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File #	AGR0439-16 <a href="#">Version: 1</a>		
Type	General Services Agreement	Status	Consent
File created	4/6/2016	In control	County Council - Regular Session
On agenda	5/24/2016	Final action	
Title	Award Contract for General Services, Agreement No. AGR 16-049 to EnviroWorks, LLC in the Amount of \$1,361,835.23, plus Applicable Gross Receipts Tax, for the Purpose of repairing the landfill cap from damages sustained during the September 2013 flooding.		
Presenters	Philo Shelton		
Indexes (Council Goals)	* 2016 Council Goal – Quality Governance – Operational Excellence – Maintain Quality Essential Services and Supporting Infrastructure		
Attachments	1. <a href="#">A - Agreement No. AGR16-049 with EnviroWorks LLC</a> , 2. <a href="#">B- Photos of Erosion Damage at the Landfill</a>		

Text

## Title

Award Contract for General Services, Agreement No. AGR 16-049 to EnviroWorks, LLC in the Amount of \$1,361,835.23, plus Applicable Gross Receipts Tax, for the Purpose of repairing the landfill cap from damages sustained during the September 2013 flooding.

## Recommended Action

**I move that Council award Contract for General Services, Agreement No. AGR 16-049 with EnviroWorks, LLC in the Amount of \$1,361,835.23, plus Applicable Gross Receipts Tax, for the Purpose of repairing the landfill cap from damages sustained during the September 2013 flooding.**

## County Manager's Recommendation

The County Manager recommends that Council approve this Contract for General Services as requested.

## Body

During September 2013 Los Alamos County experienced what is now described as a 1000 year flood event causing damage to infrastructure throughout the community. The Los Alamos County Landfill cap was among the list of items damaged, including heavy erosion from the storm water that ultimately washed sediment into an environmentally sensitive wetland area in the bottom of Sandia Canyon (owned by Los Alamos National Laboratory) exposing landfill trash. Photos of the damage sustained can be seen in Attachment B.

As a result of the flood damage sustained not only in Los Alamos, but throughout the state, a federal disaster declaration was made. This project was recognized by the Federal Emergency Management Agency (FEMA) and had an estimated project total of \$1,344,336 for permanent repair and \$969,013 for mitigation resulting in a total project estimate of \$2,313,349. Since this is considered a "large" project by FEMA (in excess of \$60,000), actual costs will be reimbursed as follows: 75% of the eligible costs are funded by FEMA, 12.5% of eligible costs are funded by the New Mexico Department of Homeland Security and Emergency Management (NMDHSEM), and the County is required to match 12.5% of the costs. The County has already received \$943,886 in combined federal and state funding in advance to undertake this project. A special fund was established in FY2014 to include the County's matching portion for this project based upon an estimated total project cost of \$2,313,349.

The \$1,361,835.23 contemplated for award is based upon unit pricing and assumed quantities generated by the design engineer plus a 30% contingency. A contingency was included in the contract price since it is likely the quantities will change based upon unforeseen field conditions, and difficult and limited access to this site for repair of this eroded area of the landfill. All quantities will be verified by the construction manager and the County project manager prior to approval of invoices.

The proposed design has been broken out into two basic segments: the construction of a retaining wall to mitigate future erosion issues (considered mitigation for funding purposes) and then back-fill of the scar created by the erosion (permanent repair). It is anticipated that construction will last 90 calendar days from the time of award, however, the final retaining wall design documents that will be created by the Contractor as part of this project must be approved by the New Mexico Environment Department and reviewed by representatives from the Department of Energy and Los Alamos National Laboratory. It is anticipated that this review and approval process will take approximately 2-3 weeks. A longer review and approval period could affect the overall construction duration.

Geologic Engineering was secured to perform design engineering for the project starting December 12, 2014 and a total amount of \$82,705.69 has been encumbered for their services.

Santa Fe Engineering was secured through existing on-call agreement to perform quality assurance and construction management for the construction portion of the project February 18, 2016 and a total amount of \$148,102.90 has been encumbered for their services.

If Council opts to award the contract contemplated, a total of \$1,592,643.70 will be encumbered against this project resulting in \$199,080.46 in matching funds required by Los Alamos County.

**Alternatives**

Council could opt not to award this contract and other vendors could be considered to perform the construction of this project.

**Fiscal and Staff Impact/Planned Item**

Staff has anticipated this project and the work has been planned for fiscally.

