



Salmon Drift Creek Watershed Council
PO Box 112 Neotsu, OR 97364
(541)996-3161

Solicitation Number:

SDCWC 2010-Komatsu

Synopsis:

This is a solicitation for supply of an excavator for work at the Pixieland restoration site, located near the intersection of highway 101 and 18 north of Lincoln City, OR.

Description of Work:

Work is as follows:

- **Supply one Komatsu PC 200 or equivalent excavator with highly qualified operator for 100 hours.**
- **Fuel is supplied on site.**

Bidders are responsible for examining work localities and all terms of this Invitation to Bid. No consideration will be given to any claim resulting from bidding without comprehending all instructions, specification, and/or work conditions.

Important note: The site is currently closed to public access, so site visitation must be through arrangement with the USFS.

ESTIMATES NOT BINDING: Any estimate or other information provided by SDCWC respecting the physical characteristics of the land, condition, or density of the area or areas to be treated under this contract is for information only and shall not be relied upon by any bidder. By submitting its bid, CONTRACTOR assumes all risk of personally investigating the site and the conditions relating to the performance of the contract. SDCWC neither represents nor warrants the accuracy of any estimate or information, and bidders agree to bear exclusive responsibility for, and to accept all risks associated with, their estimates of the reasonable costs of the performance of this contract.

Submitting Bid:

Bid sheet is to include hourly rate for excavator and operator, specifications on the model of excavator, qualifications of operator, and mobilization cost (total).

Bids must be received by Monday, August 9th at 5PM. Submit bid by email to coordinator@salmondrift.org cc: to rpiehl@fs.fed.us.

Award:

The SDCWC intends to make a single award.

Contracting Representative: Rob Piehl, Project Engineer, Willamette National Forest, 541-225-6359 (desk) or 541-954-9917 (cell).

CONTRACT TERMS FOR WATERSHED IMPROVEMENT PROJECT

Pixieland Kamatsu PC200/equivalent

The following terms will apply to a contract awarded to the winning bidder (herein called CONTRACTOR), and the **Salmon Drift Creek Watershed Council** (herein called SDCWC).

1. STATEMENT OF WORK

A. CONTRACTOR agrees to perform directly, or by using subcontractors (CONTRACTOR shall not enter into any subcontracts for any work scheduled under this Contract without obtaining prior written approval from the SDCWC), the work under this contract as described in the following documents and by this reference made a part of this contract:

Work is as follows:

- Supply one Komatsu PC 200 or equivalent excavator with highly qualified operator for 100 hours.
- Fuel is supplied on site.

All Addenda, if any

B. CONTRACTOR agrees to provide all equipment, tools, labor and materials required to carry out the specifications of the project. The work shall be performed using the CONTRACTORS own equipment. All supplies and parts shall be furnished by the CONTRACTOR. SDCWC will supply a technical person (SDCWC Project Manager or designated agent) to direct/inspect the work of the CONTRACTOR.

C. CONTRACTOR agrees to perform the work expeditiously in conformance to all bid documents and proposals, specifications, professional and industrial standards and requirements of this contract. CONTRACTOR and SDCWC shall mutually agree upon a schedule for the performance of the CONTRACTOR'S services, allowing time for the SDCWC'S representative to review the work. The date for completion of the work is **to be determined.**

D. CHANGES IN WORK

No claim for extra work shall be considered or allowed unless such extra work shall have been previously ordered in writing by SDCWC or its representative. All loss or damage from any unforeseen obstructions, difficulties or conditions which may be encountered in execution of the work, or from the action of the elements, or from encumbrances in the line of work, or from any act or omission on the part of the CONTRACTOR or any person or agent employed by the CONTRACTOR shall be borne by the CONTRACTOR.

CONTRACTOR shall not be entitled to claim damages or compensation for any hindrance or delay in the progress of the work that is beyond the reasonable control of CONTRACTOR or SDCWC, but such hindrance may entitle CONTRACTOR to such reasonable extension of time for completing the work as may be determined by SDCWC, provided that CONTRACTOR shall have notified SDCWC'S representative in writing, within (5) days of the actual discovery of any cause of delay of the date the cause shall have been discovered in the exercise of

reasonable diligence, of the nature of the cause of the delay, and the anticipated length of the delay.

In no event shall SDCWC consider or allow any claim for compensation or damages of any nature unless CONTRACTOR has delivered to SDCWC or its representative, within five (5) days of the actual discovery of the circumstances giving rise to any such claim or the date such circumstances should have been discovered in the exercise of reasonable diligence, written notice of the nature of such circumstances, and the amount of the claim. Claims not reported as provided in this section are waived by CONTRACTOR.

