



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: April 7, 2016

Staff Contact: Laura Tadman and David Bruketta

Agenda Title: For Possible Action: To approve contract number 1516-120, Purchase Agreement, with Road & Highway Builders, L.L.C., (RHB) which authorizes RHB to deliver excavation material from the Carson City Freeway Project, phase 2B-3, to the landfill at a charge of \$2 / cubic yard for a not to exceed amount of \$400,000. (Laura Tadman; LTadman@carson.org and David Bruketta (dbruketta@carson.org).

Staff Summary: Road and Highway Builders, L.L.C. will deliver an amount not to exceed 200,000 cubic yards of excavation material from the Carson City Freeway Project to the landfill. The landfill will store this material onsite and use as cover material to meet permit requirements. Carson City agrees to pay Road & Highway Builders L.L.C. \$2 / cubic yard for the amount of material received and will make annual payments, up to \$100,000 per year, on July 1 of each year. The first payment will be July 1, 2016.

Agenda Action: Formal Action/Motion

Time Requested: 10 minutes

Proposed Motion

Move to approve contract number 1516-120, Purchase Agreement, with Road & Highway Builders, L.L.C., (RHB) which authorizes RHB to deliver excavation material from the Carson City Freeway Project, phase 2B-3, to the landfill at a charge of \$2 / cubic yard for a not to exceed amount of \$400,000.

Board's Strategic Goal

Sustainable Infrastructure

Previous Action

None

Background/Issues & Analysis

The landfill is required to cover the refuse for vector control purposes. Landfill operations uses alternate daily cover (tarps) on the active face at the end of each day. A soil cover, approximately 12 inches thick, is placed on the working face of the the Construction & Demolition and Municipal Solid Waste areas at the end of each week. This consumes approximately 50,000 cubic yards of cover material annually. Historically, the cover material has been obtained from within the landfill, but those sources have run out and blasting is required to continue to generate this material. Current supplies of cover material are projected to last until late summer of this year. An estimated cost to generate this material onsite is approximately \$5 / cubic yard.

Applicable Statute, Code, Policy, Rule or Regulation

NRS 332.115(1)(b) and NRS 625.530.

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number: Cover Material, 101-6804-441.06-29

Is it currently budgeted? Yes No

Explanation of Fiscal Impact: If approved, \$100,000 will be budgeted into FY17 and future budgets.

Alternatives

Not award contract and provide other direction.

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT is made and entered into this _____ day of _____, 2016, by Road & Highway Builders, L.L.C., a Nevada limited liability company (hereinafter "RHB") and CARSON CITY, a consolidated municipality and political subdivision of the State of Nevada, by and through the Carson City Board of Supervisors (hereinafter "Board of Supervisors").

RECITALS

Whereas, RHB is at the time of this PURCHASE AGREEMENT the contractor under separate contract with the Nevada Department of Transportation for the performance of certain work relating to highway construction in this State (Nevada Department of Transportation Contract No. 3585, Project No. NHP-395-1(027), I.D. No. 60604, U.S. 395, Carson City Freeway, from South Carson Street to Fairview Drive, Package 2B-3, CC 0.05 to CC 3.15, Carson City County), known as phase 2B-3 of the Nevada Department of Transportation, Carson Freeway Project;

Whereas, the performance of work by RHB relating to the Nevada Department of Transportation, Carson Freeway Project will result in the production of certain quantities of excavation material at the construction site that may be properly used as cover material, as that term is defined in chapter 12.12 of Title 12 of the Carson City Municipal Code, at the Carson City Landfill, located at 3600 Flint Drive in Carson City, Nevada;

Whereas, the Carson City Landfill supplies annually significant quantities of cover material for use in Construction and Demolition and Municipal Solid Waste disposal

areas located within Carson City, but such cover material historically obtained from the Carson City Landfill is near depletion;

Whereas, pursuant to the Carson City Charter, at Article 1, Section 1.070, the Board of Supervisors is vested with the corporate powers of Carson City;

Whereas, pursuant to the Carson City Charter, at Article 2, Section 2.140, the Board of Supervisors has the authority to purchase, receive, hold, sell, lease, convey and dispose of property, real and personal, wherever situated, for the benefit of Carson City, and to improve and protect such property and do all other things in relation thereto which natural persons might do;

Whereas, RHB proposes to supply and transport a quantity of excavation or earthen material to the Carson City Landfill, as more particularly described in Exhibit "A" to this PURCHASE AGREEMENT;

Whereas, due to current market and economic conditions, RHB and CARSON CITY believe that it is mutually beneficial to enter into this PURCHASE AGREEMENT; and

NOW THEREFORE, for good and valuable consideration, and the mutual covenants, conditions and promises herein contained, the parties do agree as follows:

I.

SCOPE AND CONDITIONS

1. RHB agrees to haul, transport and deliver to the Carson City Landfill approximately, but in no event an amount to exceed, TWO HUNDRED THOUSAND (200,000) cubic yards of excavation or earthen material that is suitable for use as cover material by not later than July 1, 2016.

