



# County of Santa Cruz

## DEPARTMENT OF PUBLIC WORKS

701 OCEAN STREET, ROOM 410, SANTA CRUZ, CA 95060-4070  
(831) 454-2160 FAX (831) 454-2385 TDD (831) 454-2123

THOMAS L. BOLICH  
DIRECTOR OF PUBLIC WORKS

### AGENDA: NOVEMBER 20,2001

November 7,2001

#### SANTA CRUZ COUNTY BOARD OF SUPERVISORS

701 Ocean Street  
Santa Cruz, California 95060

SUBJECT: SALSPUEDES CREEK LEVEE STABILIZATION PROJECT  
INDEPENDENT CONTRACTOR AGREEMENT

#### Members of the Board:

On August 3, 1999, your Board executed and authorized by Resolution No. 349-99 a contract with the Department of Housing and Community Development (HCD) for a State Disaster Recovery Initiative Grant Agreement. This grant provides \$555,440 in funding for a repair project along the Salsipuedes Creek levee. The proposed project consists of installing approximately 650 linear feet of sheet piles into the existing western Salsipuedes Creek levee downstream of the State Highway 129 crossing to eliminate a series of weeps and re-establish the levee integrity. The Department of Public Works is acting as the grantee for this project and is providing the engineering, design, and inspection services.

The administrative requirements under the Community Development Block Grant (CDBG) program are numerous and complex. The Department of Public Works solicited proposals from consultants with experience in administering CDBG activities and received one response from Cox Consulting. Attached is an independent contractor agreement in the amount of \$63,000 with Cox Consulting to provide administrative services for the CDBG project. HCD has approved applying the cost of this contract to the grant/local funds associated with the project. These funds are included in the 2001/02 Pajaro Storm Drain Maintenance District budget.

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

1. Approve the attached independent contractor agreement with Cox Consulting in the not to exceed amount of \$63,000.

2. Authorize the Director of Public Works to sign the agreement on behalf of the County.

Yours truly,

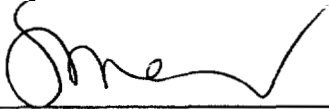


THOMAS L. BOLICH  
Director of Public Works

ABT:bbs

Attachments

RECOMMENDED FOR APPROVAL:



County Administrative Officer

Copy to: Cox Consulting  
Public Works Department

salb.wpd

INDEPENDENT CONTRACTOR AGREEMENT

THIS CONTRACT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2001, by and between the COUNTY OF SANTA CRUZ, hereinafter called COUNTY, and COX CONSULTING, hereinafter called CONTRACTOR. The parties agree as follows:

1. DUTIES. CONTRACTOR agrees to exercise special skill to accomplish the following result: provide administrative and reporting services to fulfill Community Development Block Grant program requirements for the Salsipuedes Creek Levee Stabilization Project.

2. COMPENSATION. In consideration for CONTRACTOR accomplishing said result, COUNTY agrees to pay CONTRACTOR as follows: Progress payments in accordance with Attachment A, Scope of Work and Attachment B, Budget, not to exceed \$63,000.

3. TERM. The term of this contract shall be: From Board Approval to January 1, 2003.

4. EARLY TERMINATION. Either party hereto may terminate this contract at any time by giving 30 days written notice to the other party. The COUNTY may also suspend or terminate this Agreement, in whole or in part, if the CONTRACTOR materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the COUNTY may declare the CONTRACTOR ineligible for any further participation in the COUNTY'S contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the CONTRACTOR is in noncompliance with any applicable rules or regulation, the COUNTY may withhold up to fifteen (15) percent of said contract funds until such time as the CONTRACTOR is found to be in compliance by the COUNTY, or is otherwise adjudicated to be in compliance.

5. DISPUTE RESOLUTION. Any dispute concerning this Agreement will be first submitted to the Director of Public Works or his designee for resolution. If no resolution is reached, such dispute shall be submitted to the Board of Supervisors, which decision shall be final and binding upon CONTRACTOR.

A. ATTORNEYS FEES. In the event of any dispute, claim or litigation based upon or relating to the breach, default or enforcement of any of the provisions of this Agreement, the prevailing party in such dispute, claim, or litigation shall be entitled to recover its reasonable attorney's fees, court costs and expenses from the non-prevailing party.

6. 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

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manner connected with the CONTRACTOR'S 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.

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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).

7. 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 CONTRACTOR'S 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 TC/.

