



April 1, 2021

Board of Directors  
Ventura Regional Sanitation District  
Ventura, California

**APPROVE, AND AUTHORIZE THE BOARD CHAIR TO SIGN, PROPOSED CONTRACT NO. 21-003 WITH PRIDE CONSTRUCTION ENGINEERING SERVICES, INC. FOR EXCAVATION, LINER PURCHASE, AND LINER CONSTRUCTION SERVICES AT THE TOLAND ROAD LANDFILL**

**RECOMMENDATION**

- A. Approve, and authorize the Board Chair to sign, proposed Contract No. 21-003 with Pride Construction Engineering Services, Inc. for Toland Road Landfill Phase 4B excavation and liner installation services in an amount not to exceed \$3,788,000.
- B. Approve a budget adjustment appropriating \$3,788,000 from the District's available funds.

**FISCAL IMPACT**

The funding for Phase 4B liner purchase, installation, and associated excavation by a contractor was not included in the Board-adopted FY2020-21 District Budget. Approval of the proposed contract with Pride Construction Engineering Services, Inc. will require a budget adjustment the amount of \$3,788,000 for Solid Waste capital – Toland Phase 4B (Account code 90-490-499920-52082). The funding of this contract will reduce the District's available funds and was incorporated in the financial projections presented to the Board at its March 11<sup>th</sup> meeting.

**BACKGROUND/ANALYSIS**

The Toland Road Landfill is an ever-changing earth moving and solid waste disposal operation that is subject to comprehensive engineering review and regulatory requirements. In preparation for the Phase 4B liner construction at Toland Road Landfill, which was anticipated to begin during the second half of calendar year 2021 on the basis of solid waste disposal and fill rates, VRSD staff began excavating the Skyline area of the landfill during the fourth quarter of 2019.

Because of the COVID-19 pandemic, the Toland Road Landfill has seen a slight increase in daily solid waste tonnage, and staffing has been impacted by shifting schedules and absences due to COVID-19-required quarantines and isolations. Due to these effects,

the Phase 4B excavation process has not consistently reached weekly goals and the increase in tonnage has resulted in the shift of available airspace usage projections from the Spring of 2022 to November of 2021.

To date, approximately 306,000 cubic yards of the required 814,000 cubic yards of material has been excavated by VRSD landfill operations staff. It has now been determined that VRSD staff alone will not be able to remove the necessary amount of material in time for the Phase 4B liner contractor to prepare and install the liner before the current active landfill cell or site has exhausted the landfill's currently available airspace.

Under normal circumstances, the District would publicly advertise this scope of excavation work as a bid package under Public Contract Code and VRSD Purchasing Resolution 89-13 processes. However, undertaking a full bidding process would delay timely completion of Phase 4B and cause the District to run out of usable airspace. Further, the liner material has a five to six month lead time and the factory that manufactures the landfill liner is operating only on an as-needed basis due to COVID-19 restrictions.

## **PROPOSAL**

Given these facts and circumstances, District staff is recommending that the Board find that Section 302 of VRSD Resolution No. 89-13, which allows for the purchase of services through negotiated procurement "where compelling economic or administrative considerations warrant employment of alternative purchasing procedures," applies.

VRSD has chosen to use Pride Construction because it has assisted VRSD with several closed and active landfill projects and understands the requirement and compliance issues with this type of project. Some examples include liner repair after the Thomas fire at Toland Road Landfill, the Detention Basin for storm water compliance at Toland Road Landfill, and the emergency landfill construction project due the Easy fire at Tierra Rejada Landfill. The proposed \$3,788,000 contract consists of the following items and scope of services:

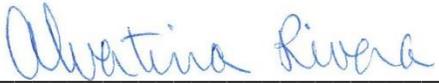
- \$395,750 for Mobilization/Design Support/Construction Support
- \$1,625,350 for Excavation/Grading Services
- \$1,766,900 Purchase of Liner Systems

This letter and the associated contract have been reviewed by Legal Counsel as to form.

If you should have any questions or need additional information, please contact me by phone at (805) 658-4679 or via email at richardjones@vrzd.com.



