


Jefferson County
Board of Commissioners
Agenda Request

To: Board of Commissioners
Philip Morley, County Administrator

From: Monte Reinders, Public Works Director 

Agenda Date: April 14, 2014

Subject: Execution of Contract with Seton Construction, Inc. for
Dosewallips Road MP 1.67 Emergency Repair, Dosewallips Road MP
1.67, County Project No. CR1944

Statement of Issue: Execution of Contract with Seton Construction, Inc. of Port Townsend, Washington for the Dosewallips Road MP 1.67 Emergency Repair, County Project No. CR1944.

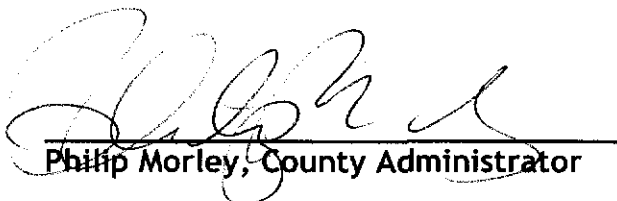
Analysis/Strategic Goals/Pro's & Con's: This contract is for emergency landslide repair of the Dosewallips Road at Milepost 1.67 on a time and materials basis.


Fiscal Impact/Cost Benefit Analysis: This contract authorizes an amount not to exceed \$35,000. This will be funded by the County Road Fund or a combination of County Road funds and Rural Arterial Program (RAP) funds, pending state approval of RAP funding.

Recommendation: Public Works recommends that the Board execute all three (3) originals of the Contract with Seton Construction, Inc. and return two (2) originals to Public Works for further processing.

Department Contact: Mark Thurston, P.E., Project Manager, 385-9160.

Reviewed By:


Philip Morley, County Administrator


Date

**CONTRACT
JEFFERSON COUNTY, WASHINGTON**

THIS AGREEMENT, made and entered into this _____ day of _____, 2014, between the COUNTY OF JEFFERSON, acting through the Jefferson County Commissioners and the Director of Public Works under and by virtue of Title 36, RCW, as amended and Seton Construction, Inc. of Port Townsend, WA hereinafter called the Contractor.

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this agreement, the parties hereto covenant and agree as follows:

1. The Contractor agrees to furnish labor and equipment and do certain work, to-wit: That the Contractor herein will undertake the following described work:

Emergency landslide repair of the Dosewallips Road (County Road No. 250008) at Milepost 1.67 on a time and materials basis in accordance with the rates and provisions attached hereto. Work includes, but is not necessarily limited to, hauling and placing rip rap and pit run fill materials from various sources identified by the County and removal and hauling of slide debris as directed by the County;

for a total sum not to exceed Thirty-Five Thousand Dollars (\$35,000). Work is to be directed by the County Engineer and his designee(s) and will be in accordance with any relevant plans and specifications developed for the project and specifically transmitted to the Contractor which may include reference to the Washington State Department of Transportation Standard Specifications.

The Contractor shall complete the described work as follows: Work to proceed immediately following verbal authorization by the County Engineer on March 10, 2014, and to be pursued at the direction of the County Engineer and his designee(s) until work is complete or otherwise terminated by the County.

2. The County of Jefferson hereby promises and agrees with the Contractor to employ, and does employ the Contractor to furnish the goods and equipment described and to furnish the same according to the attached specifications and the terms and conditions herein contained, and hereby contracts to pay for the same according to the attached specifications and the schedule of unit or itemized prices hereto attached, at the time and in the manner and upon the condition provided for in this contract. The County further agrees to employ the Contractor to perform any alterations in or additions to the work provided for in this contract that may be ordered and to pay for the same under the terms of this contract and the attached specifications at the time and in the manner and upon the conditions provided for in this contract.

3. The Contractor for himself, and for his heirs, executor, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.

4. Prior to commencing work, the Contractor shall obtain at its own cost and expense the following insurance from companies licensed in the State with a Best's rating of no less than A: VII. The Contractor shall provide to the County Risk Manager certificates of insurance with original endorsements affecting insurance required by this clause prior to the commencement of work to be performed.

The insurance policies required shall provide that thirty (30) days prior to cancellation, suspension, reduction or material change in the policy, notice of same shall be given to the County Risk Manager by registered mail, return receipt requested, for all of the following stated insurance policies.

