

STAFF REPORT

SUBJECT: PROFESSIONAL ARCHITECTURAL AND ENGINEERING CONSULTANT SERVICES AGREEMENT WITH JEFF KATZ ARCHITECTURE TO PERFORM ARCHITECTURAL SERVICES FOR A NEW FIRE STATION TO BE CONSTRUCTED BY THE DISTRICT

Board of Directors of Coastside Fire Protection District:

Summary:

This report provides the Board with the Professional Architectural and Engineering Consultant Services Agreement with Jeff Katz Architecture, an architect whose services were approved by the Board at the January 28, 2015 Board meeting, to provide architectural services for a new fire station to be constructed by the District.

Background and Discussion:

In June 2014, the District solicited requests for proposals for new Fire Station 41 professional design services. The Assistant Chief and District Counsel conducted an initial review of all proposals to determine compliance with the submission requirements outlined in the request for proposal.

The Board's Land and Buildings Committee selected Jeff Katz Architecture as the firm for the project. The detailed scope of services is shown in the Professional Architectural and Engineering Consultant Services Agreement, Attachment A to the Resolution attached hereto as Attachment 1. Mr. Katz has reviewed the agreement and finds its terms acceptable.

Fiscal Impact

The Agreement is for a value not to exceed \$435,000.

Recommendation

Staff requests that the Board approve a contract with Jeff Katz Architecture.

Attachment:

1. A Resolution of the District Board of Coastside Fire Protection District Approving a Professional Architectural and Engineering Consultant Services Agreement with Jeff Katz Architecture

Respectfully submitted,

JEAN B. SAVAREE
District Legal Counsel

RESOLUTION NO. 2015-_____

A RESOLUTION OF THE DISTRICT BOARD OF COASTSIDE FIRE PROTECTION DISTRICT APPROVING A PROFESSIONAL ARCHITECTURAL AND ENGINEERING CONSULTANT SERVICES AGREEMENT WITH JEFF KATZ ARCHITECTURE

WHEREAS, in June 2014, the Coastside Fire Protection District solicited requests for proposals for new Fire Station 41 professional design services; and

WHEREAS, the Assistant Chief and District Counsel conducted an initial review of all proposals to determine compliance with the submission requirements outlined in the request for proposal; and

WHEREAS, the Board's Land and Buildings Committee selected Jeff Katz Architecture as the firm for the project; and

WHEREAS, Jeff Katz Architecture is qualified to provide said architectural services.

NOW, THEREFORE, BE IT RESOLVED that the Coastside Fire Protection District Board of Directors does hereby approve a Professional Architectural and Engineering Consultant Services Agreement with Jeff Katz Architecture and authorizes the Board President to sign the agreement on behalf of the District. (Attachment A)

PASSED AND ADOPTED as a resolution of the Coastside Fire Protection District at the special meeting held on the 25th day of February, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gary Burke, Board President

ATTEST:

Fire Chief Paul Cole, District Secretary

PROFESSIONAL ARCHITECTURAL AND ENGINEERING CONSULTANT SERVICES
AGREEMENT WITH JEFF KATZ ARCHITECTURE
STATION 41 ARCHITECTURAL SERVICES

THIS AGREEMENT, made and entered into this _____ day of _____, 2015, by and between the COASTSIDE FIRE PROTECTION DISTRICT, hereinafter referred to as "DISTRICT," and JEFF KATZ ARCHITECTURE with offices at 6353 Del Cerro Boulevard, San Diego, California, hereinafter referred to as "CONSULTANT".

WITNESSETH

WHEREAS, DISTRICT desires certain professional CONSULTANT services hereinafter described; and

WHEREAS, DISTRICT desires to engage CONSULTANT to provide these services by reason of its qualifications and experience for performing such services and CONSULTANT has offered to provide the required services on the terms and in the manner set forth herein:

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

SECTION 1 – DEFINITIONS

1.1 DISTRICT CLERK

The term "District Clerk" means the duly appointed District Clerk of the Coastsides Fire Protection District, California, or her designated representative.

1.2 FIRE CHIEF

The term "Fire Chief" means the duly appointed Assistant Fire Chief of the Coastsides Fire Protection District, California, or his designated representative.

1.3 PROJECT

The term “project” means the work described in Exhibit “A” entitled “Statement of Consultant Service” attached hereto and made a part hereof.

SECTION 2 – ATTACHMENTS

2.1 EXHIBIT “A” – STATEMENT OF CONSULTANT SERVICES

The Statement of CONSULTANT Services identifies the scope of the project and CONSULTANT services.

2.2 EXHIBIT “B” – WORK DONE BY OTHERS

Work done by others shall identify all work that is necessary to complete the project but which is not considered part of the work provided by CONSULTANT.

2.3 EXHIBIT “C” – PROJECT SCHEDULE

The Project Schedule is the time frame required by CONSULTANT to complete the work described in EXHIBIT “A” – STATEMENT OF CONSULTANT SERVICES.

2.4 EXHIBIT “D” - SCHEDULE OF COSTS

Schedule of Costs details CONSULTANT'S negotiated fee.