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 TC.

(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 average 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.

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(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 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: PETER COTA-ROBLES  
COUNTY OF SANTA CRUZ  
PUBLIC WORKS DEPARTMENT  
701 OCEAN STREET, ROOM 410  
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: PETER COTA-ROBLES  
COUNTY OF SANTA CRUZ  
PUBLIC WORKS DEPARTMENT  
701 OCEAN STREET, ROOM 410  
SANTA CRUZ, CA 95060

8. 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.

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(2) The CONTRACTOR shall furnish COUNTY Equal Employment Opportunity Office information and reports in the prescribed reporting format (PER 4012) 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 CONTRACTORS 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.

9. 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.

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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.

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

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

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

13. 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.

CONTRACTOR agrees that the Department of Housing and Community Development (HCD) or delegatee will have the right to review, obtain, and copy all records pertaining to performance of the contract. CONTRACTOR agrees to provide HCD or its delegatee with any relevant information requested and shall permit HCD or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with PCC § 10115 et seq., GC § 8546.7 and 2 CCR § 1896.60 et seq. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under the contract.

14. MONITORING. The COUNTY will monitor the performance of the CONTRACTOR against goals and performance standards required herein , and for conformity with the COUNTY' State Contract Number 99-DRI-005. Substandard performance as determined by the COUNTY will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the CONTRACTOR within a reasonable period of time after being notified by the COUNTY contract suspension or termination procedures will be initiated.

15. 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.

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

17. ATTACHMENTS. This Agreement includes the following attachments:

ATTACHMENT A: SCOPE OF WORK

ATTACHMENT B: BUDGET

ATTACHMENT C: STATE AND FEDERAL LAWS AND REGULATIONS LABOR STANDARDS.

ATTACHMENT D: CERTIFICATE OF COMPLIANCE WITH LABOR CODE 3700

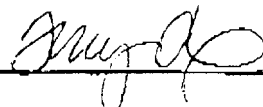
ATTACHMENT E: ANTI- LOBBYING CERTIFICATION

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

COUNTY OF SANTA CRUZ

CONTRACTOR  
COX CONSULTING


By: \_\_\_\_\_  
Director of Public Works

By: 

Address: P. O. Box 38  
Soulsbyville, CA 95372-0038

Telephone: (209)533-8810  
FAX (209)533-8810  
E-MAIL: cox.wika@sonnet.com

APPROVED AS TO FORM:

By:   
Chief Assistant County Counsel

DISTRIBUTION: Auditor-Controller  
Contractor  
Public Works



**SCOPE OF WORK**

Preliminary

1. Set up files, prepare public information file, submit all outstanding reports
2. Contact OES regarding status of funding, set up OES files.

Ongoing

3. Assist the County with obtaining funding commitment from Governor's Office of Emergency Services. Prepare quarterly reports and other submittals to OES, as requested.
4. Prepare notification for and conduct public meetings and hearings for annual Grantee Performance Reports.
5. Assist with any necessary procurement for subcontractors, as requested, including preparation of Requests for Proposals/Qualifications, solicitation of qualified bidders, advertisements, etc.
6. Assist in the preparation of contracts for subcontractors, as requested.
7. Complete all program reporting to the State Department of Housing and Community Development (HCD) including Program Activity Reports, Grantee Performance Reports, Section 3 Report, Section 504 Report, Program Income Report, Labor Standards Reports, etc.
8. Maintain all program fiscal records including preparation of Cash Requests, monitoring payments to subcontractors, and coordination with County fiscal officer.
9. Schedule, notice and conduct meetings of technical advisory groups as necessary,
10. Attend any trainings or informational meetings conducted by HCD.
11. Act as primary liaison between HCD, OES and the County.

### Pre-construction

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12. Oversee program Equal Opportunity compliance including referrals for housing discrimination complaints, including preparation of necessary language regarding equal opportunity, Section 3, Section **504**, etc. in advertisements, bid packages and contracts.
13. Respond to contractors questions regarding HCD overlay requirements during bid phase.
14. Assist in preparation of contract specifications, providing all necessary HCD documents for compliance with labor standards, equal opportunity, contracts, etc.
15. Attend bid opening. Review contractors for current license, debarred status, and current insurance. Obtain HCD required certifications prior to contract award.

