



THOMAS L. BOLICH
DIRECTOR OF PUBLIC WORKS

County of Santa Cruz⁰⁰⁹⁷

DEPARTMENT OF PUBLIC WORKS

701 OCEAN STREET, ROOM 410, SANTA CRUZ, CA 950604070
(831) 454-2160 FAX (831) 454-2385 TDD (831) 454-2123

AGENDA: NOVEMBER 14, 2000

November 3, 2000

SANTA CRUZ COUNTY BOARD OF SUPERVISORS

701 Ocean Street
Santa Cruz, California 95060

SUBJECT: HIGHLAND WAY EROSION CONTROL PROJECT

Members of the Board:

On October 24, 2000, your Board received two bids for the Highland Way Erosion Control Project. Both bids were found to be in order. The engineer's estimate was \$132,000, and the low bidder was Monterey Peninsula Engineering of Marina in the amount of \$245,540. Sufficient funds are not available in the 2000/2001 Road Budget to cover this expenditure. Public Works is investigating possible modifications to the plan to achieve the desired results and lower the construction cost. We will return to the Board with amended plans for rebidding next spring.

Because the bids received were in excess of available funding, we are not able to proceed as planned with the erosion control project. The site, as it exists today, represents an emergency condition with a potential of extensive erosion from an unvegetated fill slope. If left unchecked, this erosion may enter Soquel Creek located below, and it could potentially endanger the roadway. Some level of erosion control measures need to be done before the winter rains begin. Public Works would like to proceed with temporary emergency measures that would provide some erosion control for the upcoming winter. Public Works has received an estimate from Ward Hastings of Hastings Landscape Construction Service in the amount of \$32,599 to do emergency erosion control work which will consist of seeding and mulching the hillside. This emergency action requires a 4/5 vote of the Board.

It is therefore recommended that the Board of Supervisors take the following action:

1. Reject both bids for the Highland Way Erosion Control Project.
2. Authorize Public Works to proceed with temporary erosion control work on an emergency basis.

3. Authorize the Director of Public Works to sign an independent contractor agreement with Ward Hastings Landscape Construction Service on behalf of the County.

Yours truly,

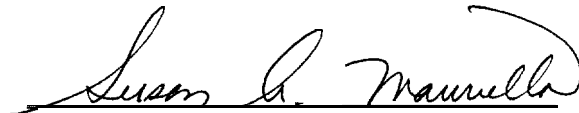


THOMAS L. BOLICH
Director of Public Works

JES:mg

Attachments

RECOMMENDED FOR APPROVAL:



County Administrative Officer

copy to: Public Works
 Ward Hastings Landscape Construction Service

COUNTY OF SANTA CRUZ
REQUEST FOR APPROVAL OF AGREEMENT

TO: Board of Supervisors
County Administrative Officer
County Counsel
Auditor-Controller

FROM: PUBLIC WORKS DEPARTMENT 0099 (Dept.)
[Signature] (Signature) 11-2-00 (Date)

The Board of Supervisors is hereby requested to approve the attached agreement and authorize the execution of the same.

1. Said agreement is between the COUNTY OF SANTA CRUZ (Agency)
WARD HASTINGS, HASTINGS LANDSCAPE CONSERVATION SERVICES
and 6013 THURBER LANE, SANTA CRUZ, CA 95065 (Name & Address)
2. The agreement will provide EROSION CONTROL MEASURES FOR PM 2.95 HIGHLAND WAY
3. The agreement is needed BECAUSE THE WORK CAN BE HANDLED MOST EXPEDITIOUSLY BY CONTRACT.
4. Period of the agreement is from BOARD APPROVAL to JUNE 30, 2001
5. Anticipated cost is \$ 32,599.00 (Fixed amount; Monthly rate Not to exceed)
6. Remarks: CONTRACT \$32,599.00; 5% CONTINGENCY \$1,629.95; 7% OVERHEAD \$2,396.03; TOTAL 36,624.98
7. Appropriations are budgeted in 621100! 40146! 3596! (Index#) (3590 b o b j e c t)

NOTE: IF APPROPRIATIONS ARE INSUFFICIENT, ATTACH COMPLETED FORM AUD-74

Appropriations are available and will be encumbered. Contract No. C002293 Date 11/2/00
GARY A. KNUTSON, Auditor - Controller
By [Signature] Deputy.
JES:mg

Proposed reviewed and approved. It is recommended that the Board of Supervisors approve the agreement and authorize the
DIRECTOR OF PUBLIC WORKS to execute the same on behalf of the PUBLIC WORKS DEPARTMENT
(Agency).

