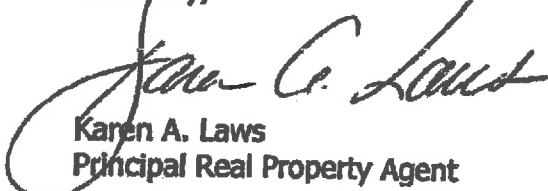
Ross Chittenden, Deputy Executive Director, Projects
Contra Costa County Transportation Authority
October 12, 2012
Page 2

on various issues that arise during the course of a project. An example is our Maintenance Division, which secures vacant buildings and cleans up sites where illegal dumping occurs.

This project will require the involvement of several members of the Real Estate staff and possibly outside consultants for appraisal and/or relocation services. The scope of services and cost estimate assume having to obtain a Resolution of Necessity and Order of Possession on approximately half of the 15 property owners. If properties proceed to trial, we may need to amend our contract to cover the time and effort associated with an eminent domain trial.

We look forward to continuing our long and successful relationship, which has brought much needed major transportation improvements to Contra Costa County. If you have any questions, please contact me at (925) 313-2228.

Sincerely,



Karen A. Laws
Principal Real Property Agent

**I-80 SAN PABLO DAM ROAD INTERCHANGE PROJECT
PHASE 1-PEDESTRIAN OVERCROSSING**

S. No.	APN	Type	Take-type	
1	417-041-006	Single-Family	full	
2	417-041-005	Multi-family	full	
3	417-041-002	Single-Family	full	
4	XXX	City to Caltrans	transfer	
5	418-030-014	institutional (school)	part & tce	
6	XXX	City to Caltrans	transfer	
7	416-022-004	Single-Family	TCE	
8	416-022-005	Single-Family	part & tce	
9	416-022-006	Single-Family	part & tce	
10	416-022-007	Single-Family	full	
11	416-022-008	Single-Family	part & tce	
12	416-013-021	Single-Family	part & tce	
13	416-013-023	Single-Family	part & tce	
14	416-013-020	Single-Family	full	
15	416-013-024	Single-Family	full	
16	XXX	City to Caltrans	transfer	
17	XXX	City to Caltrans	transfer	
18	XXX	City to Caltrans	transfer	
19	417-043-008	Multi-parcel	Aerial Esmt	
20	417-043-009	Multi-parcel	Aerial Esmt	
ACQ=15 parcels		Single-Family= 11		Full takes = 6
		Multi-Family= 1		Part Takes w/TCE=6
		Institutional=1		TCE= 1
		Multi-Parcel - 2		Aerial Esmts - 2
		(Transfers by others=5)		

**I-80 SAN PABLO DAM ROAD INTER-CHANGE PROJECT
RIGHT OF WAY SCOPE OF SERVICES – PHASE 1**

1. **Administration (RPA)** – A category of duties that cover the general project management for right of way. These services include:
 - a) Developing and monitoring right of way project schedule;
 - b) Obtaining and reviewing title reports;
 - c) Working with design team to develop property rights needs;
 - d) Attending regularly scheduled trend/staff meetings;
 - e) Attending and making presentations at public meetings, if necessary;
 - f) Soliciting consultants for appraisal and relocation services;
 - g) Selecting consultants, 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;
 - k) Assist in reviewing documents for determining utility rights.
2. **Valuation (RPV)** – The preparation and review of appraisals for 15 parcels. The appraisals will be in conformance with state standards. A combination of Real Estate staff and consultants (MAI designated appraisers) would most likely be used. These services include:
 - 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)** – Real Estate agents will be assigned a varying number of the 15 parcels according to the complexity of the appraisal/acquisition issues. Duties include:
 - 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;