2.5 EXHIBIT “E” – KEY CONSULTANT STAFF AND SUBCONSULTANTS

The CONSULTANT staffing and subconsultants exhibit provides a list of key personnel to be dedicated to subject project, including list of all subconsultants.

2.6 EXHIBIT “F” – INSURANCE FORMS

SECTION 3 – PROJECT COORDINATION

3.1 DISTRICT

Paul Cole, Fire Chief, is hereby designated as the PROJECT MANAGER for the DISTRICT and shall supervise the progress and execution of this Agreement.

3.2 CONSULTANT

CONSULTANT shall assign a single PROJECT DIRECTOR to have overall responsibility for the progress and execution of this Agreement for CONSULTANT. Jeff Katz hereby is designated as the PROJECT DIRECTOR for CONSULTANT. Anthony Damon shall be assigned as PROJECT COORDINATOR for CONSULTANT and shall represent CONSULTANT during the day-to-day work on the Project. Should circumstances or conditions subsequent to the execution of this Agreement require a substitute PROJECT DIRECTOR or PROJECT COORDINATOR for any reason the PROJECT DIRECTOR or PROJECT COORDINATOR designee shall be subject to the prior written approval of DISTRICT.

SECTION 4 – SCOPE OF PROJECT

4.1 The Project for which services are being provided is for architectural services for Station 41 project.

4.2 The Scope of Work to be executed by CONSULTANT shall be as described in Exhibit “A” – Statement of Consultant Services, attached hereto and made a part hereof; performance of which shall be in compliance with requirements stated hereinafter.

SECTION 5 – GENERAL PROVISIONS

5.1 RESPONSIBILITIES OF THE CONSULTANT

- a. CONSULTANT shall be responsible for the professional quality, technical accuracy and coordination of all studies, reports, designs, drawings, specifications and other services furnished by CONSULTANT under this

Agreement. CONSULTANT shall, without additional compensation correct or revise any negligent errors or deficiencies in its studies, reports, designs, drawings, specifications and other services.

- b. It is mutually understood and agreed by and between the parties hereto that CONSULTANT is skilled in the professional calling necessary to perform the work agreed to be done hereunder and that DISTRICT relies upon the skill of CONSULTANT to do and perform the work in a skillful, professional manner and CONSULTANT agrees to thus perform the work. Approval by DISTRICT of drawings, designs, specifications, and other incidental architectural-engineering work or materials furnished hereunder shall not in any way relieve CONSULTANT of responsibility for the technical accuracy of the work. CONSULTANT shall be and remains liable to DISTRICT in accordance with applicable law for all damages to DISTRICT caused by CONSULTANT'S negligent performance of any of the services furnished under this Agreement.
- c. Where a negligent error and/or omission occurs that is attributable to the CONSULTANT and that negligent error and/or omission causes a delay of time and/or additional costs, the CONSULTANT shall assume the responsibilities for costs, caused by damages associated with that error and/or omission. Additionally, CONSULTANT shall defend and indemnify, to the fullest extent permitted by law, the DISTRICT in regard to any and all claims submitted by the contractor due to CONSULTANT's error.
- d. CONSULTANT's key personnel to be dedicated to the subject project are

shown in Exhibit "E". Any subsequent changes to this list shall be subject to approval by DISTRICT.

5.2 CHANGES

- a. DISTRICT may, at any time, by written agreement make changes within the general scope of work in services to be performed. If such changes cause an increase or decrease to CONSULTANT'S fees, an equitable adjustment shall be made subject to approval by both DISTRICT and CONSULTANT and the agreement shall be modified in writing. Equitable adjustments shall be made pursuant to the CONSULTANT'S fee schedule attached hereto as Exhibit "D" and incorporated by this reference. No added compensation for changes resulting from CONSULTANT'S errors and/or omissions shall be allowed and such services shall be considered as included within the base scope of work.
- b. CONSULTANT shall not be entitled to equitable adjustments for added construction administration services due to errors and/or omissions of the CONSULTANT. To the extent that construction is extended for reasons not attributable to CONSULTANT'S errors and/or omissions, the CONSULTANT'S fees for construction administration shall be adjusted per the schedule of charges in Exhibit "D".
- c. No services for which an additional cost or fee will be charged by CONSULTANT shall be performed or furnished without prior written agreement of DISTRICT.

5.3 TERMINATION

- a. DISTRICT may, by written notice to CONSULTANT, terminate this Agreement in whole or in part at any time, either for DISTRICT'S convenience or because of the failure of CONSULTANT to fulfill its agreement obligations. Upon receipt of such notice CONSULTANT shall:
 1. Immediately discontinue all services affected (unless the notice directs otherwise); and
 2. Deliver to DISTRICT all data, drawings, specifications, reports, estimates, and summaries and such other information and materials as may have been accumulated by CONSULTANT in performing this Agreement, whether completed or in process.
- b. If the termination is for the convenience of DISTRICT, CONSULTANT shall be compensated for all authorized work performed prior to notification of termination but no amount shall be allowed for anticipated profit on unperformed services.
- c. If the termination is due to the failure of CONSULTANT to fulfill its agreement obligations, DISTRICT may take over the work and prosecute the same to completion by agreement or otherwise. In such case, CONSULTANT shall be liable to DISTRICT for any additional cost occasioned to DISTRICT.
- d. If, after any notice of termination for failure to fulfill Agreement obligations, it is determined that CONSULTANT had not so failed, the termination shall be deemed to have been effected for the convenience of DISTRICT. In such event, adjustment in the Agreement price shall be made as provided in paragraph (b) of this clause.

