



CITY OF DEL REY OAKS

650 CANYON DEL REY BLVD., DEL REY OAKS, CALIFORNIA 93940
PHONE (831) 394-8511 FAX (831) 394-6421

DATE: February 25, 2025

TO: Honorable Mayor and City Council

FROM: John Guertin, City Manager

SUBJECT: Approve an Increase of 6% in Contingencies for the Rosita Rd Emergency Repair Project and Authorize the City Manager to Sign Change Orders

CEQA: Staff has determined this project to be categorically exempt per Section 15301 of the CEQA Guidelines.

Discussion

In February 2024, the City was awarded \$543,400 in Federal Highway Administration Grant funds (Caltrans project LTP-DRO-001) for emergency road repairs on Rosita Road. In June, to efficiently and effectively execute the various documents associated with the grant funding, the City Council approved acceptance of the grant and delegated authority to execute all documents to the City Manager. In November 2024, the Council awarded an agreement to Coastal Paving to conduct the work and authorized the City Manager to approve additional work up to a 15% contingency.

The project is an emergency road repair project. 150 feet of the west shoulder of Rosita Rd failed due to winter storms, causing half of the roadway to sink substantially. This caused major cracking in the asphalt and left the road susceptible to erosion and further damage from future storms. The project consists of emergency repair of the road to allow continued use of the road and prevent traffic/road hazards.

As is common with these types of projects, there are unknown issues that can come up and require modifications to the work plan and costs. This is the reason for the contingency funding. As work progressed on this emergency project it was determined that the contractor would have to remove and haul off unsuitable material existing on-site that could not be utilized in the embankment fill. Therefore, additional import fill material was required to be hauled in to construct the embankment. The extra cost to remove and haul off the unsuitable material is approximately \$20,000 and the extra cost to provide, place and compact the additional import fill is approximately \$21,300. This extra cost total is \$41,300.

Additional rock rip-rap and geogrid material was required to be installed due the excessive wet ground conditions encountered at the ends of the embankment keyway construction. These locations required a deeper keyway for stabilization. The increased cost for additional rock rip-rap material is approx. \$6,950.

Other extra work items include installation of a finger drain (French drain) to relieve subsurface water at the downhill end of the new embankment (approx. \$1,600), convert existing rolled curb to a vertical curb and gutter (approx. \$3,000), remove and off-haul leaning oak tree for safety (approx. \$2,000), remove tree, branches and smooth out creek bed (approx. \$5,000).

The cost overruns will exceed the previously approved contingency amount of \$61,562 by approximately \$25,000.

Fiscal Impacts

The City received \$543,400 in grant funds for the project. A match of \$74,100 is included in the FY 2024-25 CIP budget. In November 2024, the Council approved award of a contract to Coastal Paving and Excavating in the amount of \$410,410, authorized the City Manager to sign the contract, and authorized the City Manager to expend up to 15% (\$61,562) in contingencies for a total authorization of \$471,972. This action would increase the contingency funding by approximately 6%, or \$25,000.

The additional costs are available in the approved project budget.

Recommendation

Approve an increase in contingencies of \$25,000 for the Rosita Rd Emergency Repair Project contract to Coastal Paving and Excavating.

Attachment

Staff Report and Approved Contract from November 2024 City Council Meeting

Respectfully submitted,

John Guertin
City Manager



CITY OF DEL REY OAKS

650 CANYON DEL REY BLVD. DEL REY OAKS, CALIFORNIA 93940
PHONE (831) 394-8511 FAX (831) 394-6421

DATE: November 19, 2024

TO: Honorable Mayor and City Council

FROM: John Guertin, City Manager

SUBJECT: Award Contract and Authorize the City Manager to Sign Agreement with Coastal Paving and Excavating in the amount of \$410,410 plus a 15% Contingency for the Rosita Rd Emergency Repair Project

CEQA: Staff has determined this project to be categorically exempt per Section 15301 of the CEQA Guidelines.

Discussion

In February 2024, the City was awarded \$543,400 in Federal Highway Administration Grant funds (Caltrans project LTP-DRO-001) for emergency road repairs on Rosita Road. In June, to efficiently and effectively execute the various documents associated with the grant funding, the City Council approved acceptance of the grant and delegates authority to execute all documents to the City Manager.