2. RHB agrees to deliver the material described in this PURCHASE AGREEMENT to a particular location within the Carson City Landfill as that location is designated by CARSON CITY, and on such dates and at such reasonable times as are approved by CARSON CITY, so long as those dates and times do not restrict the ability of RHB to deliver the quantity of material described in this PURCHASE AGREEMENT on or before July 1, 2016.

3. CARSON CITY agrees to designate and make available a suitable location within the Carson City Landfill at which RHB may unload the delivery of material under this PURCHASE AGREEMENT without unreasonable traffic restrictions on the ingress and egress of any delivery vehicles used by RHB such that the delivery and unloading of material by RHB is made impossible.

4. CARSON CITY agrees to pay RHB the amount of TWO DOLLARS (\$2.00) per cubic yard for the purchase, transport and delivery of the material described in this PURCHASE AGREEMENT, for a total aggregate amount not to exceed FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00). Payment will be made to RHB in accordance with the following terms:

(A) Payment is due and payable as four (4) annual installment payments.

(B) The first annual installment payment is due and payable on July 1, 2016.

(C) Each annual installment payment shall be the LESSER of:

i. ONE HUNDRED THOUSAND DOLLARS (\$100,000.00); or

ii. The total remaining balance due and payable to RHB.

5. The approval of this PURCHASE AGREEMENT shall serve as the intent by CARSON CITY and RHB to conduct themselves in accordance herewith. Unless

otherwise modified within this PURCHASE AGREEMENT, or by future modifications to this PURCHASE AGREEMENT, RHB agrees to be in compliance herewith and any conditions of approval. All modifications to this PURCHASE AGREEMENT must be approved by the Board of Supervisors.

II.

DEFAULTS, REMEDIES, TERMINATION

6. A default or breach of this PURCHASE AGREEMENT may be declared with or without termination.

7. In the event of alleged default or breach of any terms or conditions of this PURCHASE AGREEMENT, the party alleging such default or breach shall give the other party not less than thirty (30) days notice in writing, specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such thirty (30) day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

8. After notice and expiration of the thirty (30) day period, the non-defaulting party to this PURCHASE AGREEMENT may, at its option, institute legal proceedings pursuant to this PURCHASE AGREEMENT.

9. In addition to any other provision of this PURCHASE AGREEMENT, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, avalanches, inclement weather, fires, casualties, acts of God, governmental restrictions imposed or mandated by other governmental entities not parties to this PURCHASE AGREEMENT, enactment of conflicting state or federal laws

or regulations, new or supplementary environmental regulation, litigation or similar grounds for excused performance. If written notice of such delay is given to CARSON CITY within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, as may be mutually agreed upon. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein or to enjoin any threatened or attempted violation. CARSON CITY shall not be held liable to RHB for damages (actual, incidental or otherwise) as a result of its failure to review or approve permits and entitlements in a timely manner.

10. Notwithstanding any other provision of this PURCHASE AGREEMENT, all payments to be provided by CARSON CITY under this PURCHASE AGREEMENT are contingent upon the availability of the necessary public funding, which may include various internal and external sources. In the event that CARSON CITY does not acquire and appropriate the funding necessary to perform in accordance with the terms of this PURCHASE AGREEMENT, this agreement shall automatically terminate upon CARSON CITY'S notice to RHB of such non-appropriation, and no claim or cause of action may be based upon any such non-appropriation.

III.

INSURANCE

11. RHB shall carry policies of insurance in amounts specified in paragraph 12 of this PURCHASE AGREEMENT and pay all taxes and fees incident thereto. CARSON CITY shall have no liability except as specifically provided in this PURCHASE AGREEMENT.

12. **Commercial General Liability Insurance (Minimum Limit):**

Two Million Dollars (\$2,000,000.00) – General Aggregate.

Two Million Dollars (\$2,000,000.00) – Products & Completed Operations Aggregate.

One Million Dollars (\$1,000,000.00) – Each occurrence.

Coverage shall be on an occurrence basis and shall be at least as broad as ISO 1996 form CG 00 01 (or a substitute form providing equivalent coverage); and shall cover liability arising from premises, operations, independent subscribers, completed operations, personal injury, products, civil lawsuits, Title VII actions and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

Business Automotive Liability Insurance (Minimum Limit):

One Million Dollars (\$1,000,000.00) per occurrence - bodily injury and property damage.

Coverage shall be for “any auto” including owned, non-owned and hired vehicles. The policy shall be written on ISO form CA 00 01 or a substitute providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

13. Each liability insurance policy shall list CARSON CITY c/o Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 3, Carson City, NV 89701 as a certificate holder.

14. By endorsement to the general liability insurance policy evidenced by RHB, CARSON CITY and its officers and employees shall be named as additional insureds for all liability arising from this PURCHASE AGREEMENT.