**Attachments**

A - Agreement No.16-049 with EnviroWorks, LLC

B - Pictures of Erosion Damage at the Landfill



AGR16-049

## INCORPORATED COUNTY OF LOS ALAMOS SERVICES AGREEMENT

This **SERVICES AGREEMENT** (this "Agreement") is entered into by and between the **Incorporated County of Los Alamos**, an incorporated county of the State of New Mexico ("County"), and **EnviroWorks, LLC**, a New Mexico limited liability company ("Contractor"), to be effective for all purposes May 25, 2016.

**WHEREAS**, the County Purchasing Agent determined in writing that the use of competitive sealed bidding was either not practical or not advantageous to County for procurement of the Services and County issued Request for Proposals No. 16-049 (the "RFP") on Thursday, March 17, 2016 requesting proposals for Landfill Scar Repair as described in the RFP; and

**WHEREAS**, Contractor timely responded to the RFP by submitting a response dated April 15, 2016 ("Contractor's Response"); and

**WHEREAS**, based on the evaluation factors set out in the RFP, Contractor was the successful Offeror for the services listed in the RFP; and

**WHEREAS**, County contracted with Geologic Associates ("GLA") to conduct preliminary site evaluations and prepare a conceptual repair design; and

**WHEREAS**, the results of GLA's work provide the documents Contractor will utilize to perform the work; and

**WHEREAS**, the County Council approved this Agreement at a public meeting held on May 24, 2016; and

**WHEREAS**, Contractor will provide the Services, as described below, to County.

**NOW, THEREFORE**, for and in consideration of the premises and the covenants contained herein, County and Contractor agree as follows:

**SECTION A. SERVICES:** Contractor shall provide the following Services and will furnish all the expertise, materials, equipment, tools, labor and all supplies, necessary to complete the project as set forth below and in accordance with this Agreement.

### 1. MOBILIZATION/DEMobilIZATION AND SITE PREPARATION

- a. Mobilization/Demobilization – Mobilize equipment to perform work and demobilize and clean the site after all work and testing has been performed and accepted by County.
- b. Install temporary erosion control and temporary storm water control measures; install silt fences, erosion control fiber rolls (wattles), and other erosion control measures as shown on GLA's drawings. Contractor shall be responsible for controlling storm water flowing into and out of the repair area site at all times during this project. Any storm water related repairs will be made by Contractor at no additional cost to County.

- c. Site Preparation Work shall include grubbing, stripping, access ramp construction, and removal of existing concrete blocks as shown on GLA's drawings.

## **2. EXCAVATION**

- a. Prior to excavation Contractor shall perform topographic surveys to define beginning surfaces for excavation quantity computations.
- b. Contractor shall excavate and haul refuse contaminated soil to designated stockpile or ECO Station as shown on GLA's drawings.
- c. Contractor shall excavate mechanically stabilized earth ("MSE") wall foundation and sidewall abutments. After bedrock has been exposed, Contractor will excavate bedrock to a depth of approximately one (1) foot allowing County to inspect foundation excavation and test the bedrock material, to determine whether additional excavation is required. After Contractor receives County approval of foundation trench excavation, Contractor will provide as-built survey upon which to base the final construction design.

## **3. MSE WALL CONSTRUCTION DESIGN DETAIL AND FINALIZE**

Contractor will prepare the final MSE wall construction design. Contractor will submit MSE wall slope stability computations demonstrating a minimum static factor-of-safety (FOS) equal to or greater than 2.0 and a dynamic FOS of greater than or equal to 1.5 with an applied seismic load of 1.5g. Unless directed by County, no phreatic or piezo metric surfaces shall be included in this computation. Final design drawing(s), geogrid and compacted backfill specifications, and slope stability computation will be stamped by a professional engineer registered in the State of New Mexico. All material submittals, design drawings, and specifications will be reviewed and approved by County.

## **4. MSE WALL CONSTRUCTION**

Contractor shall, based on the final construction design and specifications, construct the MSE wall.

## **5. FINAL COVER SYSTEM**

After wall construction is complete Contractor will begin final cover; including testing on-site soil for suitability and re-seeding pursuant to final design as provided by GLA.

## **6. STORM WATER CONTROL FEATURES**

The final storm water control feature installations, including location and routing of the channels will be installed per the final design and MSE wall location.