Remarks: [Signature] (Analyst) By [Signature] County Administrative Officer Date 11/3/00
Agreement approved as to form. Date _____

Distribution:
Bd. of Supv. - White
Auditor-Controller - Blue
County Counsel - [initials]
Co. Admin. Officer - Canary
Auditor-Controller - Pink
Originating Dept. - Goldenrod

*To Orig. Dept. if rejected.

State of California)
County of Santa Cruz) ss
I, _____ ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz,
State of California, do hereby certify that the foregoing request for approval of agreement was approved by
said Board of Supervisors as recommended by the County Administrative Officer by an order entered
in the minutes of said Board on _____ County Administrative Officer
By _____ Deputy Clerk

INDEPENDENT CONTRACTOR AGREEMENT

THIS CONTRACT is entered into this 14TH day of NOVEMBER 2000, by and between the COUNTY OF SANTA CRUZ, **hereinafter** called COUNTY, and WARD HASTINGS, HASTINGS LANDSCAPE CONSERVATION SERVICES **hereinafter** called CONTRACTOR. The parties agree as follows:

1. DUTIES. CONTRACTOR agrees to exercise special skill to accomplish the following result: ESTABLISH A WINTER COVER OF STRAW AND VEGETATION THROUGH APPLICATION OF HYDROSEED, STRAW, AND TACKIFYER AS SPECIFIED IN ITEM NO. 2 OF THE ATTACHED PROPOSAL.

2. COMPENSATION. In consideration for CONTRACTOR accomplishing said result, COUNTY agrees to pay CONTRACTOR as follows: A NOT-TO-EXCEED AMOUNT OF \$32,599, AS PER ITEM NO. 2 OF THE ATTACHED PROPOSAL.

3. TERM. The term of this contract shall be: FROM BOARD APPROVAL TO COMPLETION.

4. EARLY TERMINATION. Either party hereto may terminate this contract at any time by giving 30 days written notice to the other party.

5. INDEMNIFICATION FOR DAMAGES. TAXES AND CONTRIBUTIONS. CONTRACTOR shall exonerate, indemnify, defend, and hold harmless COUNTY (which for the purpose of paragraphs 5 and 6 shall include, without limitation, its officers, agents, employees and volunteers) from and against:

A. Any and all claims, demands, losses, damages, defense costs, or liability of any kind or nature which COUNTY may sustain or incur or which may be imposed upon it for injury to or death of persons, or damage to property as a result of, arising out of, or in any manner connected with the CONTRACTORS performance under the terms of this Agreement, excepting any liability arising out of the sole negligence of the COUNTY. Such indemnification includes any damage to the person(s), or **property(ies)** of CONTRACTOR and third persons.

B. Any and all Federal, State and Local taxes, charges, fees, or contributions required to be paid with respect to CONTRACTOR and CONTRACTOR'S **officers**, employees and agents engaged in the performance of this Agreement (including, without limitation, unemployment insurance, social security and payroll tax withholding).

6. INSURANCE. CONTRACTOR, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain at a minimum compliance with all of the following insurance coverage(s) and requirements. Such insurance coverage shall be primary coverage as respects COUNTY and any insurance or self-insurance maintained by County shall be excess of CONTRACTORS insurance coverage and shall not contribute to it.

If CONTRACTOR utilizes one or more subcontractors in the performance of this Agreement, CONTRACTOR shall obtain and maintain Independent Contractor's Insurance as to each subcontractor or otherwise provide evidence of insurance coverage for each subcontractor equivalent to that required of CONTRACTOR in this Agreement, unless CONTRACTOR and COUNTY both initial here NA /

A. Types of Insurance and Minimum Limits

(1) Worker's Compensation in the minimum statutorily required coverage amounts. This insurance coverage shall ~~not be~~ required if the CONTRACTOR has no employees and certifies to this fact by initialing here NA /

(2) Automobile Liability Insurance for each of CONTRACTOR's vehicles used in the performance of this Agreement, including owned, non-owned (e.g. owned by CONTRACTOR's employees), leased or hired vehicles, in the minimum amount of \$500,000 combined single limit per occurrence for bodily injury and property damage. This insurance coverage shall not be required if vehicle use by CONTRACTOR is not a material part of performance of this Agreement and CONTRACTOR and COUNTY both certify to this fact by initialing here - / -

(3) Comprehensive or Commercial General Liability Insurance coverage in the minimum amount of \$1,000,000 combined single limit, including coverage for: (a) bodily injury, (b) personal injury, (c) broad-form property damage, (d) contractual liability, and (e) cross-liability.

