



TOWN OF FAIRFAX

STAFF REPORT

August 7, 2013

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*

SUBJECT: Approval of contract with CSW/Stuber-Stroeh Engineering Group for construction administration services for the Pastori Storm Drain Outfall Project in an amount not to exceed \$37,400.

RECOMMENDATION

Authorize the Town Manager to execute an agreement with CSW/Stuber-Stroeh Engineering Group (CSW) for construction administration services for the Pastori Storm Drain Outfall Project in an amount not to exceed \$37,400.

DISCUSSION

Earlier this evening, the Council considered the award of bids for the Pastori Storm Drain Outfall Project (Project). The Project consists of the stabilization of the creek bank (base bid) in the San Anselmo Creek near the Pastori Bridge, as well as the replacement of the existing 24" storm drain pipe with a 48" pipe (bid alternate) to prevent water from "bottle-necking" in that location. Staff will be recommending that the Council only award the base bid for the Project.

Given the technical and specialized nature of the Project, staff is recommending we contract with CSW for construction administration services based on their intimate knowledge of the project. CSW has worked on the Project for several years. Their work has included the preparation of the plans and specs for the Project as well as obtaining all the regulatory permits for the project. In addition to construction administration services, the proposed scope of work includes coordination with environmental agencies and project close out activities such as maintaining records per FEMA requirements. It should be noted that the attached scope of work does not include any services for Bid Alternate 1 (i.e., pipe enlargement) of the Project.

FISCAL IMPACT

Staff estimated construction administration services would cost about \$30,000. The higher amount will be absorbed by funds budgeted for Project contingency.

ATTACHMENTS

Contract and scope of work with CSW

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is made at Fairfax, California, as of **AUG. 1**, 20**13** by and between the Town of Fairfax, a municipal corporation (the "TOWN") and CSW/Stuber-Stroeh Engineering Group, Inc., a California Corporation ("CONSULTANT"), who agree as follows:

1. **SERVICES**. Subject to the terms and conditions set forth in this Agreement, CONSULTANT shall provide to the TOWN the services described in Exhibit "A," which consists of the proposal submitted by CONSULTANT. CONSULTANT shall provide said services at the time, place, and in the manner specified in Exhibit "A."

2. **PAYMENT**. TOWN shall pay CONSULTANT for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit "B." The payments specified in Exhibit "B" shall be the only payments to be made to CONSULTANT for services rendered pursuant to this Agreement. CONSULTANT shall submit all billings for said services to the TOWN in the manner specified in Exhibit "B."

3. **FACILITIES AND EQUIPMENT**. CONSULTANT shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.

4. **GENERAL PROVISIONS**. The general provisions set forth in Exhibit "C" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the provisions set forth in Exhibit "C" shall control.

5. **INSURANCE REQUIREMENTS**. The insurance requirements set forth in Exhibit "D" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the requirements set forth in Exhibit "D" shall control.

6. **EXHIBITS**. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

EXECUTED as of the day first above-stated.

Town of Fairfax, a municipal corporation

By: _____

CONSULTANT

By: 

EXHIBIT "A"

SCOPE OF SERVICES

Provide construction administration and other services as described in the attached proposal letter

If there are any inconsistencies between CONSULTANT's proposal and this Agreement, the provisions of this Agreement shall control.

Date: July 24, 2013

Rev.: July 30, 2013

Master Contract: 4.1086.01

CSW|ST2 File: 7.775.317

Mr. Garrett Toy
Town Manager
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930

**RE: FAIRFAX: PASTORI STORM DRAIN OUTFALL
REPAIR AND IMPROVEMENT PLANS**

Dear Garrett:

Pursuant to your request, CSW/Stuber-Stroeh Engineering Group, Inc. (CSW|ST2) has prepared the following proposal to provide Construction Administration services for the above mentioned project. Our proposal is based upon our knowledge of the site and project, our discussions with you, and upon our experience with similar projects. Also per your request, this proposal assumes that Alternate No. 1 will not be a part of the project. We are confident that our completion of the Scope of Services described below will result in a successful project for the Town of Fairfax.

