



Coastside Fire Protection District

STAFF REPORT

TO: Honorable Board of Directors

FROM: Kai Ruess, Deputy Counsel

DATE: March 24, 2021

SUBJECT: A RESOLUTION OF THE BOARD OF DIRECTORS OF THE COASTSIDE FIRE PROTECTION DISTRICT DECLARING ITS INTENT TO TRANSITION FROM AN AT-LARGE TO A BY-DISTRICT DIRECTOR ELECTION SYSTEM

Recommendation

It is recommended that the Fire Board adopt the attached resolution declaring its intent to transition the Fire District from at-large to by-district elections. (Attachment 1)

Background and Discussion

The Coastside Fire Protection District received a letter, dated February 9, 2021, from attorney John Sarsfield of Melo and Sarsfield LLP (Attachment 3 hereto). The letter indicates that Melo and Sarsfield represents an unnamed group of voters residing within the Fire District, who allege that the District's use of an at-large election system has produced circumstances that equate to a violation of the California Voting Rights Act (CVRA). The letter indicates that "it is self-evident that minority representation on the Board [of Directors] has been historically lacking."

A violation of the CVRA exists if it can be shown that "racially polarized voting" exists in the District, even if there is no evidence of an intent to discriminate. The Fire District currently uses an "at-large" election system for electing candidates to the Board of Directors, where each resident of the Fire District casts votes for each open seat on the Board. Since the enactment of the CVRA in 2002, many California cities, counties, and districts using at-large election systems have received letters similar to the one from Melo and Sarsfield. In San Mateo County specifically, the County of San Mateo, City of South San Francisco, City of Menlo Park, City of Half Moon Bay, City of Redwood City, City of Pacifica, and the Coastside Water District have recently transitioned to "by district" elections after being threatened with litigation under the CVRA. The City of Burlingame is now in the process of doing so.

A violation of the CVRA cannot exist, however, if the jurisdiction utilizes a "by-district" election system. As such, jurisdictions that receive a letter threatening litigation face the decisions of whether to defend against the threatened lawsuit or agree to transition to by-district elections to cure the alleged CVRA violation. While several jurisdictions have decided to defend their use of at-large elections, to date no jurisdiction has been successful in that effort. Were the Fire District to lose a CVRA lawsuit, it would likely be ordered to transition to by-district elections and to pay

attorneys fees for the prevailing plaintiffs. Those fee awards paid by losing jurisdictions have ranged from the hundreds of thousands to millions of dollars.

The process to transition to by-district elections requires no less than five public hearings: two prior to the drawing of a draft district map or maps; two after a map or maps are drawn; and one to adopt the map and formally transfer to by-district elections by ordinance. To help manage this process and ensure that the map ultimately adopted reflects accurate demographic information and complies with the law, the Fire District will need to retain a demographer. Staff has prepared an Request for Proposals (Attachment 2) which shall be issued to qualified firms upon the Council's approval of the attached Resolution (Attachment 1). Staff intends to return to the Board in April or May with a request that the Board award a contract to the demographer submitting the best proposal.

The CVRA provides a safe-harbor from litigation if the District transitions to by-district elections within 90 days of receiving a demand letter. The Fire District will not meet this deadline. However, it is common for jurisdictions that agree to voluntarily transition to by-district election to enter tolling agreements or settlement agreements with the prospective plaintiffs to allow more time to complete the transition process. Mr. Sarsfield has indicated that his clients are open such an agreement, and so the attached resolution authorizes the Fire District's legal counsel to enter into an agreement on behalf of the District to protect against litigation during the transition process.

Fiscal Impact

No direct fiscal impact would be caused by adoption of the attached Resolution (Attachment 1). However, its adoption will initiate a process that will ultimately incur significant costs. Those costs will include: additional staff time and legal staff time associated with the minimum five public hearings required to complete the transition, the cost of demographer services (to be determined through a contract to be awarded by the Board at a subsequent meeting), and a potential need for special elections counsel. The District is also be required to reimburse the prospective plaintiffs represented by Melo and Sarsfield LLP for documented attorney's fees and costs, which by statute cannot exceed \$30,000.

If the attached Resolution is not adopted, the likely outcome is that the District will be sued and will incur significant legal costs associated with its own defense. In addition, were the District unsuccessful in its defense, it would be required to transition to by-district elections at the conclusion of that litigation and reimburse the attorney's fees of the plaintiffs.