### Construction

16. Conduct pre-construction conference, advising contractors of labor standards, equal opportunity and other responsibilities related to HCD funding.
17. Monitor payrolls for compliance with Davis Bacon requirements.
18. Conduct on site employee interviews.
19. Assist in processing pay requests and change orders.

### Close out

20. Prepare program records for monitoring by State representatives, conduct site visits, respond to comments and correct any findings required by HCD.
21. Prepare close-out package including final Grantee Performance Report, final Labor Standards Report, Certificate of Completion.
22. Prepare public hearing notice for final public hearing, conduct final public hearing.

### Other

23. Assist the County with other activities related to the project as requested.

## ATTACHMENT B

## BUDGET

1. Preliminary Activities billed when completed	\$4,000
2. Ongoing Activities billed \$3,000/month	\$30,000
3. Pre-construction Activities billed when construction contract signed	\$12,000
4. Construction billed at completion*	\$10,000
5. Close-out billed when completed	\$ 7,000
<b>TOTAL**</b>	<b>\$63,000</b>

\* Assumes a 60 calender day construction period. If project exceeds 60 days, the cost for this activity will be increased by \$5000 for each additional month, or part of a month. If project exceeds 60 days, billing will be on percentage completion basis.

\*\*Includes all expenses

The proposed budget includes \$22,000 for Activity Delivery and \$41,000 for Administration. *Other activities may be added at the request of the County at a price to be negotiated at the time of the request.*

**STATE AND FEDERAL LAWS AND REGULATIONS  
LABOR STANDARDS**

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1. State Labor Standards Provisions

Contractors and subcontractors shall give the following certification to the Grantee and forward this certification to the Grantee within ten (10) days after the execution of any contract or subcontract.

- a) "I am aware of the provisions of Section 1720 et seq. of the California Labor Code which requires that the State prevailing wage rate shall be paid to employees where this rate exceeds the federal wage rate."
- b) "I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code; and I will comply with such provisions before commencing with performance of the Work of this contract."
- c) "It is further agreed that, except as may be provided in Section 1815 of the California Labor Code, the maximum hours a worker is to be employed is limited to eight hours a day and 40 hours a week and the subcontractor shall forfeit, as a penalty, \$25 for each worker employed in the execution of the subcontract for each calendar day during which a worker is required or permitted to labor more than eight hours in any calendar day or more than 40 hours in any calendar week and is not paid overtime."

2. Federal Labor Standards Provisions (Davis-Bacon and Related Acts)

Except with respect to the rehabilitation of residential property designed for residential use for less than eight families, the Grantee and all contractors and subcontractors of the Grantee engaged under contracts in excess of \$2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this Agreement, shall comply with HUD requirements pertaining to such contracts and the applicable requirements of the regulations of the Department of Labor under 29 CFR Parts 3, 5, and 5a governing the payment of wages and the ratio of apprentices and trainees to journeyman; provided, that if wage rates higher than those required under such regulations are imposed by State or local law, nothing hereunder is intended to relive the Grantee or any contractor/subcontractor of their obligation, if any, to require payment of the higher rates. The Grantee shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of 29 CFR 5.5 and, for such contracts in excess of \$10,000, 29 CFR 5a.3.

The following federal labor requirements must be met:

Davis –Bacon Act (40 USC 276a-276a-5) requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Department of Labor and are issued in the form of federal wage decisions for each classification of work. The law applies to most construction, alteration, or repair contracts over \$2,000.

Copeland “Anti-Kickback” Act (47 USC 276(c)) requires that workers be paid at least once a week without any deductions or rebates except permissible deductions.

Contract Work Hours and Safety Standards Act – CWHSSA (40 USC 327-333) requires that workers receive “overtime” compensation at a rate of 1-1/2 times their regular hourly wage after they have worked 40 hours in one week.

Title 29. Code of Federal Regulations, Subtitle A. Parts 1.3 and 5 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

## **EQUAL OPPORTUNITY**

### 1. The Civil Rights, HCD, and Age Discrimination Acts Assurance

During the performance of this Agreement, the Grantee assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, or handicap, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as amended, the Age Discrimination Act of 1975, the Fair Housing Amendment Act of 1988, and all impending regulations.

### 2. Rehabilitation Act of 1973 and the “504 Coordinator”

The Grantee further agrees to implement the Rehabilitation Act of 1973, as amended, and its regulations, 24 CFR Part 8, including, but not limited to, for Grantees with 15 or more permanent full or part time employees, the local designation of a specific person charged with local enforcement of this Act, as the “504 Coordinator.”