IV.

MISCELLANEOUS

15. Performance under this PURCHASE AGREEMENT must be made in compliance with all pertinent ordinances, laws and fees which apply in a uniform basis to similar agreements entered into by CARSON CITY.

V.

APPLICABLE LAW AND ATTORNEYS' FEES

16. This PURCHASE AGREEMENT shall be construed and enforced in accordance with the laws of the State of Nevada. Should any legal action be brought by either party relating to this PURCHASE AGREEMENT or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorney's fees, court costs and such other costs as may be fixed by the court.

VI.

SUCCESSORS AND ASSIGNS

17. The parties hereto agree that the terms and conditions of this PURCHASE AGREEMENT shall bind and inure to the benefits of the parties' successors and assigns.

VII.

ENTIRE AGREEMENT

18. This PURCHASE AGREEMENT constitutes the entire understanding between the parties with respect to the subject matter hereof, and supersedes all other agreements, written or oral, between the parties with respect to such subject matter.

VIII.

HOLD HARMLESS AND INDEMNIFICATION

19. RHB agrees to hold, and shall hold, CARSON CITY, including its elective and appointive boards, commissions, officers, agents and employees, harmless from any liability for injury or death or claims for property damage which may arise from the conduct of RHB or RHB'S contractors, subcontractors, agents or employees under this PURCHASE AGREEMENT. RHB agrees to, and shall defend CARSON CITY, its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damage caused or alleged to have been caused by reason of performance under this PURCHASE AGREEMENT.

IX.

PROJECT AS PRIVATE UNDERTAKING

20. It is specifically understood and agreed by and between the parties hereto that no partnership, joint venture or other association of any kind is formed by this PURCHASE AGREEMENT.

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IN WITNESS WHEREOF the parties hereto execute this PURCHASE AGREEMENT:

Agreement effective the day and year first above written.

Road & Highway Builders, LLC

By: _____
Will Hellickson
Area Manager of Road & Highway Builders, LLC
96 Glen Carren Circle, Suite 106
Sparks, NV 89431

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 2016, personally appeared before me, a notary public, _____, personally known (or proved) to me to be the person whose name is subscribed to the foregoing instrument, who acknowledged to be that he/she is the _____, of Road & Highway Builders, LLC and who further acknowledged to me that he/she executed the foregoing PURCHASE AGREEMENT on behalf of said company.

NOTARY PUBLIC

CARSON CITY
Board of Supervisors

By: _____
Robert Crowell
Mayor

ATTEST:

SUSAN MERRIWETHER, Clerk-Recorder

Approved as to form:

CARSON CITY DISTRICT ATTORNEY

By: _____
Deputy District Attorney

February 26th, 2016

Carson City Public Works
3505 Butti Way
Carson City, NV 89701

Attn: David Bruketta, Utility Manager

Re: Material Agreement Proposal

Dear Mr Bruketta,

Road and Highway Builders, LLC (RHB) is respectfully submitting the following proposal to supply earthen material to the Carson City Landfill. RHB will supply and haul earthen material to the designated dump location located at the Carson City Landfill for the price of \$2.00 per cubic yard. Carson City will be responsible for supplying a suitable dumping location and the resources to knock down or buck up the material being dumped in such a manner as to not restrict the flow of trucks. The total quantity of material available is unknown and RHB cannot guarantee an exact yardage. The final quantity of material delivered will be based on truck load counts and agreed to by all parties, but will not exceed 200,000 cubic yards.

All of the material will be delivered in 2016, RHB agrees to the following proposed payment terms payments will be due July 1st of each year and may not exceed \$100,000.00 per year, each subsequent year another payment with the same terms will be made until the balance is paid in full.

If you have any questions or concerns please feel free to call me at (775)-857-8056.

Sincerely,



Will Hellickson
Large Projects Manager

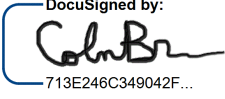


1263 South Stewart Street
Carson City, Nevada 89712
Phone: (775) 888-7070
Fax: (775) 888-7101

MEMORANDUM
Administrative Services

May 11, 2015

To: To Whom It May Concern

From: Colleen Brown, Administrative Assistant III 713E246C349042F...

Subject: Notice of Award for Contract No. 3585, Project No. NHP-395-1(027), I.D. No. 60604, US 395, Carson City Freeway, from South Carson st to Fairview Drive, Package 2B-3. CC 0.05 to CC 3.15, Carson City County.

This is to advise you the Director awarded the subject contract to Road and Highway Builders LLC, P.O. Box 70846, Reno, NV 89570, for the amount of \$42,242,242.00 on May 11, 2015.

The contract Notice to Proceed is June 1, 2015, with a time limit of 350 days and liquidated damages of \$15,000.00.

The contract is an FHWA full-oversight project.

Please consider this memo notification that the funding has been balanced and the project can now be taken to Specifications for archiving.