SCOPE OF SERVICES

PHASE 1.0 CONSTRUCTION ADMINISTRATION

- 1.1 Open bids and confirm lowest responsible bidder.
- 1.2 Attend pre-construction meeting.
- 1.3 Perform site observations to verify that the construction is in general conformance with the plans and specifications, or at the request of the Town. Field Observations Reports will be provided to the Town to document each site visit.
- 1.4 Review submittals and respond to Requests for Information (RFI's).
- 1.5 Provide revisions/modifications to the design as required due to unanticipated site conditions or other unforeseen circumstances.
- 1.6 Review and approve contractor invoices and change orders.

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- 1.7 Provide coordination between the Contractor, CSW|ST2 and its sub-consultants, between adjacent property owners and the biological consultant, and the Town.
- 1.8 Coordinate Punch List items and follow up on correction/remediation as required.
- 1.9 Maintain records for FEMA.

PHASE 2.0 COORDINATION WITH ENVIRONMENTAL REGULATORY AGENCIES

- 2.1 Notify Nick Tipon, Federated Indians of Graton Rancheria, of construction project and assist in coordination of Tribal Treatment Plan.
- 2.2 Provide coordination with environmental regulatory agencies during construction such as timing of certain line items, site visits, possible request for time extension, etc.
- 2.3 Provide coordination with environmental regulatory agencies post-construction such as any dissatisfaction with post-construction conditions, preparation of Riparian Repair and Maintenance (short) Form for Water Board (condition of approval for Water Quality Certification) if not previously done, submittal of as-built report to California Wetlands Portal, etc.

PHASE 3.0 PROJECT CLOSE-OUT

- 3.1 At the completion of the project, we will gather the following information and deliver a project book compiling the information and modifications that occurred during construction.
- 3.2 Collect the As-Built plans from the contractor.
- 3.3 Confirm that all Lien Releases have been executed.
- 3.4 Confirm the status of the outstanding permits with the agencies.

Any deviation required from the above Scope of Services will be billed as Additional Services. The inclusion of Additional Services to the Scope of Work will require written amendment to the contract to be signed by the Client and CSW|ST2 before the Additional Services are to be provided.

FEES

CSW|ST2 agrees to provide the services described above on a time and expense fee basis and suggest you allow the following initial budgets for each Phase of work as described above:

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Phase 1.0	Construction Administration	\$	25,300.00
Phase 2.0	Coord. with Environmental Agencies	\$	5,000.00
Phase 3.0	Project Close-Out	\$	6,300.00
Reimbursables		\$	800.00
TOTAL, Phases 1.0 - 3.0		\$	37,400.00

Reimbursable costs for printing, supplies, travel and other miscellaneous or incidental expenses will be billed in addition to the amounts shown above in accordance with our enclosed billing policy.

CLIENT TO PROVIDE

CSW/Stuber-Stroeh will work closely with the Town of Fairfax in the Research and Investigations Phase of this project. We will provide a list of items that would aid us in the design process which hopefully the Town of Fairfax will have access to, or the means to provide. Examples would be 1) specific reports, drawings, or exhibits that have been prepared in the past which may provide useful information; 2) access through Town of Fairfax property to the site, or assistance in obtaining permission from private owners to enter through their property; or 3) use of Town of Fairfax Public Works personnel and equipment in minor exploratory demolition.

ADDITIONAL SERVICES

“Additional Services” are those that have not been included in this proposal because they are not adequately defined nor do they have a known work scope. These services can be added to our scope of work by issuance of a Confirmation of Additional Services when the scope is defined. Additional Services shall be done on a time and expense basis or fixed fee based upon a defined scope of work.

Additional items CSW|ST2 can provide include (but are not limited to):

- Construction Staking
- Utility Design
- Public Outreach Meetings
- Meetings with Client and other consultants except as outlined above.

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- Storm Water Pollution Prevention Plan (SWPPP)

EXCLUSIONS

These services are not provided by CSW|ST2. CSW|ST2 is willing to assist the client in locating a consultant to supply these services, if needed.

- Hazardous materials removal/remediation

If this proposal is acceptable, please sign both copies of the enclosed Work Confirmation and initial each page of the Standard Provisions of Agreement Between Client and Consultant. Please return both complete sets of documents to our office as your authorization to proceed. We will return a signed set to you for your records.