The project is an emergency road repair project. 150 feet of the west shoulder of Rosita Rd failed due to winter storms, causing half of the roadway to sink substantially. This caused major cracking in the asphalt and left the road susceptible to erosion and further damage from future storms. The project consists of emergency repair of the road to allow continued use of the road and prevent traffic/road hazards.

In October, city staff placed a call for bids in accordance with the City of Del Rey Oaks Purchasing Ordinance. Bids were opened for the Project on October 31, 2024. Seven bids were received from the following Contractors, listed in ascending order below:

Contractor	Base Bid
Coastal Paving & Excavating	\$ 410,410.00
Precision Grading	\$ 439,580.00
Graniterock	\$ 474,880.00
Tyman Construction	\$ 490,250.00
Brannon Corp	\$ 492,765.00
Rehak General Engineering	\$ 511,500.00
Monterey Peninsula Engineering	\$ 525,400.00

Engineer's Estimate	\$ 526,000.00

The City Engineer reviewed the bid proposals for mathematical accuracy, bid bond, and other proposal requirements. The City Engineer found all proposals to be in order and, therefore, considered responsive bids. A copy of the City Engineer's letter and the Tabulation of Bids are enclosed. Staff recommend that the contract be awarded to the low bidder, Coastal Paving & Excavating.

Pending Council approval and weather conditions, staff expects construction to begin in early 2025.

Fiscal Impacts

The City will receive \$543,400 in grant funds for the project. A match of \$74,100 is included in the FY 2024-25 CIP budget.

Recommendation

Approve award of a Rosita Rd Emergency Repair Project contract to Coastal Paving and Excavating in the amount of \$410,410, authorize the City Manager to sign the contract, and authorize the City Manager to expend up to 15% (\$61,562) in contingencies for a total authorization of \$471,972.

Attachments

- City Engineer Recommendation/Tabulation of Bids
- Del Rey Oaks Rosita Rd Emergency Repair Project Agreement

Respectfully submitted,

John Guertin
City Manager

CITY OF DEL REY OAKS
AGREEMENT FOR ROSITA ROAD
EMERGENCY REPAIR
ID #0524000135
FEDERAL-AID PROJECT 15J9 (180)

THIS AGREEMENT is executed this ____ day of _____, 2024, by and between the CITY OF DEL REY OAKS, a municipal corporation, (hereinafter "City"), and Coastal Paving and Excavating (hereinafter "Contractor"), each of which is referred to herein as a "party," and collectively referred to herein as the "parties".

RECITALS

WHEREAS, the City wishes to engage Contractor to perform the services required by this Agreement;

WHEREAS, Contractor is willing to render such services on the following terms and conditions; and

WHEREAS, Contractor represents it is specially trained, experienced, and competent to perform the services required by this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the terms and conditions herein contained, the parties hereby covenant and agree as follows:

1. SERVICES

A. **Scope of Services.** Contractor agrees to provide to the City, as the scope of services under this Agreement, the following services: Rosita Road Emergency Repair. The scope of services are further described in: 1) "Contractor's Response to Bid Proposal" attached hereto as Exhibit "A"; 2) "Notice to Bidders & Special Provisions" attached hereto as Exhibit "B"; and 3) the Project Plans attached hereto as Exhibit "C." In case of any conflict between these documents, this Agreement shall take first precedence, Contractor's response shall take second precedence, the Special Provisions shall take third precedence, and the Project Plans shall take fourth precedence.

B. **Amendment of Services.** The parties may make changes to the scope of services as defined in Section 1.A above. The parties shall agree in writing prior to commencement of any such changes.

2. COMPENSATION

A. **Total Fee.** The City agrees to pay and Contractor agrees to accept as full and fair consideration for the performance of this Agreement \$410,410.00. If the City determines the services set forth in the written invoice have not been performed in accordance with the terms of this Agreement, the City shall not be responsible for payment until the services have been satisfactorily performed.

B. **Invoicing.** Contractor shall submit monthly written invoices to the City. Contractor's invoices shall include a brief description of services performed.