- e. CONSULTANT may terminate this Agreement upon thirty (30) days written notice to DISTRICT, but only in the event of substantial failure of performance by DISTRICT or in the event DISTRICT abandons or indefinitely postpones the Project.
- f. Upon termination of this Agreement or suspension of work on the project by either DISTRICT or CONSULTANT, all duties of DISTRICT and CONSULTANT as set forth in Sections 5.1 and 5.2 herein above shall terminate.

5.4 SUBCONSULTANTS

- a. Subconsultants required by CONSULTANT in connection with the services covered by the Agreement will be limited to such individuals or firms as were specifically identified in Exhibit "E". Any substitution or additions in such subconsultants will be subject to the prior written approval of DISTRICT.
- b. CONSULTANT shall be responsible for employing or engaging all persons and subconsultants necessary to perform the services of the CONSULTANT hereunder and shall be responsible for the performance of their work. No subconsultant of CONSULTANT will be recognized by DISTRICT as such. CONSULTANT shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subconsultants, if any, and shall keep the work under its control. If any employee or subconsultant of CONSULTANT fails or refuses to carry out the provisions of this Agreement or appears to be incompetent or to act in a disorderly or improper manner he or she shall be discharged immediately from the work

under this Agreement on demand of DISTRICT.

5.5 REQUIREMENTS FOR REGISTRATION OF DESIGNERS

The design of architectural, structural, plumbing and mechanical, electrical, civil or other engineering features of the work shall be accomplished or reviewed and approved by architects or engineers registered in the State of California to practice in their particular professional field. Plans, design calculations and reports shall be stamped and signed.

5.6 HEALTH AND SAFETY CODE

CONSULTANT represents that it is aware of the requirements of the Government Code and Health and Safety Code of the State of California relating to access to public facilities and accommodations for physically handicapped persons, and relating to facilities for handicapped persons. In accordance with the professional standard of care, CONSULTANT shall comply with such provisions in carrying out the terms of this agreement.

5.7 DESIGN WITHIN FUNDING LIMITATIONS

- a. CONSULTANT shall accomplish the services required under this Agreement so as to permit the award of a contract for the construction of the facilities designed at a price that does not exceed the final estimated construction cost prepared prior to the call for bids. The design shall be economically feasible and aesthetically pleasing to the community. If the lowest responsible bid for the Project received by DISTRICT exceeds the final estimated construction cost prepared prior to the call for bids by 10% or more, DISTRICT shall, at its sole and exclusive discretion:
 1. Give written approval of an increase in such fixed limit; or

2. Authorize rebidding of the Project within a reasonable time; or
3. Cooperate with CONSULTANT in revising the Project scope and quality as required to reduce the construction cost.

In the case of (3), CONSULTANT shall, without additional charge, perform such redesign and other services as necessary to bring the construction cost within the fixed limit, provided the construction contract is bid within 6 months of final design submittal.

- b. CONSULTANT will promptly advise DISTRICT in writing if it finds that the Project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a suitable facility within these limitations. DISTRICT may authorize a change in the scope of the Project as required to reduce the estimated construction cost or alternate bid items may be included to adjust the estimated construction cost to the fixed limit and CONSULTANT shall perform such services as part of the base contract scope of services without additional compensation from DISTRICT.
- c. Statements of probable construction cost and detailed final estimate of construction cost prepared by CONSULTANT represents its best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither CONSULTANT nor DISTRICT has any control over the cost of labor, materials or equipment, contractors' methods of determining bid prices, competitive bidding, or market conditions. Accordingly CONSULTANT cannot and does not guarantee that bids will not vary from any statement of probable construction cost or other cost estimate prepared

by it. Provided, however, this paragraph 5.7(c) does not affect CONSULTANT'S obligations set forth in paragraph 5.7(a) and 5.7(b).

5.8 GENERAL STATEMENT OF CONSULTANT SERVICES

As may be necessary to accomplish the work described in Exhibit "A" – Statement of Consultant Services, CONSULTANT shall prepare and furnish to DISTRICT, complete and ready for use, all necessary studies, reports, preliminary sketches, estimates, working records and other drawings (including large scale details as required), and specifications; shall check shop drawings furnished by the construction contractor; shall furnish consultation and advise as requested by DISTRICT during construction (but not including the supervision of the construction work); and shall furnish all other architectural and engineering services; including, without limitations, those specified hereinafter and required in connection with the accomplishment of DISTRICT projects. It is agreed without limiting the generality of the foregoing that:

- a. CONSULTANT shall attend conferences with DISTRICT, which include evening meetings with the Fire Board, at critical phases of the work as necessary to accomplish the Project.
- b. CONSULTANT shall without additional fee, correct or revise the drawings, specifications or other materials furnished under this Agreement if DISTRICT finds that such revision is necessary to correct errors or deficiencies for which CONSULTANT is responsible.
- c. CONSULTANT shall perform any other services that may be agreed upon by the parties subsequent to the execution of this Agreement.
- d. If requested in writing by DISTRICT, CONSULTANT shall provide one or

more project representatives to assist DISTRICT in the inspection of the construction contract progress. The fee for this service shall be subject to future negotiations.