2. **CONSIDERATION**

A. This Contract is awarded in the amount **(TBD)**

B. Reimbursement for work performed shall not exceed a total of **(TBD)** without mutual written consent of both CONTRACTOR and SDCWC.

C. Consideration shall be paid **only** after completed work has been inspected and approved by SDCWC Project Manager or designated agent, upon submission of invoice or other such payment request to SDCWC. Invoice for all work performed under this Contract shall be sent to SDCWC at PO Box 112 Neotsu, OR 97364 or delivered to the SDCWC office in person. SDCWC agrees to pay invoice within forty-five (45) days of receipt providing CONTRACTOR has met all conditions and requirements of the Contract.

D. SDCWC certifies, at the signing of this contract, that sufficient funds are available and authorized for expenditure to finance costs of this contract within the SDCWC's current Program.

3. **ASSIGNMENT**

CONTRACTOR shall not assign or transfer interest in this Contract without the express written consent of SDCWC.

4. **AMENDMENTS**

Terms of this Contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by both parties.

5. **TERMINATION**

A. This Contract may be terminated immediately without statement of cause at any time by mutual consent of both parties, or by either party upon ten (10) days' notice, in writing, delivered by certified mail or in person. SDCWC may terminate this Contract effective upon delivery of written notice to CONTRACTOR, or at such later date as may be established by SDCWC, under any of the following conditions:

1. If funding from federal, state or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services, the Contract may be modified to accommodate reduction in funds.

2. If federal or state laws, rules, regulations, or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.

3. If any license or certification required by law or regulation to be held by CONTRACTOR to provide the services required by this Contract is for any reason denied, revoked or not renewed.

B. Any termination of this Contract under Paragraph A. of this section shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

6. **DEFAULT**

A. SDCWC, by written notice to CONTRACTOR of default, including breach of Contract, may terminate the whole or any part of this Contract:

1. If CONTRACTOR fails to provide services called for by this Contract, or any extension thereof; or,

2. If CONTRACTOR fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger the performance of this Contract in accordance with its terms, and after receipt of written notice from SDCWC fails to correct such failures within three (3) days or such longer period as SDCWC may authorize.

B. The rights and remedies of SDCWC provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

7. **WAIVER**

The failure of SDCWC to enforce any provision of this Contract shall not constitute a waiver by SDCWC of that or any other provision.

8. **INDEMNITY**

CONTRACTOR shall indemnify, defend and hold harmless the SDCWC, its officers, agents and employees from all claims, suits or actions of any nature arising out of the activities of CONTRACTOR, its officers, subcontractors, agents or employees under this Contract.

9. **INSURANCE**

CONTRACTOR shall secure at its expense and keep in effect during the term of this Contract comprehensive general liability with extended coverage endorsement from an insurance company authorized to do business in the State of Oregon. The limits shall not be less than one million dollars (\$1,000,000.00) per occurrence for personal injury and property damage. The liability insurance coverages required for performance of this Contract shall include the SDCWC, and its officers, agents and employees as Additional Insured's but only with respect to the CONTRACTOR's activities to be performed under this Contract.

10. **COMPLIANCE WITH APPLICABLE LAW**

CONTRACTOR agrees to comply with all federal, state, county and local laws, ordinances and regulations applicable to this Contract.

11. **MERGER**

This Contract constitutes the entire contract between the parties. No waiver, consent, modification or change of terms of this Contract shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified in this Contract regarding this Contract. CONTRACTOR, by the signature of its authorized representative, hereby acknowledges that it has read this Contract, understands it and agrees to be bound by its terms and conditions.

12. **Contract Administration Authority**

Authority to administer this contract is designated to Rob Piehl (USDA Forest Service) or, in his absence, Barb Ellis Sugai (USDA Forest Service) for the following actions:

1. Issue notice to proceed to contractor
2. Issue Field Orders
3. Approve or reject substitutes
4. Issue stop and start work orders
5. Grant extensions of contract time
6. Approve payments, with concurrence of SDCWC.
7. Approve change orders and amendments, with concurrence of SDCWC.
8. Make final acceptance under the contract, with concurrence of SDCWC.

SDCWC reserves authority for the following:

1. Approve assignment of claims
2. Make final decisions for suspension of work
3. Make equitable adjustments
4. Authorize change in amount of payment retention.

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