3. AGREEMENT TERM

A. **Term.** The work under this Agreement shall commence on _____ and terminate on _____.

B. **Timely Work.** Contractor shall perform all services in a timely fashion. Failure to perform shall be deemed a material breach of this Agreement, and the City may terminate this Agreement with no further liability hereunder, or may authorize, in writing, an extension of time to the Agreement.

4. INDEPENDENT CONTRACTOR

A. **Independent Contractor.**

i. Contractor is an independent contractor. This Agreement does not create the relationship of employer and employee, a partnership, or a joint venture.

ii. No offer or obligation of permanent employment with the City or particular City department or agency is intended in any manner, and Contractor shall not become entitled by virtue of this Agreement to receive from the City any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. Contractor shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of Contractor's performance of services under this Agreement. In connection therewith, Contractor shall defend, indemnify and hold the City harmless from any and all liability, which the City may incur because of Contractor's failure to pay such taxes.

B. **Not an Agent of the City.** Nothing in this Agreement shall be interpreted so as to render the City the agent, employer, or partner of Contractor, or the employer of anyone working for or subcontracted by Contractor, and Contractor must not do anything that would result in anyone working for or subcontracted by Contractor being considered an employee of the City. Contractor is not, and must not claim to be, an agent of the City.

5. REPRESENTATIVES AND COMMUNICATIONS

A. **City's Representative.** The City appoints the individual named below as the City's contact person for the purposes of this Agreement.

Name: John Guertin
Title: City Manager
Address: 650 Canyon Del Rey Blvd., Del Rey Oaks, CA 93940
Telephone: 831-394-8511

B. **Contractor's Representative.** Contractor appoints the person named below as its contract person for the purposes of this Agreement.

Name: Mike Melicia
Title: President
Address: 24560 Sliver Cloud Ct. Ste 102, Monterey, CA 93940
Telephone: 831-646-2099

C. **Communications and Notices.** Any notice, report, or other document that either party may be required or may wish to give to the other must be in writing, unless otherwise provided for, and shall be deemed to be validly given to and received by the addressee, if delivered personally, on the date of such personal delivery, if delivered by email, on the date of transmission, or if by mail, seven (7) calendar days after posting.

6. INDEMNIFICATION

Contractor hereby agrees to the following indemnification clause:

To the fullest extent permitted by law Contractor shall defend (with legal counsel reasonably acceptable to the City), indemnify and hold harmless the City and its officers, designated agents, departments, officials, representatives and employees (collectively "Indemnitees") from and against claims, loss, cost, damage, injury expense and liability (including incidental and consequential damages, court costs, reasonable attorneys' fees, litigation expenses and fees of experts, consultants or expert witnesses incurred in connection therewith and costs of investigation) to the extent they arise out of, pertain to, or relate to, the negligence, recklessness, or willful misconduct of Contractor, anyone directly or indirectly employed by Contractor, or anyone Contractor controls (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify any Indemnatee shall not apply to the extent that such Liabilities are caused in part by the gross negligence or willful misconduct of such Indemnatee.

7. INSURANCE

Contractor shall submit and maintain in full force all insurance as described herein. Without altering or limiting Contractor's duty to indemnify, Contractor shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

A. Commercial General Liability Insurance including but not limited to premises, personal injuries, bodily injuries, property damage, products, and completed operations, with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

B. Automobile Liability Insurance covering all automobiles, including owned, leased, non-owned, and hired automobiles, used in providing services under this Agreement, with a combined single limit of not less than \$1,000,000 per occurrence.

C. Workers' Compensation Insurance. If Contractor employs others in the performance of this Agreement, Contractor shall maintain Workers' Compensation insurance in accordance with California Labor Code section 3700 and with a minimum of \$1,000,000 per occurrence.