SECTION 6 – COMPENSATION PROVISIONS

Payment shall be made by DISTRICT only for services rendered and upon submission of monthly Progress Payment Requests. The amount of CONSULTANT'S compensation shall be based on Exhibit "D" – Schedule of Costs on a time and materials basis, up to the maximum amount set forth.

6.1 CONSULTANT'S FEES

a. Basic Services.

CONSULTANT'S fee and costs for the Schematic Design Phase, Design Development Phase, Construction Documents Phase, Bidding Phase and Construction Administration Phase as identified in Exhibit "A" – Statement of Consultant Services will be for a maximum amount of \$435,000.

b. Additional Services to be Provided on an Hourly Basis.

The following items are not included in the Basic Services, and will be provided as additional services only after written authorization is received. Unless a subsequent fixed fee proposal is provided, the work will be done on an hourly basis per the attached Hourly Rate Schedule.

Additional Services not included in our basic scope of work include:

- Prepare CEQA documentation in accordance with City requirements.
- Prepare Coastal Commission Development Permit submission in

accordance with Coastal Commission requirements.

- Revisions to Schematic Design or Contract Documents resulting from DISTRICT requested changes to documents previously approved by the DISTRICT, or due to code or zoning changes made subsequent to DISTRICT approval.
- Preparing separate construction document packages for “fast-tracking” construction work and/or preparing additional documents for alternate bid items.
- Preparing separate construction document packages for the installation of temporary facilities for the DISTRICT during the course of construction.
- Services required because of significant changes in the project (not due to the design team's acts or omissions) including, but not limited to, size, quality, complexity, schedule, or the method for bidding and contracting for construction.
- Processing change requests for DISTRICT requested changes, and for unforeseen site conditions, after bid, including revisions to Contract Documents, processing approval of revisions through the Building Department, and Change Order negotiation.
- Providing services in conjunction with evaluating substitutions proposed by the Contractor, and making subsequent revisions to Contract Documents resulting from such.

- Providing services made necessary by the default of the Contractor, by major deficiencies in the work of the Contractor, or by failure of performance of either the DISTRICT or the Contractor under the Contract for Construction.
- Providing services in conjunction with arbitration proceedings or legal proceedings, except where the CONSULTANT is a party to such proceedings.
- Providing “Special Inspection” services required by law or the Contract Documents.
- Providing Phase One Environmental services for Soils, Asbestos or Lead survey and remediation.
- Preparation of drawings for work beyond the project boundary (site and immediate street frontage).
- Services in conjunction with any required discretionary approvals.
- Preparation of Public Improvement Plans.
- Traffic Engineering.
- Preparation of Boundary Surveys, AL TA Surveys, Title Reports, Deeds, Plats or Easement documents, construction staking or other documents in conjunction with the project site or Right-Of-Way.
- Preparation of documentation to process the project through the US Green Building Council as a LEED project.
- Design of photo-voltaic electrical generation systems.

- Design for undergrounding of existing overhead utilities.
- Plan check and permit fees (if paid by the consultant) will be a reimbursable expense, charged at 1.1 times the CONSULTANT's cost.
- All delivery, printing and reproduction costs will be a reimbursable expense, charged at 1.1 times the CONSULTANT's cost.

c. Reimbursable Expenses.

Payment for reimbursable expenses of the CONSULTANT shall be made as part of the monthly progress payments for services rendered.

d. For Extra Work or Changes.

Payment for extra work or changes in the work not initiated by CONSULTANT and authorized in writing by DISTRICT shall be made upon submission by CONSULTANT of a statement of itemized costs covering such work. Prior to commencing such extra work or changes, CONSULTANT and DISTRICT shall agree upon an estimated not-to-exceed cost for such extra work. In no event shall CONSULTANT be paid for design work or change order preparation which is necessary because of CONSULTANT'S errors or oversights.

6.2 PAYMENT UPON SUSPENSION OR ABANDONMENT OF PROJECT

If the Project is suspended for more than four (4) months (120 days) or abandoned in whole or in part, CONSULTANT shall be paid its compensation for services performed prior to receipt of written notice from DISTRICT of such suspension or abandonment,

together with additional and reimbursable expenses then due. If the Project is resumed after being suspended for more than four (4) months (120 days), any change in CONSULTANT'S compensation shall be subject to renegotiation and, if necessary, approval by the Fire Board. If this Agreement is suspended or terminated for fault of CONSULTANT, DISTRICT shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT'S services which are of benefit to DISTRICT.

SECTION 7 – CONSULTANT'S ACCOUNTING RECORDS

Accounting records including extra work and change orders shall be kept by CONSULTANT on a generally recognized accounting basis and shall be available to DISTRICT at mutually convenient times during the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday. Requests to review the records shall be made twenty-four (24) hours prior to review.