(4) Professional Liability Insurance in the minimum amount of \$1,000,000.00 combined single limit, if, and only if, this Subparagraph is initialed by CONTRACTOR and COUNTY - /

B. Other Insurance Provisions

(1) If any insurance coverage required in this Agreement is provided on a "Claims Made" rather than "Occurrence" form, CONTRACTOR agrees to maintain the required coverage for a period of three (3) years after the expiration of this Agreement (hereinafter "post agreement coverage") and any extensions thereof. CONTRACTOR may maintain the required post agreement coverage by renewal or purchase of prior acts or tail coverage. This provision is contingent upon post agreement coverage being both available and reasonably affordable in relation to the coverage provided during the term of this Agreement. For purposes of interpreting this requirement, a cost not exceeding 100% of the last annual policy premium during the term of this Agreement in order to purchase prior acts or tail coverage for post agreement coverage shall be deemed to be reasonable.

(2) All required Automobile and Comprehensive or Commercial General Liability Insurance shall be endorsed to contain the following clause:

"The County of Santa Cruz, its officials, employees, agents and

32

volunteers are added as an additional insured as respects the operations and activities of, or on behalf of, the named insured performed under Agreement with the County of Santa Cruz.”

(3) All required insurance policies shall be endorsed to contain the following clause:

“This insurance shall not be canceled until after thirty (30) days prior written notice has been given to:

JOHN SWENSON
COUNTY OF SANTA CRUZ DEPARTMENT OF PUBLIC WORKS
70 1 OCEAN STREET, ROOM 4 10
SANTA CRUZ, CA 95060

(4) CONTRACTOR agrees to provide its insurance broker(s) with a full copy of these insurance provisions and provide COUNTY on or before the effective date of this Agreement with Certificates of Insurance for all required coverages. All Certificates of Insurance shall be delivered or sent to:

JOHN SWENSON
COUNTY OF SANTA CRUZ DEPARTMENT OF PUBLIC WORKS
70 1 OCEAN STREET, ROOM 4 10
SANTA CRUZ, CA 95060

7. EQUAL EMPLOYMENT OPPORTUNITY. During and in relation to the performance of this Agreement, CONTRACTOR agrees as follows:

A. The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status, pregnancy, sex, sexual orientation, age (over 18), veteran status or any other non-merit factor unrelated to job duties. Such action shall include, but not be limited to the following: recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training (including apprenticeship), employment, upgrading, demotion, transfer. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause.

B. If this Agreement provides compensation in excess of \$50,000 to CONTRACTOR and if CONTRACTOR employs fifteen (15) or more employees, the following requirements shall apply:

(1) The CONTRACTOR shall, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status,

pregnancy, sex, sexual orientation, age (over 18), veteran status, or any other non-merit factor unrelated to job duties. In addition, the CONTRACTOR shall make a good faith effort to consider Minority/Women/Disabled Owned Business Enterprises in CONTRACTOR's solicitation of goods and services. Definitions for Minority/Women/Disabled Business Enterprises are available from the COUNTY General Services Purchasing Division.

(2) The CONTRACTOR shall furnish COUNTY **Affirmative** Action Office information and reports in the prescribed reporting format (PER 40 12) identifying the sex, race, physical or mental disability and job classification of its employees and the names, dates and methods of advertisement and direct solicitation efforts made to subcontract with **Minority/Women/Disabled** Business Enterprises.

(3) In the event of the CONTRACTOR'S non-compliance with the non-discrimination clauses of this Agreement or with any of the said rules, regulations, or orders said CONTRACTOR may be declared ineligible for further agreements with the COUNTY.

(4) The CONTRACTOR shall cause the foregoing provisions of this Subparagraph 7B. to be inserted in all subcontracts for any work covered under this Agreement by a subcontractor compensated more than \$50,000 and employing more than fifteen (15) employees, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

8. INDEPENDENT CONTRACTOR STATUS. CONTRACTOR and COUNTY have reviewed and considered the principal test and secondary factors below and agree that CONTRACTOR is an independent contractor and not an employee of COUNTY. CONTRACTOR is responsible for all insurance (workers compensation, unemployment, etc.) and all payroll related taxes. CONTRACTOR is not entitled to any employee benefits. COUNTY agrees that CONTRACTOR shall have the right to control the manner and means of accomplishing the result contracted for herein,

PRINCIPAL TEST: The CONTRACTOR rather than COUNTY has the right to control the manner and means of accomplishing the result contracted for.

SECONDARY FACTORS: (a) The extent of control which, by agreement, COUNTY may exercise over the details of the work is slight rather than substantial; (b) CONTRACTOR is engaged in a distinct occupation or business; (c) In the locality, the Work to be done by CONTRACTOR is usually done by a specialist without supervision, rather than under the direction of an employer; (d) the skill required in the particular occupation is substantial rather than slight; (e) The CONTRACTOR rather than the COUNTY supplies the instrumentalities, tools and work place; (f) The length of time for which CONTRACTOR is engaged is of limited duration rather than indefinite; (g) The method of payment of CONTRACTOR is by the job rather than by the time; (h) The work is part of a special or permissive activity, program, or project, rather than part of the regular business of COUNTY; (i) CONTRACTOR and COUNTY believe they are creating an independent contractor relationship rather than an employer-employee relationship; and (j) The COUNTY conducts public business.

