

Contract Summary Form:

Contract Number: BC 09 010

Complete data below, print, obtain signature of authorized departmental representative, and submit this form (and attachments) to the Clerk of the Board (>\$100,000). If less than \$100,000, submit a purchasing requisition to the Purchasing Division of General Services. See "Online Purchasing Manual" under "General Services", "Purchasing", "Policies and Procedures. "See also "Contracts for Services" policy. Form not applicable to revenue contracts.

- D1. Fiscal Year: FY 2008-09
D2. Budget Unit Number (plus -Ship/-Bill codes in paren's) : 054
D3. Requisition Number : 2
D4. Department Name : Flood Control/Public Works
D5. Contact Person : Jon Frye
D6. Phone : ext. 3444

- K1. Contract Type (check one): [] Personal Service [X] Capital Project/Construction
K2. Brief Summary of Contract Description/Purpose: Gobernador Debris Basin Project
K3. Original Contract Amount : \$830,457.50
K4. Contract Begin Date : July 8, 2008
K5. Original Contract End Date :
K6. Amendment History (leave blank if no prior amendments):

Table with 7 columns: Seq#, EffectiveDate, ThisAmndtAmt, CumAmndtToDate, NewTotalAmt, NewEndDate, Purpose (2-4 words). All monetary values are \$.

K7. Department Project Number:

- B1. Is this a Board Contract? (Yes/No) : SC8326
B2. Number of Workers Displaced (if any) :
B3. Number of Competitive Bids (if any) :
B4. Lowest Bid Amount (if bid) : \$
B5. If Board waived bids, show Agenda Date:
B6. ... and Agenda Item Number : #
B7. Boilerplate Contract Text Unaffected? (Yes / or cite ¶¶):

- F1. Encumbrance Transaction Code: 1701
F2. Current Year Encumbrance Amount: \$
F3. Fund Number : 2610
F4. Department Number : 054
F5. Division Number (if applicable) : 04
F6. Account Number : 8700
F7. Cost Center number (if applicable) :
F8. Payment Terms : Net 30

- V1. Vendor Numbers (A=auditor; P=purchasing) :
V2. Payee/Contractor Name : Shaw Excavating
V3. Mailing Address : P.O. Box 171
V4. City State (two-letter) Zip (include +4 if known) : Carpinteria, CA 93014
V5. Telephone Number : (805) 649-2107
V6. Contractor's Federal Tax ID Number (EIN or SSN) :
V7. Contact Person :
V8. Workers Comp Insurance Expiration Date :
V9. Liability Insurance Expiration Date[s] (G=enl; P=rofl) :
V10. Professional License Number : #
V11. Verified by (name of County staff) :
V12. Company Type (Check one): [] Individual [] Sole Proprietorship [] Partnership [] Corporation

I certify: information complete and accurate; designated funds available; required concurrences evidenced on signature page.

Date : Authorized Signature [Signature] 10-25-08

COPY

Santa Barbara County Flood Control and Water Conservation District

AGREEMENT

for the GOVERNADOR DEBRIS BASIN MODIFICATION PROJECT

C.M.I.S. Project No. SC8326

Auditor - Controller Contract No. _____

THIS AGREEMENT is made by and between the **Santa Barbara County Flood Control and Water Conservation District**, a political subdivision of the State of California, hereinafter called **DISTRICT**, and **Shaw Excavating and Grading** hereinafter referred to as **CONTRACTOR**, for the completion of the work identified herein, on the following terms, conditions and provisions:

1. **CONTRACT** This agreement incorporates by reference all of the General and Special Provisions and Specifications provided by DISTRICT for the work identified above; and where consistent with this document, the proposal executed and submitted by the CONTRACTOR. CONTRACTOR acknowledges receipt of all such documents as were not already in Contractor's possession. Said incorporated documents, this agreement, any Notice to Contractors, the Bid Bond, the Faithful Performance Bond, and Payment Bond are referred to herein as the "Contract" or "Contract Documents". Copies of all said documents are on file in the DISTRICT office and have been and will be made available to the CONTRACTOR during the term of this Agreement.
2. **WORK** CONTRACTOR agrees, at his own proper cost and expense, to furnish all the work and all equipment and materials necessary to perform and complete the work described in the documents referred to above, in a good and workmanlike manner to the satisfaction of the Flood Control Engineer of said DISTRICT, all in strict accordance with the Plans and the Contract Documents provided.
3. **EXCAVATIONS** Before any pavement resurfacing, displacement or excavation of the ground that may be required by any performance under this Agreement, the CONTRACTOR shall obtain an inquiry identification number by calling Underground Service Alert (USA) 1 (800) 422-4133 or by such other means as may be required; shall conform to all requirements of Government Code Sections 4215 through 4217 regarding any such pavement resurfacing, displacement or excavation, including the payment of any fees required; and shall facilitate performance by the DISTRICT of any obligation required of the DISTRICT under said Sections. There shall be no performance under this Agreement by either party unless and until the provisions of such Sections are complied with and the Engineer is notified regarding the compliance.
4. **ENGINEER** The Engineer referred to in the Contract Documents is the Flood Control Engineer.
5. **PAYMENT** As full compensation for furnishing all labor, supervision, overhead, materials and equipment and for doing all the work completed and embraced in this Agreement and subject to adjustments and liquidated damages, if any, as provided in the Contract Documents, the base amount to be paid to the CONTRACTOR for satisfactory completion of all requirements of the Contractor under this Agreement is and shall be **\$830,457.50**, to be paid as provided in the Contract Documents. The CONTRACTOR assumes and will provide against any and all loss or damage arising out of the nature of the work undertaken, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the DISTRICT, and

assumes any and all expenses incurred by or in consequence of suspension or discontinuance of the work, for well and faithfully completing the work and the whole thereof, in the manner and to the requirements of the Contract and directions of the Engineer, hereunder. The DISTRICT will have the right to audit of Contractor's project records. Records must be made available in a form satisfactory to the Santa Barbara County Auditor-controller. All invoices submitted for payment shall include Contract Number BC _____.

6. **EXTRA WORK** Extra work, materials, resolution of disputes, corrections, and/or changes to the specifications as are required for the proper completion of the work or the improvement contemplated may be effected or authorized and agreement made for compensation at the same rate per unit (or at a corresponding rate for work that is different from that provided for in the Contract Documents) by the Engineer, if compensation is in accordance with Section 20395(d) of the Public Contract Code:

- An amount not to exceed five thousand dollars (\$5,000) for contracts of fifty thousand dollars (\$50,000) or less.
- 10 percent for contracts over fifty thousand dollars (\$50,000) but not to exceed two hundred fifty thousand dollars (\$250,000). In no event shall any change exceed a net total addition of twenty-five thousand dollars (\$25,000).
- For contracts whose original cost exceeds two hundred fifty thousand dollars (\$250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars (\$25,000), plus 5 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars (\$250,000). In no event shall any change or alteration exceed one hundred fifty thousand dollars (\$150,000).

Compensation in such equitable amount as is appropriate for the requirements of the DISTRICT may be authorized by resolution or minute order of the Board of Directors. The Engineer may agree upon appropriate additional time to be allowed as required for such extra work, materials, resolution or changes. In no event shall the District be liable for the cost of any extra work not approved in advance and in writing by the Flood Control Engineer.

7. **COMPLIANCE WITH LAW, AMENDMENTS** CONTRACTOR shall keep fully informed of all laws, ordinances and regulations which do or may affect the conduct of the work, the materials used therein or persons engaged or employed thereon and all such orders of bodies and tribunals having any jurisdiction over same. If it be found that the Special Provisions or Standard Specifications for the work conflict with any such law, ordinance or regulation, the CONTRACTOR shall immediately report same to the Engineer in writing. CONTRACTOR shall at all times observe and comply with and shall cause all agents and employees to observe and comply with all such laws, ordinances, regulations or decrees as the same now exists or may be hereafter amended and all superseding provisions thereof. CONTRACTOR acknowledges, particularly, the provisions of Sections 3196 and Sections 3247 and 3252, inclusive, of the Civil Code of California. CONTRACTOR shall protect and indemnify the Santa Barbara County Flood Control District, the Board of Directors, the Flood Control Engineer, and/or any officer, agent or employee of the DISTRICT against any claims or liability arising from or based on the violation of any such law, ordinance, regulation or decree whether by CONTRACTOR, or a subcontractor, agent or employee.