If any of the insurance requirements are not complied with at the renewal date of the insurance policy, payments to the Contractor shall be withheld until all such requirements have been met, or at the option of the County, the County may pay the renewal premium and withhold such payments from the moneys due The Contractor.

All notices shall name the Contractor and identify the agreement by contract number or some other form of identification necessary to inform the County of the particular contract affected.

A. Workers Compensation and Employers Liability Insurance. The Contractor shall procure and maintain for the life of the contract, Workers Compensation Insurance, including Employers Liability Coverage, in accordance with the laws of the State of Washington.

B. General Liability(1) - with a minimum limit per occurrence of one million dollars (\$1,000,000) and an aggregate of not less than two million dollars (\$2,000,000) for bodily injury, death and property damage unless otherwise specified in the contract specifications. This insurance coverage shall contain no limitations on the scope of the protection provided and indicate on the certificate of insurance the following coverage:

1. Broad Form Property Damage with no employee exclusion;
2. Personal Injury Liability, including extended bodily injury;
3. Broad Form Contractual/Commercial Liability including completed operations (contractors only);
4. Premises - Operations Liability (M&C);
5. Independent Contractors and Subcontractors; and
6. Blanket Contractual Liability.

(1)Note: The County shall be named as an additional insured party under this policy.

C. Automobile (2) - with a minimum limit per occurrence of \$1,000,000 for bodily injury, death and property damage unless otherwise specified in the contract specifications. This insurance shall indicate on the certificate of insurance the following coverage:

1. Owned automobiles;
2. Hired automobiles; and,
3. Non-owned automobiles.

(2) Note: The County shall be named as an additional insured party under this policy.

Any deductibles or self-insured retention shall be declared to and approved by the County prior to the approval of the contract by the County. At the option of the County, the insurer shall reduce or eliminate deductibles or self-insured retention or The Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

The Contractor shall include all subcontractors as insured under its insurance policies or shall furnish separate certificates and endorsements for each subcontractor. All insurance provisions for subcontractors shall be subject to all of the requirements stated herein.

Failure of The Contractor to take out and/or maintain any required insurance shall not relieve The Contractor from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification.

It is agreed by the parties that insurers shall have no right of recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so affected shall protect both parties and be primary coverage for any and all losses covered by the above described insurance. It is further agreed by the parties that insurance companies issuing the policy or policies shall have no recourse against the County (including its employees and other agents and agencies) for payment of any premiums or for assessments under any form of policy. It is further agreed by the parties that any and all deductibles in the above described insurance policies shall be assumed by and be at the sole risk of The Contractor.

It is agreed by the parties that judgments for which the County may be liable, in excess of insured amounts provided herein, or any portion thereof, may be withheld from payment due, or to become due, to The Contractor until such time as The Contractor shall furnish additional security covering such judgment as may be determined by the County.

The County reserves the right to request additional insurance on an individual basis for extra hazardous contracts and specific service agreements.

Any insurance coverage for third party liability claims provided to the County by a "Risk Pool" created pursuant to Ch. 48.62 RCW shall be non-contributory with respect to any policy of insurance the Contractor must provide in order to comply with this Agreement.

If the proof of insurance or certificate of coverage indicating the County is an "additional insured" to a policy obtained by the Contractor refers to an endorsement (by number or name) but does not provide the full text of that endorsement, then it shall be the obligation of the Contractor to obtain the full text of that endorsement and forward that full text to the County within 30 days of the execution of this Agreement.

The County may, upon the Contractor's failure to comply with all provisions of this contract relating to insurance, withhold payment or compensation that would otherwise be due to the Contractor.

5. The Contractor shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done under this Agreement. This Agreement shall be interpreted and construed in accord with the laws of the State of Washington and venue shall be in Jefferson County, WA.

The Contractor shall indemnify and hold the County, and its officers, employees, and agents harmless from and shall process and defend at its own expense, including all costs, attorney fees and expenses relating thereto, all claims, demands, or suits at law or equity arising in whole or in part, directly or indirectly, from the Contractor's negligence or breach of any of its obligations under this Agreement; provided that nothing herein shall require a Contractor to indemnify the County against and hold harmless the County from claims, demands or suits based solely upon the conduct of the County, its officers, employees and agents, and; provided further that if the claims or suits are caused by or result from the concurrent negligence of: (a) the Contractor's agents or employees; and, (b) the County, its officers, employees and agents, this indemnity provision with respect to claims or suits based upon such negligence, and/or the costs to the County of defending such claims and suits, etc., shall be valid and enforceable only to the extent of the Contractor's negligence, or the negligence of the Contractor's agents or employees.