CSW|ST2 can begin work immediately after receiving the signed work authorizations, the initialed Standard Provisions of Agreement between Client and Consultant, and any Client- Provided items listed in this contract.

If you have any questions or wish to modify the Scope of Services, please call/email me. Thank you for considering CSW|ST2 to assist you in the development of your project. We look forward to working with you and your team.

Sincerely,

CSW/STUBER-STROEH ENGINEERING GROUP, INC.



Gregg Grubin, S.E.
Engineering Manager
R.S.E. 4312

GEG:gmp
Enclosures

EXHIBIT "B"

PAYMENT

1) The total contract price for services rendered by CONSULTANT under this Agreement shall not exceed \$37,400, which shall be paid on a time and materials basis, as specified in attached proposal in Exhibit A.

Other fees, costs, expenses and rates as described in the PROPOSAL (Exhibit A). In the event of any inconsistency between the terms of this Exhibit "B" and the PROPOSAL, the terms of this Exhibit "B" shall control.

2) Payment shall be made to CONSULTANT on a time and materials basis, and CONSULTANT shall submit monthly invoices to the Town of Fairfax, 142 Bolinas Road, Fairfax, CA 94930, Attention: Town Manager , for the same.

3) Any additional meetings or work required beyond that set forth in Exhibit "A" shall be mutually agreed to by the TOWN and CONSULTANT, and shall be billed on a time and materials basis to Town of Fairfax, 142 Bolinas Road, Fairfax, CA 94930, Attention: Town Manager.

HOURLY RATES AND BILLING POLICY

Effective January 1, 2012 the following hourly rates will be charged for services rendered. (Rates subject to change):

<u>CIVIL AND STRUCTURAL ENGINEERING</u>		<u>HOURLY RATES</u>	<u>LAND PLANNING / LANDSCAPE ARCHITECTURE</u>		<u>HOURLY RATES</u>
Principal		\$ 210.00	Principal		\$ 210.00
Engineer Manager		\$ 200.00	Senior Planner	\$ 190.00 -	\$ 200.00
Project Engineer V		\$ 179.00	Planner V		\$ 179.00
Project Engineer IV		\$ 168.00	Planner IV		\$ 163.00
Project Engineer III		\$ 157.00	Planner III	\$ 153.00 -	\$ 157.00
Project Engineer II		\$ 142.00	Planner II		\$ 137.00
Project Engineer I		\$ 121.00	Planner I		\$ 120.00
Senior Engineer	\$ 190.00 -	\$ 200.00	Landscape Architect V		\$ 158.00
Engineer V		\$ 147.00	Landscape Architect IV		\$ 142.00
Engineer IV		\$ 126.00	Landscape Architect III		\$ 121.00
Engineer III		\$ 110.00	Landscape Architect II		\$ 99.00
Engineer II		\$ 99.00	Landscape Architect I		\$ 90.00
Engineer I		\$ 90.00	Landscape Designer III		\$ 110.00
Senior Designer		\$ 168.00	Landscape Designer II		\$ 93.00
Designer V		\$ 137.00	Landscape Designer I		\$ 90.00
Designer IV		\$ 126.00			
Designer III		\$ 115.00			
Designer II		\$ 105.00			
Designer I		\$ 99.00			
Technician IV		\$ 99.00			
Technician III		\$ 95.00			
Technician II		\$ 90.00			
Technician I		\$ 76.00			
Project Assistant II		\$ 74.00			
Project Assistant I		\$ 69.00			

<u>SURVEYING</u>		<u>HOURLY RATES</u>	<u>ENVIRONMENTAL PLANNING</u>		<u>HOURLY RATES</u>
Survey Supervisor		\$ 178.00	Senior Environmental Planner		\$ 150.00
Project Surveyor		\$ 157.00	Environmental Planner II		\$ 131.00
Survey Technician		\$ 105.00	Environmental Planner I		\$ 120.00
Two-Man Survey Party		\$ 240.00			
Three-Man Survey Party		\$ 360.00			
Two-Man GPS Crew		\$ 336.00			

Computer Technician / Trainer \$ 168.00
 Expert Witness / Arbitration Services are available at a negotiated rate.

All expenses for transportation will be charged at cost plus service charges at the rate of 10%.

