

**COUNTY OF ALAMEDA
PUBLIC WORKS AGENCY**

399 Elmhurst Street • Hayward, CA 94544-1395
(510) 670-5480

June 16, 2009

The Honorable Board of Supervisors
County Administration Building
1221 Oak Street
Oakland, CA 94612

Dear Board Members:

SUBJECT: APPROVE AND EXECUTE MODIFICATION NO. 1 TO CONTRACT # 4287 WITH PACHECO BROTHERS GARDENING, INC., (PRINCIPAL; GEORGE PACHECO, LOCATION: HAYWARD), THAT AMENDS THEIR CONTRACT TO SUBCONTRACT 20% OF THEIR WORK WITH A SMALL LOCAL BUSINESS TO PROVIDE LANDSCAPING SERVICES AT THE FIVE CANYONS COUNTY SERVICE AREA PW-1994-1 WITH NO CHANGES TO THE CONTRACT TERM AND AMOUNT.

RECOMMENDATION:

Approve and execute Modification No. 1 to Contract # 4287 with Pacheco Brothers Gardening, Inc., (Principal; George Pacheco, Location: Hayward), that amends their contract to subcontract 20% of their work with a Small, Local and Emerging Business to provide landscaping services at the Five Canyons County Service Area PW-1994-1 with no changes to the contract term and amount.

DISCUSSION / SUMMARY:

Five Canyons County Service Area (CSA) was established in 1994. The 718 acre CSA extends from East Castro Valley Boulevard near Jensen Road, to Fairview Avenue near Star Ridge Road. It consists of numerous planned developments which benefit from multiple area-wide service programs. These include: roads, emergency vehicle access roads, bridges, storm drainage, landscaping, open space, erosion control, mass soil movement, fire buffer zones, retaining walls and entry monuments, graffiti abatement, and administrative and engineering services. Service charges are based on services received.

Agency staff meets regularly with volunteer CSA Advisory Committee members and other interested property owners. Committee goals are to ensure the best service levels possible, keep service charges reasonable, and address property owners' concerns.

On May 13, 2008, Your Board awarded Contract #4287 to Pacheco Brothers Gardening, Inc. to Provide Landscape and Miscellaneous Open Space Services in Five Canyons County Service Area, PW-1994-1. The term of the three year contract is May 13, 2008 through June 30, 2011. The estimated cost for this contract shall not exceed \$678,792 and by mutual agreement allows for an option to renew for two additional one-year terms.

SELECTION/CRITERIA PROCESS:

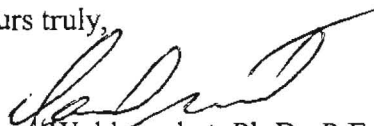
Pacheco was the highest ranked vendor selected through a competitive Request for Proposal process in conjunction with GSA-Purchasing.

Pacheco, previously certified as a small local business, has increased in capacity beyond the Small Local Emerging Business (SLEB) program certification limits and has been decertified. To maintain compliance with the SLEB program requirements, Pacheco will subcontract a minimum 20% with certified small business Splash of Class Painting. The Pacheco contract has been amended to include SLEB subcontractor and compliance provisions.

FINANCING:

The CSA is self-supporting; no General Fund monies are required to finance its operations. The contract is funded by service charges levied against the benefiting properties in the CSA and funds are available in Five Canyons CSA PW-1994-1 ORG 270531, Account 610261, Professional and Specialized Services.

Yours truly,



Daniel Woldesenbet, Ph.D., P.E.
Director of Public Works

DW:jlt

Modification No. 1

To Agreement with Pacheco Brothers Gardening, Inc.

This Modification No. 1 (the "First Modification") is made as of June 30, 2009, (the "Effective Date") by the County of Alameda ("County") and PACHECO BROTHERS GARDENING, INC., ("Contractor") with respect to the parties' Agreement To Provide Landscape and Miscellaneous Open Space Maintenance Services within the Five Canyons County Service Area, PW-1994-1, dated May 13, 2008, (the Agreement and Modification No. 1 are referred to collectively herein as the "Modified Agreement"). The First Modification is made with respect to the following facts:

County and Contractor desire to amend the Modified Agreement to incorporate Exhibit F as attached to this modification herein.