### 3. Americans with Disabilities Act (ADA) of 1990

The Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

### 4. The Training, Employment and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance

- a) The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for Work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

## ATTACHMENT C

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- b) The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- c) The Grantee will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advertising the said labor organization or worker's representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- d) The Grantee will include these Section 3 clauses in every contract and subcontract for Work in connection with the project and will, at the direction of the State, take appropriate action pursuant to the contract upon a finding that the Grantee or any contractor or subcontractor is in violation of regulations issued by the Secretary of Housing and Development, 24 CFR Part 135 and, will not let any contract unless the Grantee or contractor or subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- e) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement shall be a condition of the Federal financial assistance provided to the project, binding upon the Grantee, its successors, and assigns. Failure to fulfill these requirements shall subject the Grantee, its contractors and subcontractors, its successors, and assigns to those sections specified by the grant or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

5. State Nondiscrimination Clause

- a) During the performance of this contract, contractor and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Contractors and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7258.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

- b) This contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contracts.

4. Assurance of Compliance with Requirements Placed on Construction Contracts of \$10,000 or More

Grantee hereby agrees to place in every contract and subcontract for construction exceeding \$10,000 the Notice of Requirement for Affirmative Action to ensure Equal Employment Opportunity Executive Order 11246, and the Standard Equal Employment Opportunity Construction Contract Specifications. Grantee furthermore agrees to insert the appropriate Goals and Timetables issued by the U.S. Department of Labor in such contracts and subcontracts. Grantee shall refer to Chapter V of the State CDBG Grant Management Manual or shall contact the State for further guidance regarding compliance with this requirement.

### **OTHER REQUIRED FEDERAL PROVISIONS**

1. Flood Disaster Protection

This agreement is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). No portion of the assistance provided under this Agreement is approved for acquisition or construction purposes **as** defined under Section 3(a) of said Act, for use in an area identified by the Secretary as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201(d) of said Act; and the use of any assistance provided under this Agreement for such acquisition or construction in such identified areas in communities then participating in the national flood insurance program shall be subject to the mandatory purchase of flood insurance requirements of Section 102 of said Act.

Any contract or agreement for the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under this Agreement shall contain, if such land is located in an area identified by the Secretary **as** having special flood hazards and in which the sale of flood insurance has been made available under the national Flood Insurance Act of 1968, as amended, **42** U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land such flood insurance **as** required with respect to financial assistance or acquisition or construction purposes under Section 102(s) of the Flood Disaster Protection Act of 1973. Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided by this Agreement.

2. Lead Based Paint Hazards

The construction or rehabilitation of residential structures with assistance provided under this Agreement is subject to the HUD lead-Based Paint Regulations, 24 CFR Part 35. Any

grants or loans made by the Grantee for the rehabilitation of residential structures with assistance provided under this Agreement shall be made subject to the provisions for the elimination of lead based paint hazards under subpart B of said regulations, and the Grantee shall be responsible for the inspection and certifications required under Section 35.14(f) thereof.

5. Compliance with Air and Water Acts

This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15 as amended from time to time.

In compliance with said regulations, the Grantee shall cause or require to be inserted in full in all contracts and subcontracts with respect to any nonexempt transaction thereunder funded with assistance provided under this Agreement, the following requirements:

- a) A stipulation by the contractor or subcontractor that any facility be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
- b) Agreement by the contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857c-8), and Section 308 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1318), relating to inspection, monitoring, entry, reports, and information, **as** well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- c) A stipulation that as a condition for the award of the contract, prompt notice will be given to any notification received from the Director, office of Federal Activities, EPA indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
- d) Agreement by the contractor that he will include or cause to be included the criteria and requirements in paragraphs (a) through (d) of this section in every nonexempt subcontract and requiring that the contractor will take such action as the government may direct **as** a means of enforcing such provisions.

In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

4. Obligations of Grantee with Respect to Certain Third Party Relationships

The Grantee shall remain fully obligated under the provisions of the Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any



part of the program with respect to which assistance is being provided under this Agreement to the Grantee. Any Grantee shall comply with all lawful requirements of the State necessary to ensure that the program with respect to which assistance is being provided under this Agreement to the Grantee is carried out in accordance with the State's Assurance and Certifications, including those with respect to the assumption of environmental responsibilities of the State under Section 104(h) of the Housing and Community Development Act of 1974.