It is recognized that it is not necessary that all secondary factors support creation of an independent contractor relationship, but rather that overall there are significant secondary factors which indicate that CONTRACTOR is an independent contractor.

By their signatures to this Agreement, each of the undersigned certifies that it is his or her considered judgment that the CONTRACTOR engaged under this Agreement is in fact an independent contractor.

9. CONTRACTOR represents that its operations are in compliance with applicable County planning, environmental and other laws or regulations.

10. CONTRACTOR is responsible to pay prevailing wages and maintain records as required by Labor Code Section 1770 and following.

11. NONASSIGNMENT. CONTRACTOR shall not assign this agreement without the prior written consent of the COUNTY.

12. RETENTION AND AUDIT OF RECORDS. CONTRACTOR shall retain records pertinent to this Agreement for a period of not less than five (5) years **after** final payment under this Agreement or until a final audit report is accepted by COUNTY, whichever occurs first. CONTRACTOR hereby agrees to be subject to the examination and audit by the Santa Cruz County Auditor-Controller, the Auditor General of the State of California, or the designee of either for a period of five (5) years after final payment under this Agreement.

13. PRESENTATION OF CLAIMS. Presentation and processing of any or all claims arising out of or related to this Agreement shall be made in accordance with the provisions contained in Chapter 1.05 of the Santa Cruz County Code, which by this reference is incorporated herein.

14. ACKNOWLEDGMENT: CONTRACTOR shall acknowledge in all reports and literature that the Santa Cruz County Board of Supervisors has provided **funding** to the CONTRACTOR.

15. ATTACHMENTS. This Agreement includes the following attachments:
PROPOSAL.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

COUNTY OF SANTA CRUZ

CONTRACTOR
WARD HASTINGS
HASTINGS LANDSCAPE
CONSERVATION SERVICES

By: _____
Director of Public Works

By: Ward Hastings

Address: 60 13 THURBER LANE
SANTA CRUZ, CA 95065

APPROVED AS TO FORM:

Telephone: (83 1) 476-5886

FAX: 831-476-5886

E-MAIL _____

By: DMP 11.3.00
Chief Assistant County Counsel

DISTRIBUTION: Auditor-Controller
Contractor
Public Works

JES: mg

HIGH2M

0106

Fax 454-2385

Mr. John Swenson11/1/00
 Santa Cruz County Public Works

PROPOSAL FOR TEMPORARY EROSION CONTROL FOR HIGHLAND WAY LANDSLIDE DEBRIS AS PER YOUR REQUEST

1. TO HELP REDUCE THE POTENTIAL FOR FURTHER MASS WASTING OF SLIDE MASS INSTALL A POND LINER ON THE APPROXIMATELY 7,200 S.F. FLATTENED BENCH NEXT TO ROAD AND INSTALL TWO B-24 DRAIN BOXES AND 6" ADS DRAIN PIPES ON SURFACE TO CREEK
\$12,500.00
2. TO ESTABLISH A WINIER COVER OF STRAW AND VEGETATION WE WOULD DO THE FOLLOWING THREE STEP OPERATION,
 - A. HYDROSEED USING THE FERTILIZER, FIBER MULCH, MYCORIAZEE, SEED MIX SPECIFIED IN YOUR RECENT PLAN @34#/ACRE AND #50 OF BARLEY FOR RAPID ESTABLISHMENT IN COLD WEATHER.
 - B. APPLY TWO TONS OF STRAW / ACRE.
 - C. APPLY 100#/ ACRE OF TACKIFYER TO HOLD STRAW, SEEP, FERTILIZER, AND MULCH TO GROUND.\$32,599.00
3. BASED UPON YOUR PLAN AND OUR DIGITIZER AND OUR OBSERVATIONS OF THE SITE YOU HAVE 3 ACRES OF DISTURBED BARE SOIL BELOW ROAD TO THE CREEK SO THAT IS WHAT WE ARE BIDDING ON.

TOTAL COST OF OUR PROPOSAL=\$45,099.00

DUE TO THE INSTABILITY OF THE SITUATION THERE IS NO WARRANTY THAT THERE WILL BE NO FURTHER MASS WASTING.

Ward Hastings CPESC #168
 Hastings Landscape Conservation Services
 6013 Thurber Lane,
 Santa Cruz, CA. 95065
 Ph-fax=83 i-476-5886

Ward Hastings