SECTION 8 – OWNERSHIP OF DOCUMENTS

8.1 Subject to the provisions of Paragraph 8.2 below, the original drawings, maps, plans, designs, records of survey, work data, specifications and other documents prepared by CONSULTANT in the performance of this Agreement, although instruments of professional services, are and shall be the property of DISTRICT whether the Project for which they are made is executed or not.

8.2 Upon termination under Section 5.3 of this Agreement and upon DISTRICT'S payment of the amount required to be paid thereunder, the originals and all drawings, calculations, specifications and similar documents become the property of DISTRICT, and CONSULTANT shall transfer them to DISTRICT upon request without additional compensation. DISTRICT shall have the right to utilize any completed or uncompleted

drawings, estimates, specifications and other documents prepared hereunder by CONSULTANT; however, in the event of termination as described in Section 5.3(b) and (d), DISTRICT shall indemnify CONSULTANT against any loss which may be caused to CONSULTANT by such use and reuse.

8.3 Upon completion of the construction contract, DISTRICT shall indemnify CONSULTANT for reuse of any design documentation.

SECTION 9 – INTEREST OF CONSULTANT

9.1 CONSULTANT INDEPENDENT OF DISTRICT

- a. In accepting this Agreement, CONSULTANT covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. CONSULTANT further covenants that, in the performance of this Agreement, no subconsultant or person having such an interest shall be knowingly employed. CONSULTANT shall require that all such persons or subconsultants stipulate in writing that they have no such interest. CONSULTANT certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of DISTRICT.
- b. It is expressly agreed that in the performance of the professional services required under this Agreement, CONSULTANT, and any of its subconsultants or employees, shall at all times be considered independent contractors and not agents or employees of DISTRICT.

SECTION 10 - INDEMNITY

10.1 CONSULTANT'S DUTY TO INDEMNIFY

- a. To the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.6), CONSULTANT shall defend (with legal counsel reasonably acceptable to the DISTRICT), indemnify and hold harmless DISTRICT, its Board, commissions, officers, employees and agents (collectively "Indemnitees"), from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of CONSULTANT or its subconsultants), expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness or willful misconduct of CONSULTANT, any subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify any Indemnitee shall not apply to the extent that such Liabilities are caused in part by the sole negligence, active negligence, or willful misconduct of such Indemnitee.
- b. To the extent there is an obligation to indemnify under this Section 10, CONSULTANT shall be responsible for incidental and consequential damages resulting directly or indirectly, in whole or in part, from CONSULTANT'S negligence, recklessness, or willful misconduct.

10.2 LIABILITY OF THE DISTRICT

- a. The DISTRICT's liability under this Agreement shall be limited to the payment of the compensation provided for in Section 6, Compensation Provisions of this Agreement. Notwithstanding any other provision of this Agreement, in no event shall the DISTRICT be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.
- b. The DISTRICT shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by CONSULTANT, or by any of its employees, even though such equipment be furnished, rented or loaned to CONSULTANT by the DISTRICT. The acceptance or use of such equipment by CONSULTANT or any of its employees shall be construed to mean that CONSULTANT accepts full responsibility for and agrees to exonerate, indemnify, defend and save harmless the DISTRICT from and against any and all claims for any damage or injury of any type, including attorneys' fees and expenses, and consultants' or experts' fees and expenses, arising from the use, misuse or failure of such equipment, whether such damage be to the CONSULTANT, its employees, the DISTRICT employees or third parties, or to property belonging to any of the above.
- c. To the furthest extent permitted by law (including, without limitation, Civil

Code Section 2782), the indemnities, releases of liability and limitations of liability, and limitations of remedy expressed throughout this Agreement shall apply even in the event of breach of contract, negligence (active or passive), fault or strict liability of the party[s] indemnified, released, or limited in liability, and shall survive the termination, rescission, breach, or completion of Project. If CONSULTANT fails to perform any of these defense or indemnity obligations, DISTRICT may in its discretion backcharge CONSULTANT for its costs and damages resulting therefrom and withhold such sums from payments due or other contract monies that may become due.

SECTION 11 – INSURANCE

CONSULTANT shall acquire and maintain Workers' Compensation, employer's liability, commercial general liability, owned and non-owned and hired automobile liability, and professional liability insurance coverage relating to CONSULTANT'S services to be performed hereunder covering DISTRICT'S risks in form subject to the approval of the DISTRICT'S General Counsel and DISTRICT'S Risk Manager. The minimum amounts of coverage corresponding to the aforesaid categories of insurance per insurable event shall be as follows:

<u>Insurance Category</u>	<u>Minimum Limits</u>
Workers' Compensation	Statutory minimum
Employer's Liability	\$1,000,000 per accident for bodily injury or disease
Commercial General Liability	\$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury, and property damage

Automobile Liability \$1,000,000 per accident for bodily injury and property damage (coverage required to the extent applicable to CONSULTANT'S vehicle usage in performing services hereunder)