## **7. SURVEYING AND AS-BUILT DRAWING PREPARATION**

Contractor shall provide as-built drawings and survey documents including drawings, point listings, and site control references and will submit this information to the County for inclusion in the final construction certification report, which must be stamped by a Professional Land Surveyor registered in New Mexico.

**SECTION B. TERM:** The term of this Agreement shall commence May 25, 2016 and shall continue through October 14, 2016, unless sooner terminated, as provided herein.

## **SECTION C. COMPENSATION:**

- 1. **Amount of Compensation.** County shall pay compensation for performance of the Services in an amount not to exceed ONE MILLION THREE HUNDRED SIXTY ONE THOUSAND EIGHT HUNDRED THIRTY FIVE AND 23/100 DOLLARS (\$1,361,835.23), which amount

does not include applicable New Mexico gross receipts taxes ("NMGRT"). Compensation shall be paid in accordance with the cost summary sheet set out in Exhibit "A," attached hereto and made a part hereof for all purposes.

- 2. Monthly Invoices.** Contractor shall submit itemized invoices to County's Project Manager showing amount of compensation due, amount of any NMGRT, and total amount payable. Payment of undisputed amounts shall be due and payable thirty (30) days after County's receipt of the invoice. All disputes related to performance and payment shall be governed by Chapter 31 of the County's Procurement Code.

**SECTION D. TAXES:** Contractor shall be solely responsible for timely and correctly billing, collecting and remitting all NMGRT levied on the amounts payable under this Agreement.

**SECTION E. STATUS OF CONTRACTOR, STAFF, AND PERSONNEL:** This Agreement calls for the performance of services by Contractor as an independent contractor. Contractor is not an agent or employee of County and will not be considered an employee of County for any purpose. Contractor, its agents or employees shall make no representation that they are County employees, nor shall they create the appearance of being employees by using a job or position title on a name plate, business cards, or in any other manner, bearing the County's name or logo. Neither Contractor nor any employee of Contractor shall be entitled to any benefits or compensation other than the compensation specified herein. Contractor shall have no authority to bind County to any agreement, contract, duty or obligation. Contractor shall make no representations that are intended to, or create the appearance of, binding County to any agreement, contract, duty, or obligation. Contractor shall have full power to continue any outside employment or business, to employ and discharge its employees or associates as it deems appropriate without interference from County; provided, however, that Contractor shall at all times during the term of this Agreement maintain the ability to perform the obligations in a professional, timely and reliable manner.

**SECTION F. STANDARD OF PERFORMANCE:** Contractor agrees and represents that it has and will maintain the personnel, experience and knowledge necessary to qualify it for the particular duties to be performed under this Agreement. Contractor shall perform the Services described herein in accordance with a standard that exceeds the industry standard of care for performance of the Services.

**SECTION G. DELIVERABLES AND USE OF DOCUMENTS:** All deliverables required under this Agreement, including material, products, reports, policies, procedures, software improvements, databases, and any other products and processes, whether in written or electronic form, shall remain the exclusive property of and shall inure to the benefit of County as works for hire; Contractor shall not use, sell, disclose, or obtain any other compensation for such works for hire. In addition, Contractor may not, with regard to all work, work product, deliverables or works for hire required by this Agreement, apply for, in its name or otherwise, any copyright, patent or other property right and acknowledges that any such property right created or developed remains the exclusive right of County. Contractor shall not use deliverables in any manner for any other purpose without the express written consent of the County.

**SECTION H. EMPLOYEES AND SUB-CONTRACTORS:** Contractor shall be solely responsible for payment of wages, salary or benefits to any and all employees or contractors retained by Contractor in the performance of the Services. Contractor agrees to indemnify, defend and hold harmless County for any and all claims that may arise from Contractor's relationship to its employees and subcontractors.

**SECTION I. INSURANCE:** Contractor shall obtain and maintain insurance of the types and in the amounts set out below throughout the term of this Agreement with an insurer acceptable to County. Contractor shall assure that all subcontractors maintain like insurance. Compliance with the terms and conditions of this Section is a condition precedent to County's obligation to pay compensation for the Services and Contractor shall not provide any Services under this Agreement unless and until Contractor has met the requirements of this Section. County requires Certificates of Insurance or other evidence acceptable to County that Contractor has met its obligation to obtain and maintain insurance and to assure that subcontractors maintain like insurance. Should any of the policies described below be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. General Liability Insurance and Automobile Liability Insurance shall name County as an additional insured.

