

REAL PROPERTY SERVICES AGREEMENT

1. **Effective Date and Parties.** Effective on October 6 2015, the COUNTY OF CONTRA COSTA, a political subdivision of the State of California ("County"), and the Town of Windsor, a municipal corporation ("Town"), hereby mutually promise and agree as follows:
2. **Purpose.** The Town has no right of way staff and desires to contract with the County for various real estate services as set forth herein.
3. **Services by County.** County will provide Town the following services, as directed by Town: appraisal and appraisal review; negotiations, land rights document preparation; right of way acquisition; right of way project management; title and escrow support; right of way certification and and/or supervision of independent contractors providing such services, all as more particularly described in Appendix "B", attached hereto and incorporated herein by reference (all of which constitute "Services").

The County warrants that it will perform these Services in accordance with accepted professional standards and procedures applicable to such Services, including compliance with all applicable laws pertaining to performance of the Services.
4. **Payment for Services.** Town shall reimburse County, at the hourly charge out rates in Attachment 1 (Section B) to Appendix "A", attached hereto and incorporated herein by reference, for all time that County real property agents perform Services for Town under this Agreement. Town shall reimburse County for costs of experts and contractors retained by County in the performance of the Services. Town shall reimburse County for all other expenses County incurs in the performance of the Services, including but not limited to 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, all as directed by Town, unless payment is made by the Town directly into escrow for the agreed upon purchase and other related costs. Town's total payments to County for Services shall not exceed Thirty-Five Thousand Dollars (\$35,000), as described in the Budget included in Attachment 1 (Section A) to Appendix "A" (said amount referred to as the "not-to-exceed" amount.) If additional Services are required beyond the not-to-exceed amount, Town and County may amend this Agreement to provide for payment for those additional Services. Payments by Town shall be made within sixty (60) days of billing by County.
5. **Indemnification.** County shall defend, indemnify, and hold harmless the Town, 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 Town, its officers, and employees for any portion of Liabilities that arise out of Town's, or its officers', or employees' willful misconduct or negligent acts, errors, or omissions.

Town 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 Town, its officers, employees, agents, and volunteers, in performing any of its or their obligations under this Agreement. Notwithstanding anything to the contrary, Town 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 Town 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, Town 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 in accordance with the terms and conditions of this Agreement through the termination of the Agreement.
8. **Notices.** Any notice required to be given to County and Town hereunder will be sufficient if delivered in writing as designated below, or to such other addresses as County and Town 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 Town: Town of Windsor
c/o Alejandro Perez, P.E.
Senior Civil Engineer
Windsor, CA 95492-0100
(707) 838-5318

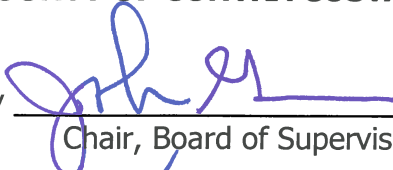
Notice given by personal delivery shall be deemed complete upon delivery. Notice given by Overnight Carrier shall be deemed complete on the day after it is postmarked. Notice given by U.S. Mail shall be deemed complete on the third day after it is postmarked.

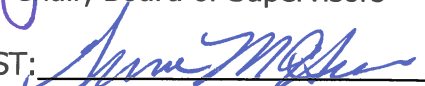
9. **Entire Agreement.** This Agreement contains the entire agreement between the County and Town and supersedes any and all other prior agreements and all negotiations leading up to the execution of this Agreement, whether oral or in writing, between the County and Town. The County and Town acknowledge 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 Town.
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.

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14. **No Third-Party Beneficiaries.** Nothing in this Agreement creates, nor shall it be interpreted to create, any third-party beneficiaries.