Filing fees, checking fees, prints, and other *outside costs* (such as agency submittal/permit fees etc.) will be charged at cost, plus service charges at the rate of 10%.

Billing will be monthly. Invoices are due and payable upon presentation. Interest at the rate of 1.5% per month commencing thirty (30) days after invoice date will be charged on delinquent accounts.

CSW/Stuber-Stroeh Engineering Group, Inc. reserves the right to suspend work on any project when invoices have not been paid within thirty (30) days after having been rendered.

Client Initials	Consultant Initials
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EXHIBIT "C"

GENERAL PROVISIONS

1) INDEPENDENT CONSULTANT. At all times during the term of this Agreement, CONSULTANT shall be an independent contractor and shall not be an employee of TOWN. TOWN shall have the right to control CONSULTANT only insofar as the results of CONSULTANT's services rendered pursuant to this Agreement; however, TOWN shall not have the right to control the means by which CONSULTANT accomplishes services rendered pursuant to this Agreement.

2) LICENSES; PERMITS; ETC. CONSULTANT represents and warrants to TOWN that CONSULTANT has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONSULTANT to practice CONSULTANT's profession. CONSULTANT represents and warrants to TOWN that CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for CONSULTANT to practice his profession.

3) TIME. CONSULTANT shall devote such services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of CONSULTANT's obligations pursuant to this Agreement.

4) CONSULTANT NOT AN AGENT. Except as TOWN may specify in writing, CONSULTANT shall have no authority, express or implied, to act on behalf of TOWN in any capacity whatsoever as an agent. CONSULTANT shall have no authority, express or implied, pursuant to this Agreement, to bind TOWN to any obligation whatsoever.

5) ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

6) PERSONNEL. CONSULTANT shall assign only competent personnel to perform services pursuant to this Agreement. In the event that TOWN, in its sole discretion, at anytime during the term of this Agreement, desires the removal of any person or persons assigned by CONSULTANT to perform services pursuant to this Agreement, CONSULTANT shall remove any such person immediately upon receiving notice from TOWN of the desire of TOWN for the removal of such person or persons.

7) STANDARD OF PERFORMANCE. CONSULTANT shall perform all services required pursuant to this Agreement. Services shall be performed in the manner and according to the standards observed by a competent practitioner of the profession in which CONSULTANT is engaged in the geographical area in which CONSULTANT practices its profession. All products which CONSULTANT delivers to TOWN pursuant to this Agreement shall be prepared in a workmanlike manner, and conform to the standards of quality normally observed by a person practicing in CONSULTANT's profession. TOWN shall be the sole judge as to whether the product of the CONSULTANT is satisfactory.

8) CANCELLATION OF AGREEMENT. This Agreement may be canceled at any time by the TOWN at its discretion upon written notification to CONSULTANT. CONSULTANT is entitled to receive full payment for all services performed and all costs incurred up to and including the date of receipt of written notice to cease work on the project. CONSULTANT shall be entitled to no further compensation for work performed after the date of receipt of written notice to cease work. All completed and incomplete products up to the date of receipt of written notice to cease work shall become the property of TOWN.

9) PRODUCTS OF CONSULTING. All products of the CONSULTANT provided under this Agreement shall be the property of the TOWN.

10) INDEMNIFY AND HOLD HARMLESS.

a) If this AGREEMENT is an agreement for design professional services subject to California Civil Code § 2782.8(a) and CONSULTANT is a design professional, as defined in California Civil Code § 2782.8(b)(2), CONSULTANT shall hold harmless, defend and indemnify the TOWN, its officers, agents, employees, and volunteers from and against all claims, damages, losses, and expenses including attorneys' fees arising out of, or pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, except where caused by the active negligence, sole negligence, or willful misconduct of the TOWN.

b) If this AGREEMENT is not an agreement for design professional services subject to California Civil Code § 2782.8(a) or CONSULTANT is not a design professional as defined in subsection (a) above, CONSULTANT shall indemnify, defend, and hold harmless the TOWN, its officers, agents, employees and volunteers from all claims, suits, or actions of every name, kind and description, brought forth on account of injuries to or death of any person or damage to property arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by CONSULTANT or any person directly or indirectly employed by or acting as agent for CONSULTANT in the performance of this Agreement, including the concurrent or successive passive negligence of the TOWN, its officers, agents, employees or volunteers.

c) It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code.

d) Acceptance of insurance certificates and endorsements required under this Agreement does not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies are determined to be applicable to any such damages or claims for damages.