RICHARD JONES, INTERIM DIRECTOR OF OPERATIONS

APPROVED FOR FISCAL IMPACT:   
Alvertina Rivera, Director of Finance

APPROVED FOR AGENDA:   
Chris Theisen, General Manager

Attachments: VRSD Contract No. 21-003

**CONTRACT NO. 21-003**

**AGREEMENT FOR  
EXCAVATION AND LINER CONSTRUCTION SERVICES  
BETWEEN  
VENTURA REGIONAL SANITATION DISTRICT  
AND  
PRIDE CONSTRUCTION ENGINEERING SERVICES**

THIS AGREEMENT is made and entered into this 1<sup>th</sup> day of April 2021, by and between the VENTURA REGIONAL SANITATION DISTRICT, a public agency formed pursuant to California Health & Safety Code Section 4700 et seq. ("DISTRICT") and PRIDE CONSTRUCTION ENGINEERING SERVICES, a California Corporation ("CONTRACTOR"). Together, DISTRICT and CONTRACTOR shall be referred to herein as Parties.

**RECITALS**

A. DISTRICT has a need for a CONTRACTOR who has expertise and experience in and can provide Excavation and liner construction services to the DISTRICT related to its Toland Road landfill.

B. CONTRACTOR represents that it has the expertise and experience to provide such specialized excavation and liner construction services to the DISTRICT.

C. DISTRICT has selected CONTRACTOR, based upon the above representations and in conformance with the informal bidding procedures of Section 302 of the DISTRICT Purchasing Resolution No. 89-13, to provide specialized excavation and landfill liner construction services.

D. DISTRICT has determined that this Agreement is exempt from the competitive bidding requirement set forth in the California Public Contracts Code because competitive proposals would not be useful, or would not produce an advantage to the public or to the DISTRICT, and would thus be undesirable, impractical or impossible.

E. Parties agree to enter into this Agreement based upon the valuable and mutual consideration set forth below and the recitals above and to abide by its terms and conditions as set forth herein.

**AGREEMENT**

**ARTICLE 1: WORK STATEMENT/SCOPE OF SERVICES**

A. CONTRACTOR shall provide the Excavation and liner construction services to the DISTRICT as described in the STATEMENT OF WORK which is attached as Exhibit "A" to this Agreement and incorporated herein by reference.

B. CONTRACTOR shall use its best professional efforts in providing specialized excavation and liner construction services to DISTRICT and shall cooperate fully with DISTRICT and provide DISTRICT with all available information and assistance in relation to Exhibit "A."

C. CONTRACTOR shall begin work, as needed, immediately after the Agreement is signed by both Parties.

**ARTICLE 2: TERM OF CONTRACT**

Unless otherwise earlier terminated, this Agreement shall continue in force until the services specified herein have been fully performed. Upon execution of this Agreement by both Parties, CONTRACTOR shall diligently pursue work to assure completion on a timely basis. Unless otherwise extended in writing by both Parties, this contract shall automatically terminate on December 31, 2021.

### **ARTICLE 3: INDEPENDENT CONTRACTOR RELATIONSHIP**

A. It is expressly understood between the Parties that no employee/employer relationship is intended, the relationship of CONTRACTOR to DISTRICT being that of an independent contractor. DISTRICT shall not be required to make any payroll deductions or provide Workers' Compensation Insurance coverage or health benefits to CONTRACTOR.

B. CONTRACTOR is solely responsible for selecting the means, methods and procedures for performing its services hereunder as assigned by DISTRICT and for coordinating all portions of the work so the result will be satisfactory to the DISTRICT. CONTRACTOR will supply all tools and instrumentalities required to perform its services under this Agreement.

C. CONTRACTOR, pursuant to this Agreement, is rendering Construction services only and any payments made to it are compensation solely for such services as it may provide and render, and recommendations it may make in the performance of services.

### **ARTICLE 4: CONFIDENTIAL RELATIONSHIP AND OWNERSHIP OF DOCUMENTS**

A. CONTRACTOR agrees that all dealings of the Parties under this Agreement shall be confidential and no report, data, information or communication developed, prepared or assembled by CONTRACTOR under this Agreement, or any information made available to CONTRACTOR by DISTRICT, shall be revealed, disseminated or made available by CONTRACTOR to any person or entity other than DISTRICT without the prior written consent of DISTRICT. All data, calculations, drawings and other documents developed, prepared, completed or acquired by CONTRACTOR during the performance of its services hereunder shall be given or turned over to DISTRICT upon termination of this Agreement.