8. **PAYMENTS NOT ACCEPTANCE** No certificate given or payments made under this Contract shall be evidence of the performance of this Contract, either wholly or in part, against any claim upon CONTRACTOR. Final payment for the work performed under this Contract shall not be made until the lapse of thirty (30) days after the Notice of Completion of said work has been filed for record and no

payment shall be construed to be acceptance of any defective work or improper materials. CONTRACTOR agrees that the payment for final quantities due under this Contract and the payment of amounts due for any work in accordance with any amendments of this Contract, shall release the County of Santa Barbara from any and all claims or liabilities on account of work performed under this Contract or any amendments thereof. In addition to guarantees required elsewhere, CONTRACTOR shall and does hereby guarantee all workmanship and material to be free of defects and fit for the purposes intended for a period of one year from and after both the date of acceptance of the work and the recordation of the Notice of Completion by the DISTRICT, and CONTRACTOR shall repair or replace any or all work and material, together with any other portions of the work which may be displaced in so doing, that in the opinion of the Engineer, is or becomes defective during the period of said guarantee without expense whatsoever to the DISTRICT.

9. **PREVAILING WAGE RATES** Rates of wages, including overtime, holiday and Sunday rates provided for the work are subject to the effect of Executive Orders of the President of the United States No. 9240, dated September 9, 1942, and No. 9250, dated October 3, 1942, and to any modifications thereof and to any and all lawful orders of the President or any authorized Federal Officer or agency, insofar as the same may be applicable to this Contract. In accordance with the requirements of Labor Code section 1770, the Director of the Department of Industrial Relations has determined the general prevailing rate per diem or hourly wages for workers required to perform the subject work. A copy of the prevailing wage rate is on file at the office of the Santa Barbara County Flood Control and Water Conservation District, 123 East Anapamu Street, Santa Barbara, California, and is available for inspection. CONTRACTOR, and any subcontractor under his or her direction, shall pay not less than the said prevailing rates to all laborers, workers and mechanics employed by the in the execution of the contract.

10. **CONTRACT DOCUMENTS ACKNOWLEDGED** CONTRACTOR hereby declares that he has read the "Contract Documents" pertaining to the work to be accomplished hereunder, has carefully examined the plans and detail drawings of the work to be performed and fully understands the intent and meaning of the same.

11. **TIME FOR COMMENCEMENT, COMPLETION** Time is of the essence in the execution of this Contract. The work to be done under this Agreement shall be completed within the Contract Period described in the Instructions to Bidders. As soon as practicable after the Contract has been executed by both the CONTRACTOR and the DISTRICT, a Notice to Proceed will be issued by the Engineer stating the starting date of the Contract time. The CONTRACTOR shall begin work within FIFTEEN (15) calendar days after receiving the Notice to Proceed, unless otherwise provided. Attention is directed to the provisions of the Contract documents pertaining to Liquidated Damages for failure to complete the work within the allowed time.

12. **WORKERS' COMPENSATION INSURANCE** CONTRACTOR certifies as to knowledge of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self insurance in accordance with the provisions of that Code. Contractor will comply with such provisions before commencing the performance of the work of this Contract.

13. **PROGRESS PAYMENT NO WAIVER FOR DELAY** Any progress payment made after the scheduled completion date will not constitute a waiver of any liquidated damages heretofore agreed upon as part of this Contract.

14. **GUARANTEE BONDS** Before any performance under this Agreement, the CONTRACTOR shall provide the security required by statute for the payment of all workers and suppliers, and security for faithful performance of all terms and conditions of this Agreement, in an amount and form approved by the

DISTRICT. Both securities shall contain provisions which automatically increase amounts thereof and/or time of completion or both for all change orders, extensions and additions to the work provided pursuant to this Agreement.

15. NON DISCRIMINATION The CONTRACTOR acknowledges that this Agreement is subject to the provisions of Article XIII of Chapter 2 of the Santa Barbara County Code, providing against discrimination in employment. The CONTRACTOR agrees to perform all requirements of a contractor under the provisions of said Article and to pay all costs occasioned to the DISTRICT by any noncompliance by the CONTRACTOR.

16. DISPUTES Should any dispute arise which the parties are unable to resolve by negotiation respecting the interpretation, construction or meaning of any of the plans or specifications or provisions affecting the work or respecting the true value of any extra work or work omitted, the dispute shall be submitted to arbitration. Such arbitration shall be carried out in accordance with provisions of the Public Contract Code, any applicable provision of County ordinance, regulation or standard and in accordance with standards of the American Arbitration Association. Any resulting arbitration ruling or result shall be binding on the parties, unless there is a mutual written agreement to litigate the matter.