D. Other Insurance Requirements:

- i. The City shall be a named additional insured on Contractor's policy.
- ii. All insurance required under this Agreement must be written by an insurance company either:
 1. admitted to do business in California with a current A.M. Best rating of no less than A:VI;
 - or
 2. an insurance company with a current A.M. Best rating of no less than A:VII.

iii. Prior to the start of work under this Agreement, Contractor shall file certificates of insurance and endorsements evidencing the coverage required by this Agreement with the City Manager. Contractor shall file a new or amended certificate of insurance promptly after any change is made in any insurance policy that would alter the information on the certificate then on file, including, without limitation, the amount of coverages or the term of coverages.

iv. Neither the insurance requirements hereunder, nor acceptance or approval of Contractor's insurance, nor whether any claims are covered under any insurance, shall in any way modify or change Contractor's obligations under the indemnification clause in this Agreement, which shall continue in full force and effect. Notwithstanding the insurance requirements contained herein, Contractor is financially liable for its indemnity obligations under this Agreement.

v. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

8. PERFORMANCE STANDARDS

A. Contractor warrants that Contractor and Contractor's employees performing services under this Agreement are specially trained and experienced to perform the services described herein.

B. Contractor and its employees shall perform all services in a safe and skillful manner consistent with the highest standards of care, diligence and skill ordinarily exercised by professionals in similar fields. All services performed under this Agreement that are required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

C. Contractor shall furnish, at its own expense, all materials, equipment and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. Contractor shall not use the City premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement, the RFP, or Contractor's Estimate.

D. Contractor agrees to perform all work under this Agreement to the satisfaction of City and as specified herein. The City Manager or his or her designee shall perform an evaluation of the work. If the quality of work is not satisfactory, City in its discretion may meet with Contractor to review the quality of work and resolve the matters of concern.

9. CITY INFORMATION AND RESOURCES

A. **City Resources.** The City acknowledges that Contractor's ability to provide services in accordance with this Agreement may be dependent on the City providing available information and resources in a prompt and timely manner as reasonably required by Contractor. To the extent that the City fails to provide City resources, Contractor shall not be liable for any resulting delay in services, but in no event shall such delay or failure to provide City resources constitute a breach of this Agreement by the City, nor shall Contractor be entitled to extra compensation for same.

B. **Obligations of Contractor.** No reviews, approvals, or inspections carried out or supplied by the City shall derogate from the duties and obligations of Contractor, and all responsibility related to performance of services shall be and remain with Contractor.

10. OWNERSHIP AND USE OF MATERIALS

A. **Ownership of the Materials.** All data, studies, reports, calculations, field notes, sketches, designs, drawings, plans, specifications, cost estimates, manuals, correspondence, agendas, minutes, notes, audio-visual materials, photographs, models, software data, computer software (if purchased on the City's behalf) and other documents or products produced by Contractor under this Agreement (collectively, "the

Materials”) are and shall remain the property of the City even though Contractor or another party may have physical possession of them or a portion thereof. Contractor hereby waives, in favor of the City, any moral rights Contractor, its employees, vendors, successors or assignees may have in the Materials. Contractor agrees that all copyrights, which arise from creation of the work or services pursuant to this Agreement, shall be vested in the City and waives and relinquishes all claims to copyright or intellectual property rights in favor of the City.

B. **Delivery and Use of the Materials.** All Materials shall be transferred and delivered by Contractor to the City without further compensation following the expiration or sooner termination of this Agreement, provided that the City may, at any time prior to the expiration or earlier termination of this Agreement, give written notice to Bidder requesting delivery by Contractor to the City of all or any part of the Materials in which event Contractor shall forthwith comply with such request. The Materials created electronically must be submitted in a format and medium acceptable to the City. The Materials may be used by the City in any manner for the intended purpose or as part of its operations associated with the Materials.

11. DISPUTE RESOLUTION

The City Manager and Contractor shall make reasonable efforts to resolve any dispute by amicable negotiations and shall provide frank, candid, and timely disclosure of all relevant facts, information, and documents to facilitate negotiations.

If all or any portion of a Dispute cannot be resolved by good faith negotiations as set forth above within thirty (30) days either party may, by notice to the other party, submit the dispute for formal mediation to a mediator selected mutually by the parties. The cost of the mediation (including fees of mediators) shall be borne equally by the parties, and each party shall bear its own costs of participating in mediation. The mediation shall take place within the Monterey County.