B. CONTRACTOR shall provide copies of original source electronic files (i.e., Microsoft Word or Excel files, digital photos, etc.) of all work completed as part of this Contract. Such files shall not be protected, encrypted or otherwise have their access restricted.

C. Any and all documents, reports, surveys, data compilation, interview results or records produced pursuant to this Agreement by the CONTRACTOR shall be the property of the DISTRICT and under the ownership of the DISTRICT.

### **ARTICLE 5: PAYMENT TO CONTRACTOR**

A. In consideration of CONTRACTOR's performance of services as described herein, DISTRICT shall pay CONTRACTOR fees for its services according to the schedule of rates set forth in Exhibit "A" attached and incorporated by reference herein. On or prior to the tenth (10<sup>th</sup>) day of each calendar month after actual work is started, CONTRACTOR shall submit an invoice in sufficient detail to show the total amount of work done to the last day of the month preceding the one in which the invoice is submitted. DISTRICT shall review and approve CONTRACTOR's invoice for accuracy and agree with CONTRACTOR on any adjustments that may be appropriate. Such approvals shall not be unreasonably withheld. DISTRICT shall pay CONTRACTOR for all approved work and materials within thirty (30) days of agreement on the amount of the invoice. In the event of disagreement with CONTRACTOR on adjustments or disallowances, said amounts and disputes shall be withheld until resolved. Upon resolution of the disagreements, payment of the approved amount shall be made within thirty (30) days after deducting therefrom all previous payments and all sums to be retained under the terms of the Agreement.

B. Total fees to be paid by DISTRICT to CONTRACTOR for CONTRACTOR's services described herein shall not exceed \$3,788,000 without written amendment in accordance with Article 18 below.

#### **ARTICLE 6: TERMINATION OF CONTRACT**

All work shall be done in a diligent and professional manner to DISTRICT's satisfaction. CONTRACTOR specifically acknowledges and agrees that DISTRICT may terminate CONTRACTOR's services at any time with or without cause, regardless of whether CONTRACTOR's services or the Project are completed. Any termination or any special instructions hereunder from DISTRICT shall be made in writing. In the event of such termination, CONTRACTOR shall have the right to expend additional time (not to exceed 10% of the total fees payable under this Agreement) to assemble the work in progress for the purpose of proper filing and closing the job. Such additional time shall not increase CONTRACTOR's total compensation beyond the maximum stated in Article 5.

#### **ARTICLE 7: INDEMNIFICATION AND HOLD HARMLESS**

CONTRACTOR agrees to defend, indemnify and hold harmless DISTRICT and its officers, and employees, from and against any and all liability, damages, costs, losses, claims and expenses, resulting from or connected with CONTRACTOR's negligent performance of this Agreement (including, but not limited to such liability, cost, damage, loss, claim or expense arising from the death of or injury to, or damage to property of CONTRACTOR, DISTRICT, or their respective employees or agents), except to the extent that such liability, damages, costs, losses, claims or expenses are caused by the negligent or wrongful acts or omissions of DISTRICT or any of its agents or employees.

#### **ARTICLE 8: INSURANCE**

CONTRACTOR shall provide and keep in effect during the term of this Agreement insurance as follows:

- A. Workers' Compensation and Employer's Liability policies in accordance with and as required by applicable laws.
- B. Commercial General Liability policies with combined single limit coverage of at least \$1,000,000 for any personal injury, death, or property damage.
- C. Comprehensive Automobile Liability policies with combined single limit coverage of at least \$1,000,000 for personal injury, death, or property damage.

CONTRACTOR shall provide certificates of such insurance to DISTRICT prior to the start of work. Said certificates shall specifically provide that: (1) DISTRICT is an additional insured for the coverage in Items B and C above; (2) any other insurance coverage applicable to the loss shall be deemed excess coverage and CONTRACTOR's insurance shall be primary for the coverage in Items B and C above; and (3) such insurance shall not be terminated or canceled without thirty (30) days' prior written notice having been given DISTRICT at its address set forth in this Agreement.

#### **ARTICLE 9: SUBCONTRACTORS**

This Agreement is a personal service contract and the contracted work hereunder shall not be delegated or assigned by CONTRACTOR to any person or entity without the prior written consent of DISTRICT. Breach of this provision shall be grounds for immediate termination of this Agreement.