Interest of Certain Federal Officials

No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

6. Interest of Members Officer or Employees of Contractors, Members of Local Governing Body, or Other Public Officials

No member, officer or employee of the Grantee, or its designees or agents, no member of the governing body of the locality or localities who exercise any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for Work to be performed in connection with the program assisted under the Agreement. The Grantee shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this section.

7. Prohibition Against Payments of Bonus or Commission

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of obtaining HCD approval of the application for such assistance, or HCD approval of the applications for additional assistance, or any other approval of concurrence of HCD required under this Agreement, Title I of Housing and Community Development Act of 1974, or HCD regulations with respect thereto; provided, however, that reasonable fees or bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

NOV -06' 01(TUE) 12:12

S.C.CO. PUBLIC WORKS

TEL: 851 454 2585

P. 002

**ATTACHMENT D**

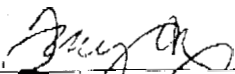
0356

**CERTIFICATE OF COMPLIANCE WITH LABOR CODE 3700**

I am aware of the provisions of Sections 3700 of Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

I will also maintain automobile insurance with a minimum coverage of \$500,000.00 and general liability insurance with a minimum coverage of \$1,000,000.00. I will provide proof of such to the County on a semi-annual basis.

Consultant;

  
\_\_\_\_\_  
COX CONSULTING

NOV -06 01(TUE) 11:53

S. C. CO. PUBLIC WORKS

TEL: 851 454 2385

P. 020

0357

**ATTACHMENT E****ANTI-LOBBYING CERTIFICATION**

The undersigned certifies, to the best of his or her knowledge or belief, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person or influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

  
Signature

11/6/01  
Date

**COUNTY OF SANTA CRUZ**  
**REQUEST FOR APPROVAL OF AGREEMENT**

0358

TO: Board of Supervisors  
County Administrative Office  
Auditor Controller

FROM: PUBLIC WORKS (Department)  
BY: [Signature] (Signature) 11/6/01 (Date)  
Signature certifies that appropriations/revenues are available

AGREEMENT TYPE (Check One)

Expenditure Agreement ☐

Revenue Agreement ☐

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

1. Said agreement is between the COUNTY OF SANTA CRUZ (Department/Agency)  
and COX CONSULTING, P. O. Box 38, Soulsbyville, CA 95372-0038 (Name/Address)

2. The agreement will provide Community Development Block Grant administration services  
-for the Salsipuedes Creek Levee Stabilization project

3. Period of the agreement is from Board Approval to June 30, 2002 ~~11/30/2001~~

4. Anticipated Cost is \$ 63,000.00 ☐ Fixed ☐ Monthly Rate ☐ Annual Rate ☐ Not to Exceed

Remarks: Contract \$63,000; Overhead \$4,410; Total \$67,410

5. Detail: ☐ On Continuing Agreements List for FY      -     . Page CC-      Contract No:      OR ☐ 1<sup>st</sup> Time Agreement  
☐ Section II No Board letter required, will be listed under Item 8  
☐ Section III Board letter required  
☐ Section IV Revenue Agreement

6. Appropriations/Revenues are available and are budgeted in 622245 ! 24836 ! 3665 (Index) 6610 (Sub object)

NOTE: IF APPROPRIATIONS ARE INSUFFICIENT, ATTACHED COMPLETED AUD-74 OR AUD-60

Appropriations are available and will be encumbered.  
are not

Contract No: 12638

By: [Signature] Date: 11/7/01  
Auditor-Controller Deputy

Proposal and accounting detail reviewed and approved. It is recommended that the Board of Supervisors approve the agreement and authorize

Director of Public Works (Dept/Agency Head) to execute on behalf of the Department of  
Public Works

Date: 11/9/01 By: [Signature] (Department/Agency)  
County Administrative Office

**Distribution:**

Board of Supervisors - White  
Auditor Controller - canary  
Auditor-Controller - Pink  
Department - Gold

State of California  
County of Santa Cruz

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 ap-  
proved by said Board of Supervisors as recommended by the County Administrative Office by an  
order duly entered in the minutes of said Board on      20    

ADM - 29 (8/01)

Title I, Section 300 Proc Man

By: Deputy Clerk

ABT :bbs

**AUDITOR-CONTROLLER USE ONLY**

CO      \$       
Document No. JE Amount Lines H/TL Keyed By Date

TC11.0 \$      /       
Amount Index Sub object User Code

**53**