Claims against the County shall include, but not be limited to assertions that the use and transfer of any software, book, document, report, film, tape, or sound reproduction of material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, or otherwise results in an unfair trade practice or an unlawful restraint of competition.

The Contractor specifically assumes potential liability for actions brought against the County by Contractor's employees, including all other persons engaged in the performance of any work or service required of the Contractor under this Agreement and, solely for the purpose of this indemnification and defense, the Contractor specifically waives any immunity under the state industrial insurance law, Title 51 R.C.W. The Contractor recognizes that this waiver was specifically entered into pursuant to provisions of R.C.W. 4.24.115 and was subject of mutual negotiation.

6. The Contractor's relation to the County shall be at all times as an independent Contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, and any and all employees of the Contractor or other persons engaged in the performance of any work or service required of the Contractor under this Agreement shall be considered employees of the Contractor only and any claims that may arise on behalf of or against said employees shall be the sole obligation and responsibility of the Contractor.

7. The Contractor shall not sublet or assign any of the services covered by this contract without the express written consent of the County or its authorized representative. Assignment does not include printing or other customary reimbursable expenses that may be provided in an agreement.
8. Nothing in the foregoing clause shall prevent the County, at its option, from additionally requesting that the Contractor deliver to the County an executed bond as security for the faithful performance of this contract and for payment of all obligations of The Contractor.
9. The Contractor will declare management option of the statutory retained percentage on Exhibit B.

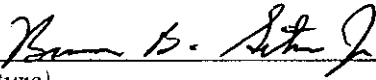
IN WITNESS WHEREOF, the Contractor has executed this instrument on the day and year first below written, and the Board of County Commissioners has caused this instrument to be executed by and in the name of said County of Jefferson the day and year first above written.

Executed by the Contractor ~~MAR~~¹³⁰ April 1, 2014

Contractor:

SETON CONSTRUCTION, INC.
(Please print)

By: BRUCE B. SETON, JR.
(Please print)


(Signature)

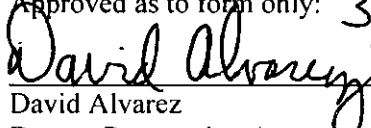
SETONCI16SOA
State of Washington, Contractor Registration Number


COUNTY OF JEFFERSON
BOARD OF COMMISSIONERS

John Austin, Chair

Phil Johnson, Member

David W. Sullivan, Member

Approved as to form only: 3/27/14
 _____ Date
David Alvarez
Deputy Prosecuting Attorney

 _____ 4-7-14 Date
Monte Reinders, P.E.
Public Works Director/County Engineer

**CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION**

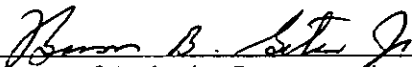
The Contractor certifies to the best of its knowledge and belief, that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- (4) Have not within a 3-year period preceding this contract had one or more public transactions (Federal, State, or local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, such Contractor shall attach an explanation.

SETON CONSTRUCTION, INC.
Name of Contractor (Please print)

BRUCE B. SETON, JR., PRESIDENT
Name and Title of Authorized Representative (Please print)


Signature of Authorize Representative

I am unable to certify to the above statement. An explanation is attached.

**CONTRACTOR'S DECLARATION OF OPTION FOR MANAGEMENT OF
STATUTORY RETAINED PERCENTAGE**

A. I hereby elect to have the retained percentage of this contract held in a fund by the Owner until (30) days following final acceptance of the work.

Date 4/1/14

Signed *Brian B. [Signature]*

B. I hereby elect to have the Owner deposit the retained percentage of this contract in an interest bearing account, not subject to withdrawal until after final acceptance of the work.

Date _____

Signed _____

C. I hereby elect to have the Owner invest the retained percentage of this contract from time to time as such retained percentage accrues.

I hereby designate _____ as the repository for the escrow of said funds.

I hereby further agree to be fully responsible for payment of all costs or fees incurred as a result of placing said retained percentage in escrow and investing it as authorized by statute. The Owner shall not be liable in any way for any costs or fees in connection therewith.