#### **ARTICLE 10: AUTHORITY TO EXECUTE AGREEMENT**

Both DISTRICT and CONTRACTOR do covenant that each individual executing this Agreement on behalf of each Party is a person duly authorized and empowered to execute Agreements for such Party.

**ARTICLE 11: NO WAIVER**

No failure or delay by DISTRICT in asserting any of DISTRICT's rights and remedies as to any default of CONTRACTOR shall operate as a waiver of the default, of any subsequent or other default by CONTRACTOR, or of any of DISTRICT's rights or remedies. No such delay shall deprive DISTRICT of its right to institute and maintain any action or proceeding which may be necessary to protect, assert or enforce any rights or remedies arising out of this Agreement or the performance of this Agreement.

**ARTICLE 12: PARTIAL INVALIDITY**

If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby.

**ARTICLE 13: TERMS**

No alteration or amendment of the terms of this Agreement shall be valid unless made in writing and signed by the Parties. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties.

**ARTICLE 14: CALIFORNIA LAW**

This Agreement shall be interpreted and construed pursuant to the laws of the State of California. This Agreement shall be governed by the Uniform Commercial Code of the State of California, as amended. The Parties agree that should litigation arising from this Agreement be commenced within California, such litigation shall occur within a court of competent jurisdiction within the County of Ventura.

**ARTICLE 15: COMPLIANCE WITH LAWS**

CONTRACTOR shall be solely responsible for giving all notices and complying with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority relating to CONTRACTOR's work, the safety of the persons or property involved, and their protection from damage or injury. CONTRACTOR shall defend, indemnify, and hold DISTRICT harmless from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description, including reasonable attorneys' fees and costs, brought or recovered against DISTRICT, for or on account of any liability under said laws, ordinances, rules, regulations and orders which may be incurred by reason of any work to be performed by CONTRACTOR with this Agreement.

**ARTICLE 16: FORCE MAJEURE**

Neither CONTRACTOR nor DISTRICT shall be liable or deemed to be in default for any delay or failure in performance under this Agreement due to interruption of services resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, strikes, pandemic or public health emergency declared by the federal or state government, labor disputes, shortages of suitable parts, materials, labor or transportation, or any similar cause beyond the reasonable control of CONTRACTOR or DISTRICT.

**ARTICLE 17: DISPUTE RESOLUTION**

In the event that CONTRACTOR and DISTRICT have a dispute concerning the payment of sums pursuant to their Contract, the Parties agree to be governed by Public Contracts Code Section 20104, et seq. In the event of such dispute, CONTRACTOR shall file a written claim with DISTRICT. DISTRICT shall respond in writing within forty-five (45) days or, within thirty (30) days request additional documentation

and respond within fifteen (15) days after said request.

**ARTICLE 18: MODIFICATION**

This Agreement, in whole or in part, may not be amended, modified, or altered in any way unless it is first put in writing and then mutually agreed to by authorized representatives of the Parties.

**ARTICLE 19: NOTICES**

All notices or other official correspondence relating to contractual matters between the Parties shall be made by depositing the same as first-class, postage-paid mail addressed as follows:

To CONTRACTOR: Todd St. Peter, Chief Executive Officer  
PRIDE CONSTRUCTION ENGINEERING SERVICES  
24286 Rochelle Street  
Laguna Niguel, CA 92677

To DISTRICT: General Manager  
VENTURA REGIONAL SANITATION DISTRICT  
1001 Partridge Drive, Suite 150  
Ventura, CA 93003-0704

or to such other address as either Party may designate hereinafter in writing delivered to the other Party. All notices shall be deemed to have been received three (3) days after mailing.

**ARTICLE 20: EXECUTION IN COUNTERPARTS**

This Agreement and any amendments hereto may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original, but all such counterparts shall constitute one and the same Agreement, as may be amended from time to time. Delivery of an executed counterpart of a signature page to this Agreement by facsimile, PDF or other electronic means shall have the same impact and effect as original counterparts and shall be valid, enforceable and binding.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

VENTURA REGIONAL  
SANITATION DISTRICT

PRIDE CONSTRUCTION ENGINEERING  
SERVICES

By \_\_\_\_\_  
JIM FRIEDMAN,  
Chairman of the Board

By \_\_\_\_\_  
TODD ST. PETER,  
Chief Executive Officer

ATTEST

By \_\_\_\_\_  
JULIET RODRIGUEZ  
Clerk of the Board

APPROVED AS TO FORM:

ARNOLD, LAROCHELLE,  
MATHEWS, VANCONAS & ZIRBEL, LLP

By \_\_\_\_\_  
ROBERT N. KWONG  
Legal Counsel for District

APPROVED AS TO ADMINISTRATION

By \_\_\_\_\_  
CHRIS THEISEN  
General Manager

## **EXHIBIT A**

### **STATEMENT OF WORK**

The following is the work statement/scope of work to be performed by CONTRACTOR for the DISTRICT according to DISTRICT Contract No. 21-003 and the rates to be charged in connection with CONTRACTOR'S delivery of Excavation and liner construction services for DISTRICT at the Toland Road landfill site.

Statement of work and cost estimate is based on the Plans developed exclusively for the District by Dragomir Design Build dated March 9, 2021, which are incorporated herein by reference.

Statement of Work

#### **TASK 1: Mobilization**

- A. Provide management for duration of project, including project start-up and complete close-out activities
- B. Mobilize equipment and manpower to site
- C. Set-up water source for project

#### **TASK 2: Mass Excavation/Stockpile Placement**

- A. Pre-saturate existing soil within excavation area, as dust control measure
- B. Pioneer access roads and side slope overbuilt areas
- C. Excavate/load/haul/unload materials removed to onsite stockpile C area
- D. Grade side-slope and cell floor
- E. Fine grade cell footprint for install of subsequent liner system components

*Trash excavation/grading EXCLUDED*

#### **TASK 3: Excavation of Tie-In Areas**

- A. Remove existing materials along tie-in
- B. Excavate soil to design grades
- C. Finish/clean-off tie-in areas for proper tie-in operations

#### **TASK 4: Subgrade Preparation**

- A. Fine grade cell footprint for install of subsequent liner system components

#### **TASK 5: Low-Permeability Soil**

- A. Load/haul/stockpile low-permeability soil from excavation area
- B. Spread low-permeability soil over stockpile deck area
- C. Add water to soil to approx. optimum moisture content
- D. Seal off soil stockpile for minimum period of time recommended by Geotechnical firm
- E. Following moisture conditioning, load/haul/install low-permeability soil on cell floor in control lifts and compact
- F. Finish low-permeability soil in preparations for install of geosynthetic materials

### **TASK 6: Anchor Trench**

- A. Excavate anchor trench stockpiling spoils adjacent to trench
- B. Install geosynthetic materials within anchor trench
- C. Backfill anchor trench with previously excavated soil

### **TASK 7: Geosynthetic Procurement/Installation**

- A. Place order of all geosynthetic materials
- B. During production of material, notify CQA firm of production dates
- C. Submit CQC testing data from manufacturer
- D. Unload materials upon delivery to site
- E. Install geosynthetic materials on side slope and cell floor

### **TASK 8: Leachate Collection Recovery Systems (LCRS)**

- A. Install 6-inch perforated LCRS piping along cell floor area
- B. Delivery/spread/track LCRS crushed rock on cell floor

### **TASK 9: Operations Layer**

- A. Load/haul operations layer soil from stockpile area
- B. Unload/spread operations layer soil on cell floor and bench areas

### **Schedule**

Project, comprised of Tasks 1-9 above, must be completed by October 15, 2021.

### **Pricing**

Mobilization/Design Support/Construction Support (Task 1) = \$395,750

Excavation/Grading (Task 2-6) = \$1,625,350

Liner Systems (Task 7-9) = \$1,766,900

Total Price = \$3,788,000

### **General Assumptions/Conditions**

- Priced as a total package for each description of work category
- No trash removal
- Production of liner materials are currently on hold and material procurement are limited. Liner orders have to be placed immediately in attempts to meet project completion dates
- Excludes any/all dewatering, soil stabilization or subgrade over excavation/re-compaction of unstable material beyond stated design grades. Includes handling excavated soil at more than 3% over optimum moisture (highly saturated soil)
- All gas work associated with the project to be performed by others
- Excludes all permits fees, management of permits, etc.
- Excludes all CQC/CQA sampling, testing and reporting
- Contractor's work cannot be impacted by VRSD's removal of the 140,000 CYDS to be removed to the west of Phase 4B limits
- NO alluvium removals along floor area, assume competent bottom will be at design elevations
- Bonding available at additional fee of 2%

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