1. **General Liability Insurance:** ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence; TWO MILLION DOLLARS (\$2,000,000.00) aggregate.
2. **Workers' Compensation:** In an amount as may be required by law. County may immediately terminate this Agreement if Contractor fails to comply with the Worker's Compensation Act and applicable rules when required to do so.
3. **Automobile Liability Insurance for Contractor and its Employees:** ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence; TWO MILLION DOLLARS (\$2,000,000.00) aggregate on any owned, and/or non-owned motor vehicles used in performing Services under this Agreement.
4. **Professional Liability Insurance:** ONE MILLION DOLLARS (\$1,000,000.00). Professional Liability Insurance shall provide coverage for Services provided hereunder during the term of this Agreement and for a period of at least five (5) years thereafter.
5. **Pollution Liability Insurance:** Pollution Liability Insurance shall provide coverage for Services provided during the term of this Agreement and for a period of at least five (5) years thereafter. \$1,000,000 combined single limit per occurrence; \$2,000,000 aggregate.

**SECTION J. RECORDS:** Contractor shall maintain, throughout the term of this Agreement and for a period of six (6) years thereafter, records that indicate the date, time, and nature of the services rendered. Contractor shall make available, for inspection by County, all records, books of account, memoranda, and other documents pertaining to County at any reasonable time upon request.

**SECTION K. APPLICABLE LAW:** Contractor shall abide by all applicable federal, state and local laws, regulations, and policies and shall perform the Services in accordance with all applicable laws, regulations, and policies during the term of this Agreement. In any lawsuit or legal dispute arising from the operation of this Agreement, Contractor agrees that the laws of the State of New Mexico shall govern. Venue shall be in the First Judicial District Court of New Mexico in Los Alamos County, New Mexico.

**SECTION L. NON-DISCRIMINATION:** During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of the obligations of Contractor under this Agreement, with regard to race, color, religion, sex, age, ethnicity, national origin, sexual orientation or gender identity, disability or veteran status.



**SECTION M. INDEMNITY:** Contractor shall indemnify, hold harmless and defend County, its Council members, employees, agents and representatives, from and against all liabilities, damages, claims, demands, actions (legal or equitable), and costs and expenses, including without limitation attorneys' fees, of any kind or nature, arising from Contractor's performance hereunder or breach hereof and the performance of Contractor's employees, agents, representatives and subcontractors.

**SECTION N. FORCE MAJEURE:** Neither County nor Contractor shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.

**SECTION O. NON-ASSIGNMENT:** Contractor may not assign this Agreement or any privileges or obligations herein without the prior written consent of County.

**SECTION P. LICENSES:** Contractor shall maintain all required licenses including, without limitation, all necessary professional and business licenses, throughout the term of this Agreement. Contractor shall require and shall assure that all of Contractor's employees and subcontractors maintain all required licenses including, without limitation, all necessary professional and business licenses.

**SECTION Q. PROHIBITED INTERESTS:** Contractor agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Contractor further agrees that it will not employ any person having such an interest to perform services under this Agreement. No County Council member or other elected official of County, or manager or employee of County shall solicit, demand, accept or agree to accept a gratuity or offer of employment contrary to Section 31-282 of the Los Alamos County Code.

**SECTION R. TERMINATION:**

1. **Generally.** County may terminate this Agreement with or without cause upon ten (10) days prior written notice to Contractor. Upon such termination, Contractor shall be paid for Services actually completed to the satisfaction of County at the rate set out in Section C. Contractor shall render a final report of the Services performed to the date of termination and shall turn over to County originals of all materials prepared pursuant to this Agreement.
2. **Funding.** This Agreement shall terminate without further action by County on the first day of any County fiscal year for which funds to pay compensation hereunder are not appropriated by the County Council. County shall make reasonable efforts to give Contractor at least ninety (90) days advance notice that funds have not been and are not expected to be appropriated for that purpose.