Professional Liability \$2,000,000 per claim and aggregate

Concurrently with the execution of this Agreement, CONSULTANT shall, on the Insurance Coverage form provided in Exhibit "F", furnish DISTRICT with certificates and copies of information or declaration pages of the insurance required hereunder and, with respect to evidence of commercial general liability and automobile liability insurance coverage, original endorsements:

- a. Precluding cancellation or reduction in per occurrence limits before the expiration of thirty (30) days (10 days for nonpayment) after DISTRICT shall have received written notification of cancellation in coverage or reduction in per occurrence limits by first class mail;
- b. Naming the Coastside Fire Protection District, its Board, officers, commissions, employees and agents, as additional insureds; and
- c. Providing that CONSULTANT'S insurance coverage shall be primary insurance with respect to DISTRICT, its Board, officers, commissions, employees and agents, and any insurance or self-insurance maintained by DISTRICT for itself, its Board, officers, commissions, employees or agents shall be in excess of CONSULTANT'S insurance and not contributory with it.

SECTION 12 – WORKERS' COMPENSATION

CONSULTANT certifies that it is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and CONSULTANT certifies that it will comply with such provisions before commencing the performance of the work of this Agreement.

SECTION 13 – AGREEMENT BINDING

The terms, covenants, and conditions of this Agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns, and subcontractors of both parties.

SECTION 14 – NONASSIGNABILITY

14.1 PERSONAL SERVICES OF CONSULTANT

Both parties hereto recognize that this Agreement is for the personal services of CONSULTANT and cannot be transferred, assigned, or subcontracted in whole or in part by CONSULTANT without the prior written consent of DISTRICT.

SECTION 15 – WAIVERS

The waiver by either party of any breach or violation of any term, covenant, or condition of this Agreement or of any provisions of any ordinance or law shall not be deemed to be a waiver of such term, covenant, condition, ordinance or law or of any subsequent breach or violation of the same or of any other term, covenant, condition, ordinance or law. The subsequent acceptance by either party of any fee or other money which may become due hereunder shall not be deemed to be a waiver of any preceding breach or violation by the other party of any term, covenant, or condition of this Agreement or of any applicable law or ordinance.

SECTION 16 – COSTS AND ATTORNEY'S FEES

The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover from the other party its reasonable costs and attorney's fees expended in connection with such action.

SECTION 17 - NONDISCRIMINATION; PENALTY

17.1 DUTY OF CONSULTANT

The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, national origin, ancestry, religion or sex. The CONSULTANT will take affirmative action to insure that applicants are employed and the employees are treated during employment without regard to their race, color, national origin, ancestry, religion or sex. Such action shall include, but not be limited to the following: employment, advancement, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT shall at all times be in compliance with the requirements of the Federal Americans With Disabilities Act (Public Law 101-336), which prohibits discrimination on the basis of disability. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment ant notices provided by the DISTRICT setting forth the provisions of this non-discrimination clause.

17.2 PENALTY FOR DISCRIMINATION

- a. If CONSULTANT is found in violation of the non-discrimination provisions of the State of California Fair Employment Practices Act or similar provisions of federal law or executive order in the performance of this Agreement, it shall thereby be found in material breach of this Agreement. Thereupon, DISTRICT shall have the power to cancel or suspend this Agreement, in whole or in part, or to deduct from the amount payable to CONSULTANT the sum of Twenty-five Dollars (\$25) for each person for each calendar day during which such person was discriminated against, as damages for said

breach of contract, or both. Only a finding of the State of California Fair Employment Practices Commission or the equivalent federal agency or officer shall constitute evidence of violation of contract under this section.

- b. If CONSULTANT is found in violation of the non-discrimination provision of this Agreement or the applicable affirmative action guidelines pertaining to this Agreement, CONSULTANT shall be found in material breach of this Agreement. Thereupon DISTRICT shall have the power to cancel or suspend this Agreement, in whole or in part, or to deduct from the amount payable to CONSULTANT the sum of Two Hundred Fifty Dollars (\$250) for each calendar day during which CONSULTANT is found to have been in such noncompliance as damages for said breach of contract or both.

SECTION 18 – GOVERNING LAW

This Agreement shall be governed by the laws of the State of California and any suit or action initiated by either party shall be brought in the County of San Mateo, California. In the event of litigation between the parties hereto to enforce any provision of the Agreement, the unsuccessful party will pay the reasonable attorney's fees and expenses of litigation of the successful party.

SECTION 19 – MEDIATION

Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith effort to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party shall

be deemed the prevailing party for purposes of the settlement, and each party shall bear its own legal costs.

SECTION 20 – CONFLICT OF INTEREST

CONSULTANT may serve other clients, but none who are active within the Coastside Fire Protection District or who conduct business that would place CONSULTANT in a “conflict of interest” as that term is defined in State law.