Date _____

Signed _____

EMERGENCY PAY RATE SCHEDULE for SETON CONSTRUCTION INC.

(COMPANY)

Equipment (w/ Operator)	Description	State Rate	
		Regular	Overtime
330 Class Excavator (w/ Thumb)		195.00	215.00
320 Class Excavator (w/ Thumb)		160.00	180.00
315 Class Excavator (w/ Thumb)		160.00	180.00
10 CY Dump Truck		110.00	125.00
Dump Truck with Pup		120.00	135.00
D-5 Class Dozer		150.00	170.00
Low Boy for Mobilization		120.00	135.00
Backhoe		100.00	120.00

Federal Rate	
Regular	Overtime
195.00	215.00
160.00	180.00
160.00	180.00
130.00	155.00
140.00	165.00
150.00	170.00
140.00	165.00
100.00	120.00

Labor	Regular	Overtime
Laborer (inc. pickups and common small tools)	64.42	85.66
Flagger (inc. pickups and traffic control devices)	54.95	81.34

Regular	Overtime
64.42	85.66
54.95	81.34

Materials (FOB @ Pit/Quarry)		FOB Price
3 to 4-man Rock	Canyon Creek Quarry	24.00 / TON
Location:	Shine Quarry	24.00 / TON
Location:	Penny Creek Quarry	24.00 / TON
Heavy Loose Rip Rap	Canyon Creek Quarry	18.00 / TON
Location:	Shine Quarry	17.00 / TON
Location:	Penny Creek Quarry	17.00 / TON
Clean Pit Run	Canyon Creek Quarry	6.50 / TON
Location:	Thorndyke Quarry	5.50 / TON
Location:	Cape George Pit	5.50 / TON
Crushed Surfacing	Canyon Creek Quarry	11.50 / TON
Location:	Shine Quarry	11.50 / TON
Location:	Penny Creek Quarry	11.50 / TON
Quarry Spalls	Canyon Creek Quarry	12.50 / TON
Location:	Shine Quarry	12.50 / TON
Location:	Penny Creek Quarry	12.50 / TON

ATTACH ADDITIONAL SHEETS AS NEEDED

List Permitted Dumpsite Locations (if any)

Bruce B. Seton Jr. -- President
Authorized Company Representative

Seton Construction Inc.



12-31-2013
Date

EMERGENCY PAY RATE SCHEDULE FOR SETON CONSTRUCTION, INC.

Equipment (w/Operator) Description	State Rate	
	Regular	Overtime
Deere 240 Excavator	170.00	190.00
Kubota KX080-3 Excavator	135.00	155.00
Roller - Wacker R 100D	100.00	120.00

TERMS FOR EMERGENCY RATES

1. The Agency assumes rates are as stated for a period of 6 months or until modified in writing by the Contractor. Rates will be fixed prior to initiating work and will remain firm for the duration of any contract.
2. Operated equipment rates listed shall be full compensation for all work accomplished with said equipment and shall include (but not be limited to) operators, fuel, maintenance, and all costs incidental to furnishing and operating the equipment including overhead, profit, B&O tax, premiums on insurance policies, etc.
3. By virtue of WAC 458-20-171, retail sales tax does not apply to charges made for the construction or repair of County roads. On such projects, the contractor shall pay sales/use tax on materials and supplies used or consumed in the performance of the work.
4. Rates for trucks apply from an agreed upon point of departure and return each day.
5. Rates for equipment will be paid only when the equipment is operated or when an operator is on site ready to operate the equipment. No payment will be made for equipment parked at the site. When an operator is responsible for operating more than one piece of equipment, the equipment time will be split to reflect the actual time operated and the cumulative equipment time shall not exceed the operator's time on site for the day.
6. All equipment provided shall be in good working condition. No compensation will be provided for maintenance of equipment before, during, or after projects. Payment will cease immediately for any equipment that is broken down and for any other equipment that is idled as a result of the breakdown.
7. Mobilization costs apply only to the transporting vehicle and not to the equipment being transported.
8. Materials prices listed are FOB at the pit/quarry and do not include sales tax. Sales tax will be added to any invoice.
9. Cost for Contractor-provided pickups, traffic control devices, and common small tools shall be incidental to the rates for laborers, flaggers, and equipment.