**SECTION S. NOTICE:** Any notices required under this Agreement shall be made in writing, postage prepaid to the following addresses, and shall be deemed given upon hand delivery, verified delivery by telecopy (followed by copy sent by United States Mail), or three (3) days after deposit in the United States Mail:

County:

Project Manager, Dept. of Public Works  
Incorporated County of Los Alamos  
101 Camino Entrada, Building 1, Room 216

Contractor:

Lisa Martinez, Contract Manager  
EnviroWorks, LLC  
Post Office Box 340

Los Alamos, New Mexico 87544

Edgewood, New Mexico 87015

**SECTION T. INVALIDITY OF PRIOR AGREEMENTS:** This Agreement supersedes all prior contracts or agreements, either oral or written, that may exist between the parties with reference to the services described herein and expresses the entire agreement and understanding between the parties with reference to said services. It cannot be modified or changed by any oral promise made by any person, officer, or employee, nor shall any written modification of it be binding on County until approved in writing by both County and Contractor.

**SECTION U. CAMPAIGN CONTRIBUTION DISCLOSURE FORM:** A Campaign Contribution Disclosure Form was submitted as part of the Contractor's Response and is incorporated herein by reference for all purposes. This Section acknowledges compliance with Chapter 81 of the Laws of 2006 of the State of New Mexico.

**IN WITNESS WHEREOF,** the parties have executed this Agreement on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes on the date first written above.

**ATTEST**

**INCORPORATED COUNTY OF LOS ALAMOS**

\_\_\_\_\_  
**SHARON STOVER**  
**COUNTY CLERK**

BY: \_\_\_\_\_  
**HARRY BURGESS** **DATE**  
**COUNTY MANAGER**

**Approved as to form:**

\_\_\_\_\_  
**REBECCA W. EHLER**  
**COUNTY ATTORNEY**

**ENVIROWORKS, LLC, A NEW MEXICO LIMITED**  
**LIABILITY COMPANY**

BY: \_\_\_\_\_  
**N. SEAN GROSSETETE** **DATE**  
**MANAGING/MEMBER**



**EXHIBIT A**  
**AGR16-049**  
**COST SUMMARY SHEET**

BASE UNIT PRICES FOR:

ITEM NO.	ITEM DESCRIPTION	UNIT	QTY.	UNIT PRICE IN FIGURES	TOTAL IN FIGURES
<b>Los Alamos County Landfill Cover Repair</b>					
<b>Mobilization/Demobilization and Site Preparation</b>					
1	Mobilization/Demobilization	Lump Sum	1	11,812.80	11,812.80
2	Install Temporary Erosion Control and Temporary Storm Water Control Measures	Lump Sum	1	6,915.73	6,915.73
3	Site Preparation Work	Lump Sum	1	621.00	621.00
<b>Excavation</b>					
4	Excavate/Haul Refuse Contaminated Soil to Transfer Station (Includes Applicable Transfer Station Disposal Fee) and Non-contaminated Soil to Designated Stockpile	Cubic Yard	1100*	102.98	113,278.00
5	Excavate MSE Wall Foundation and Abutments	Cubic Yard	40*	92.98	3,719.20
<b>MSE Wall Design/Detail and Finalize; Construction</b>					
6	MSE Wall Final Construction Design Drawings, Specifications, and Slope Stability Computations	Lump Sum	1	129,421.43	129,421.43
7	Placement of Geocomposite Chimney Drains	Square Foot	150*	44.55	6,682.50
8	Placement of 4-inch Diameter Pipe Drains (Heel Drain)	Linear Foot	45*	71.61	3,222.45
9	Placement of MSE Wall Block Material, Compacted Backfill with Geogrid, and Engineered Fill	Cubic Yard	8900*	68.86	612,854.00
<b>Final Cover System</b>					
10	Subgrade Preparation	Cubic Yard	370*	5.78	2,138.60
11	Geomembrane Placement	Square Foot	9880*	1.48	14,622.40
12	Geocomposite Placement	Square Foot	9880*	1.56	15,412.80
13	24-inch Vegetative Soil Layer Placement	Cubic Yard	735*	29.65	21,792.75
14	Seeding	Square Yard	1200*	5.22	6,264.00
<b>Storm Water Control Features</b>					
15	Concrete Fabric Lined Channels and Basins	Square Yard	445*	133.41	59,367.45
16	Pond Regrade	Cubic Yard	1500*	3.45	5,175.00
17	Riprap Discharge Aprons	Ton	60*	135.00	8,100.00
<b>Miscellaneous</b>					
18	Surveying and As-built Drawings	Lump Sum	1	26,165.45	26,165.45

\*Actual quantities will be determined by the pre- and post-construction surveys conducted by County and Contractor.

NA=Not Applicable



Attachment A





Attachment A





Attachment A





Attachment A





Attachment A