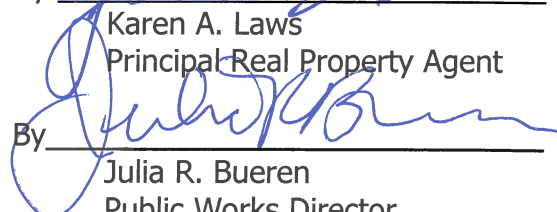
COUNTY OF CONTRA COSTA

By _____
Chair, Board of Supervisors

ATTEST: _____
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 County Counsel

TOWN OF WINDSOR

Linda Kelly
Town Manager

Recommended for Approval:

Camille Kazarian
Administrative Services Director

Recommended for Approval:

Toni Bertolero
Public Works Director/Town Engineer

Approved As to Form:

Robin Donoghue
Town Attorney

APPENDIX "A"
Pay Rate Schedule

Town 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 Town prior to invoicing.

A. Budget. County’s charges for Services, as more particularly described in Appendix “B”, will be allocated according to the following budget:

ADMINISTRATION	\$15,500.00
APPRAISAL SUPPORT	\$ 3,000.00
NEGOTIATIONS/ACQUISITION	\$11,500.00
RIGHT OF WAY CERTIFICATION	<u>\$ 5,000.00</u>
TOTAL:	\$35,000.00

B. Charge-Out Rates. County will charge City for Services, as more particularly described in Appendix “B”, at the following hourly rates:

REAL PROPERTY AGENT	HOURLY CHARGE-OUT RATE
	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
Real Property Technical Assistant	\$ 77/hr to \$105/hr

Appendix B

SCOPE OF SERVICES FOR RIGHT OF WAY SERVICES FOR THE JAGUAR WAY/WINDSOR ROAD BICYCLE AND PEDESTRIAN IMPROVEMENTS PROJECT / FEDERAL PROJECT NO. CMAQ-5472 (018)

1.0 INTRODUCTION

Under the Agreement to which this Appendix B is attached, Contra Costa County (County) will provide services related to the acquisition of property interests required for the Town of Windsor's (Town) Jaguar Way/Windsor Road Bicycle and Pedestrian Improvements Project (Project).

2.0 PROJECT ANALYSIS AND REVIEW

County will analyze the Project, perform site review and investigations, evaluate existing conditions, and meet with Town staff to determine the specific tasks to be performed by County. County will schedule meetings with Town staff, as County determines to be necessary to provide Town progress of status reports, share and dissemination of information, appropriate guidance and coordination of activities.

3.0 RIGHT OF WAY SERVICES

- A. County will provide Town services related to the acquisition of the five parcels in the table below:

Table 1: APN and Anticipated Easements

APN	Address	Owner	Total Parcel (SF)	Preliminary Easement Area (SF)		
				Temporary Construction	Utility	Access and Maintenance
164-030-036	8620 Windsor Road	Valle Hellen & Jose H	21,780	350	25	
066-510-052	8705 Windsor Road	Hernandez, Belen & Galvan, Victor Manual	23,581	250		
066-510-023	8711 Windsor Road	Tarter, Marlene J	24,394			
066-510-024	8717 Windsor Road	Phillips, Lloyd T & Katherine M	24,425			
164-030-052	Windsor Road	Windsor Unified School District	1,738,044	20,218		15,400
Total				20,818	25	15,400

- B. County will ensure that all acquisition and relocation services are performed in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC 4601 *et seq.*; and implementing regulation, 49 CFR Part 24; California Government Code Section 7267 *et seq.*; California Code of Civil Procedure Sections 1263.010 to 1263.620 and 1255.010 to 1255.060; Housing and Community Development Title 25; State of California, Department of Transportation, Right of Way Manual, as applicable.

C. County's services will include:

1. Right of Way Project Management
2. Appraisal Review for each acquisition identified in Table 1, above.
3. Acquisition, in Town's name, of each acquisition identified in Table 1, above.
4. Title and Escrow Support for each acquisition identified in Table 1, above.
5. Right of Way Certification for the Project after all of the acquisitions identified in Table 1 have been acquired by Town.

4.0 DELIVERABLES

During the course of performing services under the Agreement, County will provide Town the following deliverables:

- A. A Right of Way Management Plan
- B. An Appraisal Review for each acquisition identified in Table 1, above.
- C. Acquisition Documents for each acquisition identified in Table 1, above.
- D. Documents required to close escrow for each acquisition identified in Table 1, above; and Title Insurance policies, as requested by Town.
- E. Right of Way Certification documents for the Project.