- c) Preparing deeds, easements and right of way contracts;
 - d) 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;
 - e) Acting as a liaison with appraisers, relocations consultants and CCTA staff;
 - f) Utilizing legal counsel where necessary in development of final agreements; and
 - g) Advising Principal as to necessity of eminent domain action.
4. **Condemnation (RPC)** – In cases where an eminent domain action is necessary in order to secure the right of way for project construction Real Estate will lead the process to obtain orders of possession. Real Estate has worked closely with County Counsel to expedite this process so that certification and construction schedules can be met. For the purposes of this proposal I have assumed that approximately half of 15 property owners will require us to proceed with a Resolution of Necessity Hearing and obtain Orders of Possession. Services outlined here do not include costs and work required after the Order of Possession. Services will include:
- a) Identifying and locating all parties to the action;
 - b) Adoption of Resolution of Necessity by County Board of Supervisors;
 - c) Preparing condemnation packages and exhibits for County Counsel; and
 - d) Service of Order for Immediate Possession to all parties
5. **Relocation (RPR)** – It appears that there are 6-8 residential relocations that will be necessary for this phase of the project. To complete these relocations, Real Estate staff or a relocation consultant retained by the County will complete a relocation Impact study in advance of the project and to provide relocation services to the displaced businesses. Services will include:
- a) Preparing, reviewing and approving the relocation impact study;
 - b) Reviewing and approving all relocation claims;
 - c) Processing claims for payment;
 - d) Providing oversight and input to consultant; and
 - e) Acting as liaison between consultant and CCTA staff.

6. **Demolition (RPD)** – If requested, we would secure the services of a demolition contractor and hazardous material consultants for the removal of 6-8 structures, improvements, and potential remedial clean up of the sites. This work would include:

- a) Preparation of a scope of work for demolition;
- b) Preparation of a scope of work for hazardous material testing and clean up;
- c) Solicitation of bids;
- d) Awarding contracts and obtain necessary documents and approvals;
- e) Coordinating with utilities for disconnections; Processing payments; and
- f) Working with field representative designated by CCTA for contract compliance and completion.

I-80 San Pablo Dam Road Interchange Project Phase 1 - Schedule

DATE	TASK
2012	
December 3 rd	Order Title Reports
December 20 th	R/W Info. -- Maps & Legals
2013	
January 7 th	Begin Appraisal Work
January 14 th	Invitations to Appraise
March 11 th	Appraisals completed/reviewed
March 18 th	Relocation Replacement Housing Study
April 9 th	Offers completed
April 16 th	Begin relocation assistance to occupants
July 29 th	NOIs Mailed (45 days)
September 17 th	RON Hearing
October	File motion OP/Serve Motion -- 90 Day
November	90 Day Informational Notice to Vacate
2014	
February	OP Hearing/Serve OP-30 Days(owners) 30 Day Notice to Vacate (occupants) Draft Cert to Caltrans
March	Effective OP/Final Cert to Caltrans
March	Demo
April	R/W Certification Approved RTL

Administration and Projects Committee Meeting **STAFF REPORT**

Meeting Date: November 1, 2012

Subject	I-80/San Pablo Dam Road Interchange Reconstruction (Project 7002) – Right-of-Way Clearance
Summary of Issues	Earlier this year, the Authority programmed \$15 million in 2012 STIP funds for the I-80/San Pablo Dam Road Interchange Reconstruction (Project 7002). Another \$8 million in Regional Measure 2 (RM2) funds is expected to be programmed to the project by MTC in the next two months. With the 65% design plans now complete, a phasing plan based on available funding has been developed. The phasing plan splits the project into two phases. Phase 1 is expected to be fully funded with STIP and RM2 funds, while Phase 2 is currently unfunded. Right-of-way clearance activities must begin now to allow Phase 1 construction to start in late 2014/early 2015. RM2 funds are proposed to fund right-of-way clearance activities since STIP funds are not available until FY2014-15. Resolution 12-64-P authorizes staff to seek allocation of RM2 funds. To expedite the project, Authority staff is concurrently seeking approval of Contract 362 and Resolution 12-65-P. However, work and total payments will be limited to \$30,000 until RM2 funds are allocated by MTC, at which time the remainder of the contract amount is proposed to be authorized by the Executive Director or his designee.
Recommendations	Staff recommends the following actions to advance Phase 1: 1) approval of Resolution 12-64-P authorizing staff to seek an allocation of \$7.417 million from MTC for right-of-way clearance activities; 2) authorization for the Chair to execute Contract 362 with Contra Costa County to provide right-of-way services in the amount not to exceed \$413,000; and 3) approval of Resolution 12-65-P in the amount of \$7.034 million for right-of-way acquisition costs.
Financial Implications	Measure J funds programmed in the 2011 Measure J <i>Strategic Plan</i> for the I-80/SPDR project (Project 7002) will be used to fund up to \$30,000 under Contract 362. The remainder of the contract amount (\$383,000) will be authorized by the Executive Director or his designee once RM2 funds are allocated by MTC.