17. SUBSTITUTION OF MATERIALS, SUBSTITUTION OF CONTRACTORS The Engineer is authorized to act on behalf of the awarding authority in any matters requiring consent, notice or hearing in order to substitute materials or equipment specified or to substitute subcontractors.

Date: _____

BY: _____
Salud Carbajal, Chair of the Board of Directors
Santa Barbara County Flood Control
& Water Conservation District
Supervisor Salud Carbajal

CONTRACTOR

Shaw Excavating and Grading

6214 Casitas Pass Road

Ventura, CA 93001

ATTEST:
Michael F. Brown
Clerk of the Board

BY: *Jeff Shaw*

License No. 829972

IRS No. 608-05-2375

BY: _____
Deputy

Business Type Check Only One:

Corporation _____

Partnership _____

Sole Proprietorship

APPROVED AS TO FORM:

Daniel J. Wallace
County Counsel

BY: _____

APPROVED AS TO ACCOUNTING FORM:

Robert W. Geis, C.P.A.
Auditor-Controller

BY: _____

APPROVED AS TO FORM:

Ray Aromatorio
Risk Manager

BY: _____

APPROVED AS TO FORM:

Scott D. McGolpin
Public Works Director

BY: _____

Fiscal Responsibility _____

Budget _____ Fund _____ Account _____ Division _____ Program _____

WORKERS' COMPENSATION INSURANCE CERTIFICATE

The Contractor shall execute the following form as required by the California Labor Code, Sections 1860 and 1861:

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

Date 6-19-08

Contractor
By Jeff Shaw
Signature
OWNER
Title

CERTIFICATE OF COMPLIANCE

TO: SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

FROM: Shaw Excavating and Grading

THIS IS TO CERTIFY THAT ALL REQUIREMENTS FOR INSURANCE OF SUBCONTRACTORS AS SPECIFIED IN THESE CONTRACT DOCUMENTS HAVE BEEN MET.

FIRM:

Shaw Excavating and Grading

BY:

Jeff Shaw

TITLE:

OWNER

DATED:

6-19-08

(Please return this completed form with your Bonds and Certificates of Insurance)

**STATEMENT OF
UNLAWFUL DISCRIMINATION IN EMPLOYMENT PRACTICES
(SANTA BARBARA COUNTY CODE, SECTION 2-95)**

The party contracting with the Santa Barbara County Flood Control and Water Conservation District agrees that it will not discriminate against any employee or applicant for employment in violation of any applicable State or Federal laws, rules or regulations which may now or hereafter specifically prohibit such discrimination on such grounds as race, religion, sex color, national origin, physical handicap when otherwise qualified, Vietnam era veteran/disabled, or ago. If it is determined by the Board of Directors upon recommendation of the Affirmative Action Officer and the County Counsel that during the life of this agreement any such unlawful discriminations have occurred, the County Board of Directors may forthwith terminate this agreement. Said party contracting with the District further agrees that whether or not the term of this agreement is still in existence at the time of final determination of such unlawful discrimination, that it will forthwith reimburse the District for any and all damages, costs and expenses incurred in connection with such unlawful discrimination, including but not limited to damages from loss of Federal or State grants, subventions or loans; costs of processing, investigating and reporting complaints of unlawful discrimination; additional costs of expenses incurred in completion of this agreement by another party if this agreement is terminated before completion; all costs of suit including reasonable attorney's fees incurred in collecting any such damages, costs and expenses; and interest at 7% on all such damages, costs and expenses from the date they are incurred to date of payment.

Employment practices shall include, but are not limited to employment, promotion, demotion, transfer, recruitment and advertising for recruitment, layoff or other termination, rates of pay, employee benefits and all other forms of compensation, selection for training and apprenticeship and probationary periods.

Said party contracting with the District further agrees to permit access at all reasonable times and places to all of its records of employment advertising, application forms, tests and all other pertinent employment data and records, to the Santa Barbara County Flood Control and Water Conservation District, its officers, employees and agents for the purpose of investigation to ascertain if any unlawful discrimination as described herein has occurred or is being practiced.

Failure to fully comply with any of the foregoing provisions relating to unlawful discrimination in employment practices shall be deemed to be a material breach of this agreement.