Should either party not be satisfied with the outcome of the mediation, the matter may be submitted to a court of competent jurisdiction.

All claims by Contractor against the City for money or damages must comply with the Government Claims Act (California Government Code Sections 810-996.6).

12. TERMINATION OF AGREEMENT

A. **Termination for Cause or Default.** The City reserves the right to immediately terminate this Agreement, in whole or in part, if Contractor defaults or fails to deliver the services in accordance with the terms and conditions of this Agreement. Such termination shall be in writing, shall set forth the effective date of termination, and may be issued without any prior notice. Without limitation, Contractor is in default of its obligations contained in this Agreement if Contractor:

- i. Fails to perform the required services within the term and/or in the manner provided under this Agreement;
- ii. Fails to observe or comply with the City’s reasonable instructions;
- iii. Otherwise violates any provision of this Agreement.

13. LEGAL ACTION / VENUE

Should either party to this Agreement bring legal action against the other, the validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of

the State of California, excluding California's choice of law rules. Venue for any such action relating to this Agreement shall be in the Monterey County Superior Court.

14. MISCELLANEOUS PROVISIONS

A. **Non-discrimination.** During the performance of this Agreement, Contractor shall not unlawfully discriminate against any person because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, either in Contractor's employment practices or in the furnishing of services to recipients.

B. **Acceptance of Services Not a Release.** Acceptance by the City of services to be performed under this Agreement does not operate as a release of Contractor from professional responsibility for the services performed.

C. **Headings.** The headings appearing herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of this Agreement. The headings are for convenience only.

D. **Entire Agreement.** This Agreement, including the Exhibits attached hereto, constitute the entire agreement between the parties hereto with respect to the terms, conditions, and services and supersedes any and all prior proposals, understandings, communications, representations and agreements, whether oral or written, relating to the subject matter thereof pursuant to Section 1B, "Amendment of Services". Any amendment to this Agreement will be effective only if it is in writing signed by both parties hereto and shall prevail over any other provision of this Agreement in the event of inconsistency between them.

E. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and may be signed in counterparts, but all of which together shall constitute one and the same Agreement.

F. **Multiple Copies of Agreement.** Multiple copies of this Agreement may be executed, but the parties agree that the Agreement on file in the office of the City's City Clerk is the version of the Agreement that shall take precedence should any difference exist among counterparts of this Agreement.

G. **Authority.** Any individual executing this Agreement on behalf of the City or Contractor represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.

H. **Severability.** If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability and indemnities shall survive termination of the Agreement for any cause. If a part of the Agreement is valid, all valid parts that are severable from the invalid part remain in effect. If a part of this Agreement is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

I. **Non-exclusive Agreement.** This Agreement is non-exclusive and both the City and Contractor expressly reserve the right to enter into agreements with other Contractors for the same or similar services, or may have its own employees perform the same or similar services.

J. **Assignment of Interest.** The duties under this Agreement shall not be assignable, delegable, or transferable without the prior written consent of the City. Any such purported assignment, delegation, or transfer shall constitute a material breach of this Agreement upon which the City may terminate this Agreement and be entitled to damages.

K. **Laws.** Contractor agrees that in the performance of this Agreement it will reasonably comply with all applicable federal, state and local laws and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the City of Del Rey Oaks.

FHWA-1273, "Required Contract Provisions Federal-Aid Construction Contracts" (Attachment #1) and the Federal Wage Rates (Attachment #2) are a part of this agreement and included as attachments.

L. **Exhibits.** The following Exhibits are incorporated herein by reference as if fully set forth: 1) "Contractor's Response to Bid Proposal" - Exhibit "A"; 2) "Notice to Bidders & Special Provisions" - Exhibit "B"; and 3) the Project Plans - Exhibit "C." Bidder's Bond - Exhibit E, Payment Bond - Exhibit F, Performance Bond - Exhibit G.

IN WITNESS WHEREOF, the parties enter into this Agreement on the day and year first above written in Del Rey Oaks, California.

CITY OF DEL REY OAKS

CONTRACTOR

John Guertin, City Manager

Mike Melicia
President, Coastal Paving and Excavating

Date

Date