THEREFORE, County and Contractor agree as follows:

1. In order to meet the small local emerging business (SLEB) requirements of this Agreement, Exhibit F is hereby incorporated into the Agreement to be effective June 30, 2009
2. **SMALL LOCAL AND EMERGING BUSINESS PARTICIPATION:** Contractor shall subcontract with Splash of Class Painting (795 Sandoval Way, Hayward, CA 94544,; Principal, Lynn Pacheco), for services to be provided under this Agreement in an amount of at least twenty percent (20%) of the contract value of this Agreement in accordance with County's Small and Emerging Local Business provision.

Participation of a small and/or emerging local business must be maintained for the term of this contract. Contractor shall not substitute the small and/or emerging local business(s) listed in this agreement without prior written approval from the County. County will be under no obligation to pay contractor for the percent committed to a small and/or local business if the work is not performed or not performed by the listed small and/or emerging local business. Contractor will not be able to substitute the subcontractor without prior written approval from the Alameda County Auditor Controller Agency, Office of Contract Compliance Officer.

Contractor shall provide SLEB utilization reports when invoicing the County utilizing the Alameda County Compliance System. Contractor and Contractor's small and/or emerging local businesses participating as subcontractors on the awarded contract are required to use the County web-based compliance system as described in Exhibit E (Contract Compliance Reporting Requirements) to report and validate payments made by Prime Contractors to the certified small and/or emerging local businesses. It is the Contractor's

responsibility to ensure that they and their subcontractors are registered and trained as required to utilize the Alameda County Contract Compliance System.

Contact the County Auditor- Controller's Office of Contract Compliance (OCC) located at 1221 Oak St., Rm. 249, Oakland, CA 94612 at Tel: (510) 891-5500, Fax: (510) 272-6502 or via E-mail at ACSLEBcompliance@acgov.org if you have any other questions regarding utilization of the Alameda County Contract Compliance System.

All provisions of the Modified Agreement, except as modified by this First Modification, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF ALAMEDA

CONTRACTOR/COMPANY NAME

Pacheco Brothers Gardening, Inc.
795 Sandoval Way
Hayward, CA 94544

Tax Payer I.D. 94-2990539

By: _____
Signature

Name: _____
(Printed)

Title: President of the Board of Supervisors

By: Lynn Pacheco
Signature

Name: Lynn D Pacheco
(Printed)

Title: AR Manager

Date: 6/10/09

Approved as to Form:

By: Creaney Baman
County Counsel Signature

Date: _____

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

EXHIBIT F
SMALL LOCAL EMERGING BUSINESS (SLEB) SUBCONTRACTING
INFORMATION SHEET
COUNTY OF ALAMEDA

C-2714, PO #4287

Landscape and Miscellaneous Open Space Maintenance

In order to meet the small local emerging business (SLEB) requirements of this Contract, all contractors must complete this form as required below.

Contractors not meeting the definition of a SLEB (per this RFP County Provisions) are required to subcontract with a SLEB for at least twenty percent (20%) of the total estimated bid amount in order to be considered for contract award. This form must be submitted for each business that contractors will work with, evidencing a firm contractual commitment to meeting the SLEB participation goal. (Copy this form as needed.)

Contractors are encouraged to subcontract with a SLEB that can participate directly with this contract. One of the benefits of subcontracting will be economic, but this subcontracting will also assist the SLEB to grow and build the capacity to eventually bid as a prime on their own.

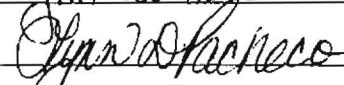
Once a contract has been awarded, contractors will not be able to substitute the subcontractor without prior written approval from the General Services Agency, Business Outreach Officer.

The County will monitor the contract for compliance with the SLEB requirements.

CONTRACTOR: Pacheco Brothers Gardening Inc.

is a SLEB.

is not a SLEB and will subcontract 20% with the SLEB named below for the following service(s):

SLEB
Business Name: Splash of Class Painting and Construction
Street Address: 795 Sandoval Way
City, State, Zip: Hayward, Ca 94544
Phone: (510) 487-3580 Fax: (510) 487-1830 e-mail: lynn@pachecobrothers.com
Tax ID Number: 94-3140569
Principal Name: Lynn Pacheco
SLEB Principal Signature:  5/2/09
(Date)

Contractor Signature:  5/2/09
(Date)