11) PROHIBITED INTERESTS. No employee of the TOWN shall have any direct financial interest in this Agreement. This Agreement shall be voidable at the option of the TOWN if this provision is violated.

12) LOCAL EMPLOYMENT POLICY. The TOWN desires wherever possible, to hire qualified local residents to work on Town projects. Local resident is defined as a person who resides in Marin County. The TOWN encourages an active affirmative action program on the part of its contractors, consultants, and developers. When local projects require, subcontractors,

contractors, consultants and developers will solicit proposals from qualified local firms where possible.

13) FEDERAL REQUIREMENTS. If federal funds are involved in this Agreement, CONSULTANT shall comply with the federal requirements in Exhibit "E". As a way of responding to the provisions of the Davis-Bacon Act and this program, contractor, consultants, and developers will be asked, to provide no more frequently than monthly, a report which lists the employee's name, job class, hours worked, salary paid, city of residence, and ethnic origin.

14) CONSULTANT NOT A PUBLIC OFFICIAL. CONSULTANT is not a "public official" for purposes of Government Code §§ 87200 et seq. CONSULTANT conducts research and arrives at his or her conclusions, advice, recommendation, or counsel independent of the control and direction of the TOWN or any TOWN official, other than normal contract monitoring. In addition, CONSULTANT possesses no authority with respect to any TOWN decision beyond these conclusions, advice, recommendation, or counsel.

EXHIBIT "D"

INSURANCE REQUIREMENTS

CONSULTANT shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its agents, representatives, or employees.

1) MINIMUM SCOPE AND LIMITS OF INSURANCE

a) Commercial General Liability coverage (occurrence Form CG 00 01) with minimum limits of \$1,000,000 per occurrence for bodily injury, personal injury, products and completed operations, and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

b) Automobile Liability coverage (Form CA 00 01 with Code 1 – any auto) with minimum limits of \$1,000,000 per accident for bodily injury and property damage.

c) Workers' Compensation insurance as required by the State of California and Employers' Liability insurance, each in the amount of \$1,000,000 per accident for bodily injury or disease.

2) INDUSTRY SPECIFIC COVERAGES

The following insurance is also required.

- Professional Liability Insurance / Errors and Omissions Liability in the minimum amount of \$1,000,000 per occurrence.

3) INSURANCE PROVISIONS

a) DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductibles or self-insured retentions must be declared to and approved by the TOWN. At the option of the TOWN, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the TOWN, its officers, officials, employees and volunteers; or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

b) The general and automobile liability policies (and if applicable, pollution liability, garage keepers liability and builder's risk policies) are to contain, or be endorsed to contain, the following provisions:

- i) The TOWN, its officers, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the CONSULTANT; products and completed operations of the CONSULTANT; premises owned, occupied or used by the CONSULTANT; or

automobiles owned, leased, hired or borrowed by the CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to the TOWN, its officers, officials, employees or volunteers.

- ii) For any claims related to this project, the CONSULTANT's insurance coverage shall be primary insurance as respects the TOWN, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the TOWN, its officers, officials, employees or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.
 - iii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the TOWN, its officers, officials, employees or volunteers.
 - iv) The CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - v) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the TOWN.
 - vi) The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated above shall not serve to reduce the CONSULTANT's policy limits of coverage.
- c) ACCEPTABILITY OF INSURER. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the TOWN.
- d) VERIFICATION OF COVERAGE. CONSULTANT shall furnish the TOWN with original endorsements effecting coverage required by this Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the TOWN or on forms equivalent to CG 20 10 11 85 subject to TOWN approval. All insurance certificates and endorsements are to be received and approved by the TOWN before work commences. At the request of the TOWN, CONSULTANT shall provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.
- e) SUB-CONTRACTORS. CONSULTANT shall require all subcontractors to procure and maintain insurance policies subject to the requirements of Exhibit D. Failure of CONSULTANT to verify existence of sub-contractor's insurance shall not relieve CONSULTANT from any claim arising from sub-contractors work on behalf of CONSULTANT.