SECTION 21 – NOTICES

All notices or documents hereunder specifically requested by the DISTRICT shall be given in writing and mailed, postage prepaid, by certified mail, addressed as follows:

To DISTRICT: Coastside Fire Protection District
 1191 Main Street
 Half Moon Bay, CA 94019
 Attention: Fire Chief

All correspondence to CONSULTANT shall be addressed to:

 Jeff Katz Architecture
 6353 Del Cerro Boulevard
 San Diego, CA 92120
 Attention: Jeff Katz, Principal in Charge

SECTION 22 – ALL COVENANTS AND CONDITIONS

All provisions of this Agreement are expressly made conditions.

SECTION 23 – AGREEMENT CONTAINS ALL UNDERSTANDINGS; AMENDMENT

23.1 This document represents the entire and integrated agreement between DISTRICT and CONSULTANT and supersedes all prior negotiations, representations, and agreements either written or oral.

23.2 This document may be amended only by written instrument, signed by both DISTRICT and CONSULTANT.

SECTION 24 – GOVERNING LAW

This Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, DISTRICT and CONSULTANT have executed this Agreement the day and year first above written.

ATTEST:

COASTSIDE FIRE PROTECTION
DISTRICT:

Date
DISTRICT CLERK

Date
Gary Burke
Board President
CONSULTANT FIRM:

Date
Jeff Katz
Jeff Katz Architecture

APPROVED AS TO FORM

Date
Jean Savaree
DISTRICT GENERAL COUNSEL

Attachments:

EXHIBIT "A" – STATEMENT OF CONSULTANT SERVICES

EXHIBIT "B" – WORK TO BE DONE BY OTHERS

EXHIBIT "C" – PROJECT SCHEDULE

EXHIBIT "D" – SCHEDULE OF COSTS

EXHIBIT "E" – KEY CONSULTANT STAFF AND SUBCONSULTANTS

EXHIBIT "F" – INSURANCE FORMS

EXHIBIT A

STATEMENT OF CONSULTANT SERVICES

SCHEMATIC DESIGN PHASE

- Work with Fire District Staff to develop preliminary space needs analysis and establish square foot requirements for the facility.
- Meet with Fire Station Design Committee to discuss examples which the committee has seen on their tour of existing stations in the County, to review areas which the Fire Department feels are examples of both good and poor design elements. Hold up to two "Brainstorming" sessions with Fire Department personnel to discuss features of the new station designs in order to understand and develop a detailed program for the project.
- Meet with Project Team to discuss budget, program and exterior design issues.
- Meet with City Building and Planning Department to review all requirements including design review, environmental documentation and approval process.
- Develop Preliminary Building Floor Plans and Building Elevations.
- Provide Geotechnical Investigation
- Prepare Topographic Survey of the site and immediate frontage.
- Coordinate with Geotechnical Engineer for recommendations for grading, foundation design, retaining walls and site paving.
- Prepare conceptual site drawings indicating placement of structures and amenities on site. This will include the following:
 - building site orientation, site ingress and egress, and miscellaneous site information.
- Prepare preliminary landscape and hardscape plans.
- Develop preliminary Cost Estimates based upon building systems. The estimates prepared at this phase will be generally square foot cost- estimates for the various building components, and will include a design development contingency (to allow for potential increases as the design is refined further in the later stages of the project).
- Provide a written preliminary evaluation of the project, schedule and construction budget.

- Make required submissions to City for Concept review and approval. Drawings required for this submittal would include:
 - Site Plan
 - Schematic Floor Plan
 - Preliminary Grading Plan
 - Preliminary Utility Plan
 - Schematic Building Elevations
 - Conceptual Landscape Plans
 - Exterior Color and Material Sample Boards
 - A colored rendering of the station
- These drawings will include color and material callouts, as well as a colored building elevation drawing. No models are included in this submittal.
- Make required presentations to various agency review organizations to review proposed design. Proposal assumes two community presentations.
- Make presentation to District Board to describe project concept design and budget.
- Make required modifications to Schematic Design to obtain Schematic Design approval.
- After obtaining written approval of Schematic Design we will proceed into Design Development.
- Attend progress meetings with District staff (assume 3 meetings for this phase).
- For the Schematic Design Phase we have included semi-weekly team coordination meetings in addition to the presentations listed above.

DESIGN DEVELOPMENT PHASE

- Refine design of Floor Plan, Building Elevations and Site Plan.
- Develop structural system consistent with design concept.
- Develop building mechanical, plumbing and electrical systems consistent with design concept.
- Coordinate with Owner systems for phone/data/cable and station alerting requirements.
- Prepare preliminary Interior Elevations, Building Sections, Reflected Ceiling Plan and Roof Plan.

- Prepare preliminary interior material and color boards for review and selection.
- Develop Preliminary fixture and furniture selections.
- Prepare Storm Water Prevention Plan in accordance with City requirements.
- Prepare preliminary line Item Construction Cost Estimate based on actual building components. This estimate will be more detailed than the systems estimate prepared during schematic design.
- Make required submittal to the District for Design Development Review.
- After obtaining written approval of the information presented in the Design Development drawings, we will proceed into Construction Documents.
- Attend progress meetings with District staff (assume 2 meetings for this phase).