Options	The APC could modify the staff recommendation or not approve this request; however the project would be delayed.
Attachments	A. Resolution 12-64-P B. Contract 362 with Contra Costa County and scope of services C. Resolution 12-65-P
Changes from Committee	

Background

In June 2006, the Authority entered into Cooperative Agreement 07W.01 with the City of San Pablo to environmentally clear the I-80/San Pablo Dam Road Interchange Reconstruction project (Project 7002). The environmental clearance phase was completed in May 2010 and the cooperative agreement was subsequently amended to advance the project design and right-of-way clearance phases. Per the agreement terms, the Authority received a contribution of \$3 million from the City of San Pablo to advance the design phase.

Earlier this year, the project successfully competed for \$15 million in 2012 State Transportation Improvement Program (STIP) funds. In addition, MTC is expected to program \$8 million in Regional Measure 2 funds for the project from savings on the recently completed I-80 High Occupancy Vehicle (HOV) project near Hercules.

Now that the 65% design plans are complete, a phasing plan based on available funding has been developed, which splits the project into two phases. Phase 1, which is expected to be fully funded by STIP and RM2 funds, will replace the Riverside Avenue Pedestrian Overcrossing, relocate the El Portal Drive westbound on-ramp to the north and extend the I-80 westbound auxiliary lane between El Portal Drive and San Pablo Dam Road interchanges. Phase 2 will replace the I-80/San Pablo Dam Road interchange, realign Amador Street away from the I-80/San Pablo Dam Road interchange, and construct a new connector road on the west side of I-80 between San Pablo Dam Road and McBryde Avenue.

To get Phase 1 ready for construction, right-of-way clearance activities must begin now to allow construction to start in late 2014/early 2015. RM2 funds are proposed to fund the right-of-way phase since STIP funds are not available until FY 2014-15.

Phase 1 right-of-way acquisitions include 5 single family residences, one multi-family (3 units) residence, five single family residence partial takes with temporary construction easements, one temporary construction easement, one institutional (school) and two aerial easements.

Staff recommends the following actions to advance Phase 1 of the project:

1. Approval of Resolution 12-64-P authorizing staff to seek an allocation of \$7.417 million from MTC for Phase 1 right-of-way clearance activities;
2. Authorization for the Chair to execute Contract 362 with Contra Costa County to provide right-of-way services in an amount not to exceed \$413,000; and
3. Approval of Resolution 12-65-P in the amount of \$7.034 million for right-of-way acquisition costs.

The Authority's approval of Resolution 12-64-P is required by MTC prior to allocation of RM2 funds. To expedite the project, Authority staff is concurrently seeking approval of Contract 362 and Resolution 12-65-P. It is necessary to engage the services of County right-of-way staff to allow the project team to establish a detailed work plan for the right-of-way acquisition process on the project. However, work and total payments under Contract 362 will be limited to \$30,000 until MTC programs and allocates the RM2 funds. Upon allocation of the RM2 funds, the remainder of the contract amount will be authorized by the Executive Director or his designee.

The right-of-way services to be rendered by the County to the Authority include preparation and review of appraisals, negotiations with property owners, land rights document preparation, right-of-way acquisitions, relocation and/or supervision of independent contractors providing such services. In cases where an eminent domain action is necessary, the services of the county will provide Resolutions of Necessity and Orders of Possession. Should any properties proceed to trial, work associated with supporting this effort will be subject to an amendment to the County contract. Similarly, work associated with project close-out activities to support right-of-way transfer to the State will be subject to an amendment.

Right-of-way acquisition costs will be authorized under Resolution 12-65-P to reimburse the County for acquisition costs incurred, to pay property owners directly, or to establish escrow accounts, as applicable. No right-of-way acquisition costs will be incurred prior to the MTC allocation of RM2 funds.