

DEPARTMENT: Public Works

Michael D. Edwards
Public Works Director

Phone: 966-5356

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes__ No X)

Resolution ratifying the long-term rental of a D-7 Dozer from Hilton Construction Company to be used for the Triangle Road/Carter Curve project.

The rental rate is \$65 per hour for time used (approximately \$5,000 per month). We will not be charged for idle time, and currently, the dozer is being left at the site so it can be used as needed. If we were to rent this type of dozer from rental agencies, it would cost approximately \$8,000 per month or more, whether or not we use it. The estimated total cost for this fiscal year is \$30,000. This rental is expected to continue throughout the two-year course of construction.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

This project was approved by the Board on November 12, 1996.

In the past, the Board has authorized the rental of equipment to complete projects or for other special circumstances.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve. Authorize rental from another source at a substantially higher rate. This would increase the cost of the project.

COSTS: <input type="checkbox"/> Not Applicable A. Budgeted current FY \$ 479,400 B. Total anticipated costs \$ 30,000 C. Required additional funding \$ D. Internal transfers \$		SPECIAL INSTRUCTIONS: List the attachments and number the pages consecutively: 1. Contract for Services _____ _____ _____ _____
SOURCE: <input type="checkbox"/> 4/5th Vote Required A. Unanticipated revenues \$ B. Reserve for contingencies \$ C. Source description: _____ Balance in Reserve Contingencies, _____ if approved: \$ _____		

CLERK'S USE ONLY
 Res. No.: 97-49 Ord. No. _____ This item on agenda as:
 Vote - Ayes: 5 Noes: _____
 Absent: _____ Abstained: _____
 Approved Denied
 Minute Order Attached No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.
 Date: _____
 ATTEST: MARGIE WILLIAMS, Clerk of the Board
 County of Mariposa, State of California
 By: _____
 Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

Recommended
 Not Recommended
 For Policy Determination
 Submitted with Comment
 Returned for Further Action

Comment: _____

 A.O. Initials: Jh

CONTRACT FOR SERVICES

This AGREEMENT made this 1st day of December, 1996 between:

COUNTY: County of Mariposa Department of Public Works,
4639 Ben Hur Road
Mariposa, California 95338

and

CONTRACTOR: Hilton Construction
5649 "B" Darrah
Mariposa, CA 95338

ARTICLE 1. TERM OF CONTRACT

1.01 Contract Term: This agreement will become effective on December 1, 1996 and will continue on a month-to-month basis until the project is completed, unless terminated in accordance with the provisions of Article 6 of this agreement.

ARTICLE 2. SERVICES TO BE PERFORMED BY CONTRACTOR

2.01 Specific Services: Contractor agrees to provide the necessary rental equipment to facilitate the removal of the soil at Carter curve on Triangle Road.

ARTICLE 3. COMPENSATION

3.01 Compensation: In consideration for the services to be performed by Contractor, County agrees to pay Contractor the following rates for equipment rental:

D-7 Dozer	\$65.00 per hour
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3.02 Invoices: Contractor shall submit invoices for all services rendered.

3.03 Date for Payment of Compensation: Payment shall be made within 45 days of invoices being submitted from the Contractor to the County, and approval and acceptance of the work by the Director of Public Works.

3.04 Expenses: Contractor shall be responsible for all costs and expenses incident to the performance of services for County, including but not limited to, all costs of equipment provided by Contractor, all fees, fines, licenses, bonds or taxes required of or imposed against Contractor and all other of Contractor's costs of doing business. County shall be responsible for no expense incurred by Contractor in performing services for County, except for the cost of fuel and oil consumption for daily operation of the equipment.

3.05 Compensation for Damage to Contractor's Equipment: County will not be responsible for damage to Contractor's equipment except if there is misuse of the equipment by the County operator, not including normal wear and tear.

ARTICLE 4. OBLIGATIONS OF CONTRACTOR

4.01 Tools and Instrumentalities: Contractor will supply all tools and instrumentalities required to perform the services under this agreement. Contractor is not required to purchase or rent any tools, equipment or services from County.

- 4.02 Indemnification of Liability: Contractor shall indemnify and hold County harmless against any and all liability imposed or claimed, including attorneys' fees and other legal expenses, arising directly or indirectly from any act or failure of Contractor or Contractor's assistants, employees or agents, including all claims relating to the injury or death of any person or damage to any property. Contractor agrees to maintain a policy of insurance in the minimum amount of five hundred thousand dollars (\$500,000) to cover any such claims.
- 4.03 Assignment: Neither this agreement nor any duties or obligations under this agreement may be assigned by Contractor without the prior written consent of County.

ARTICLE 5. OBLIGATION OF COUNTY

- 5.01 Assignment: Neither this agreement nor any duties or obligations under this agreement may be assigned by County without the prior written consent of contractor.

ARTICLE 6. TERMINATION OF AGREEMENT

- 6.01 Termination by County for Default of Contractor: Should Contractor default in the performance of this agreement or materially breach any of its provisions, County, at County's option, may terminate this agreement by giving written notification to Contractor.

ARTICLE 7. GENERAL PROVISIONS

- 7.01 Notices: Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing in the introductory paragraph of this agreement, but each party may change the address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of two days after mailing.
- 7.02 Entire Agreement of the Parties: This agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by Contractor for County and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this agreement shall be valid or binding. Any modification of this agreement will be effective only if it is in writing signed by the party to be charged.
- 7.03 Partial Invalidity: If any provision in this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

7.04 Attorney's Fees: If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this agreement, the prevailing party will be entitled to reasonable attorney's fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled.

7.05 Governing Law: This agreement will be governed by and construed in accordance with the laws of the State of California.

Executed at Mariposa County, California, on the date and year first above written.

CONTRACTOR;

COUNTY:

Company Name:

Hilton Construction

County of Mariposa

By: BILL HILTON 1/21/97
Signature (date)

By: [Signature] 1/22/97
Signature (date)

BILL HILTON
Printed Name

Social Security or Taxpayer Identification Number 77-6054651

Contractor Number 464876

Approved As to Form:

[Signature]
Jeffrey G. Green
Mariposa County Counsel