CONSTRUCTION DOCUMENTS PHASE

- Prepare drawings and specifications suitable for bidding to clearly delineate the Contractor's scope of work, including required civil, architectural, structural, mechanical, plumbing, electrical, and landscape design. Required demolition plans will be included. It is assumed for this proposal that the District will provide all required General and Supplementary Conditions and Bidding Information. Submittals will be made at 60%, 90% and 100% and will include plans, specifications and cost estimate.
- Construction Documents will incorporate Geotechnical requirements and recommendations for soils preparation, foundation and paving design.
- Submit plans to local utility companies for review and approval. (Note: any required Utility Company fees are not included).
- Submit plans to City Building Department for Building permit plan check, and perform all required revisions to construction documents based on Building Department's plan check comments (Note: plan check and permit fees are not included).
- Update Construction Cost Estimate.
- Attend progress meetings with District staff (assume 3 meetings for this phase).
- Make required presentation to the District Board for approval prior to going out to bid.

BIDDING PHASE

- Provide final original drawings and specifications (and electronic copies) for use in bid packages. For this proposal it is assumed that the District will advertise, assemble and distribute bid packages.
- Interpret and clarify contract documents for contractors, and assist in issuing addenda as required.
- Attend a Pre-Bid walkthrough at the site with all interested contractors.
- Participate in bid opening, review contractor's detailed cost breakdown, and assist the District in evaluation of the bids.

CONSTRUCTION ADMINISTRATION PHASE

Construction contract administration services are based on a twelve month construction period, from Authorization to Proceed through Punch list Inspection. Should the project be completed more quickly the services provided will be re-evaluated. The following services will be provided:

- Attend Pre-Construction conference.
- Review and approve or take other appropriate action upon Contractor's submittals and shop drawings as required by contract documents.
- Interpret contract documents (including all sub-consultant disciplines) for proper execution and progress of construction, including responding to contractor's requests for information and clarification, and issuing ASI's (Architect's Supplemental Instructions).
- Make one scheduled site visit every week during the course of construction (total of 48) to observe the project, and prepare site visit report (meeting minutes). Site visit shall include meeting with Contractor and District representative to review progress of construction, review pending RFI and Change Order information, and observe the construction to verify work is proceeding in accordance with construction documents.
- Provide four site visits per discipline (by the respective engineers) for structural, electrical, mechanical and Landscape Architecture, to review progress of construction and conformance with construction documents.
- Make one additional site visit to perform Punchlist Inspection, and one additional visit to perform Final Inspection. Punchlist Inspection will include a detailed listing of all items remaining to be completed by the Contractor. Final Inspection will certify that all work has been completed in accordance with construction documents.

- Assist District in review of Contractor's initial and progress schedules and Schedule of Values.
- Assist in reviewing and processing contractor's progress payment requests, and certifying the amounts due to the Contractor.
- Process contractor's building As-Builts, warranty information and related information by forwarding them to the District.
- Inspect the project as part of Post Construction Evaluation prior to completion of contractor warranty period.

EXHIBIT B

WORK TO BE DONE BY OTHERS

The following work is anticipated to be required and is not included in the CONSULTANT'S scope of work:

1. DISTRICT shall provide CONSULTANT access to available maps, plans, reports, ordinances and studies related to the Project.
2. DISTRICT shall establish program requirements for the project setting forth the objectives, constraints, and criteria including space requirements.
3. DISTRICT shall provide staff necessary to attend meetings and make timely decisions throughout the Project.
4. DISTRICT shall provide CONSULTANT with Division One – General Provisions for the Specifications.
5. DISTRICT shall provide timely written review comments on design submittals.
6. DISTRICT shall make applications for necessary environmental review and approvals. Conduct the environmental process, use permit review, building plan check reviews and any other agency reviews.
7. Reproduce documents for bidding and construction.
8. Advertise and distribute bid documents.
9. Issue addenda as required.
10. Administer the construction contract and provide construction management services.
11. Provide prompt written notice to CONSULTANT of awareness of any fault or defect in the construction or nonconformance with the contract documents.

EXHIBIT C
PROJECT SCHEDULE

EXHIBIT D

SCHEDULE OF COSTS

Schematic Design Phase	\$90,000.00
Design Development Phase	\$70,000.00
Construction Documents Phase	\$195,000.00
Bidding Phase	\$5,000.00
<u>Construction Administration Phase</u>	<u>\$75,000.00</u>
TOTAL	\$435,000.00

EXHIBIT E

KEY CONSULTANT STAFF AND SUBCONSULTANTS

Jeff Katz, AIA, Principal in Charge
Anthony Damon, Project Manager
Bob Withers, Construction Manager
Christie Hanson, BIM Manager
Don Orie, Structural Engineer
Doug Isaaks, Mechanical/Plumbing Engineer
Tim Locklear, Electrical Engineer
Manuela King, Landscape Architect
Scott Schork, Civil Engineer
John May, Audio-Visual

EXHIBIT F

INSURANCE FORMS FOR STATION 41 ARCHITECTURAL SERVICES

CONSULTANT shall provide Certificates of Insurance and original Endorsements affecting the coverages specified in Section 11 - INSURANCE of the Agreement on the attached forms.

ATTACHED:

1. Certificate of Insurance
2. General Liability Endorsement
3. Automobile Liability Endorsement