Attachments:

1. Resolution
2. Request for Proposals (RFP) for Districting Services
3. February 9, 2021 Letter from Melo and Sarsfield LLP

RESOLUTION NO. 2021- 07

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE COASTSIDE FIRE PROTECTION DISTRICT DECLARING ITS INTENT TO TRANSITION FROM AN AT-LARGE TO A BY-DISTRICT DIRECTOR ELECTION SYSTEM

WHEREAS, the Board of Directors is currently elected through an at-large election system, through which each Director is elected by the entire voting population of the District; and

WHEREAS, pursuant to California Government Code Section 34886, the Board of Directors may adopt an ordinance to change its election system to a by-district based election system, in which each Director represents a single district, and where only voters from that district participate in their election; and

WHEREAS, the Coastside Fire Protection District received a letter dated February 9, 2021 from the Law Offices of Melo and Sarsfield LLP, which alleged that the Fire District's at-large election system violated the California Voting Rights Act (CVRA) and threatening litigation if the Fire District does not voluntarily transition to by-district elections; and

WHEREAS, Melo and Sarsfield LLP represents prospective plaintiff who allege that minority representation on the Board of the Directors has been historically lacking due to the use of the at-large election system; and

WHEREAS, the Board of Directors believes that all past elections have been conducted fairly and in accordance with the law; and

WHEREAS, despite that belief, and in an effort to strive for equity while avoiding the extraordinary cost of litigation, the Board of Directors has concluded that the transition to by-district elections is in the public's interest; and

WHEREAS, California Elections Code Section 10010 provides a method where a jurisdiction may voluntarily transition to by-district elections to avoid the cost of CVRA litigation through a resolution declaring its intent to do so; and

WHEREAS, by law this resolution must include specific steps the jurisdiction will take to make the transition, as well as the time frame it will take to do so; and

WHEREAS, pursuant to Elections Code Section 10010, prior to drawing a draft map or maps of the proposed boundaries of the districts, the Fire District shall hold at least two (2) public hearings over a period of no more than thirty (30) days, to invite the public to provide input regarding the composition of the districts; and

WHEREAS, after all draft maps are drawn, the Fire District shall publish and make available to the public at least one draft map and, if members of the Board of Directors

will be elected in their districts at different times, the potential sequence of the elections creating staggered terms of office shall also be published; and

WHEREAS, the Board of Directors shall also hold at least two (2) additional public hearings over a period of no more than forty-five (45) days to invite the public to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable; and

WHEREAS, the draft map or maps shall be published at least seven (7) days before consideration at a public hearing; and

WHEREAS, revised draft maps shall be published and made available to the public for at least seven (7) days before being adopted; and

WHEREAS, the Coastside Fire Protection District wishes to expeditiously make the transition to by- district elections; and

WHEREAS, the next scheduled election for the Board of Directors is November 2022; and

WHEREAS, a tolling/settlement agreement may be negotiated with Melo and Sarsfield LLP on behalf of their clients, which could provide protection from CVRA litigation while the Fire District undergoes the transition; and

WHEREAS, the transition to by-district elections will not affect the terms of any sitting director, each of whom will serve out his or her current term; and

WHEREAS, to assist in managing the transition to by-district elections, the Fire District wishes to retain the services of a demographer or qualified multi-disciplinary consultant; and

WHEREAS, staff has prepared a Request for Proposals for districting services to identify qualified demographers and/or consultants.

NOW, THEREFORE, BE IT RESOLVED, that:

1. The Board of Directors resolves to pursue adoption of an ordinance to transition to a by-district election system, as authorized by Government Code Section 34886, for use in the Fire District's next regular election for Directors in November 2022, and all elections following thereafter; and

2. The Board of Directors will review 2020 Federal Census data to ensure districts are drawn fairly and equitably to ensure an accurate representation of all demographics in the electorate before finalizing and adopting district boundaries; and

3. The Board of Directors authorizes the issuance of the attached Request for Proposals for Districting Services to identify a demographer or other qualified consultant

to provide a detailed analysis of the Fire District's current demographics and any other information or data necessary to prepare a draft map that divides the jurisdictional area of the Fire District into voting districts in a manner consistent with the intent and purpose of the California Voting Rights Act and the Federal Voting Rights Act; and

4. The Board of Directors directs the Fire District's Attorney to negotiate and execute, as needed, tolling or settlement agreement(s) with Melo and Sarsfield LLP on behalf of their clients to protect the Fire District from CVRA litigation during this transition; and

5. The Board of Directors resolves that, once a demographer/consultant is retained, it shall set a tentative schedule for all public hearings required to complete the transition, in coordination with the retained demographer/consultant.

PASSED AND ADOPTED as a resolution of the Coastside Fire Protection District at the special meeting held on the 24th day of March, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gary Burke, Board President

ATTEST:

Deputy Chief Jonathan Cox, District Secretary



Request for Proposals (RFP)

Districting Services

Prepared by:
Jonathan Cox, Deputy Chief
Issued: March 25, 2021

Proposals Due by
2:00 P.M. PST on April 19, 2021

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Introduction and Purpose of the RFP

The Coastside Fire Protection District (“District”) received a letter from the law firm of Melo and Sarsfield LLP, notifying the District that it represents prospective plaintiffs who allege the District’s at large system of elections violates that California Voting Rights Act (“CVRA”). In response, on March 24, 2021, the District’s Board of Directors adopted a resolution stating its intent to transition to by-district elections prior to the District’s next regular election in November 2022.

The District seeks a demographer or experienced municipal districting/redistricting consultant that has successfully assisted cities, counties, districts, and/or other California public agencies transition from at large elections to by-district elections in furtherance of the purposes of the CVRA. The selected person or firm (hereafter “Contractor”) will manage this process for the District (the “Project”).

Background on the District

The Coastside Fire Protection District is a special district providing general fire prevention, fire suppression, and emergency response services through a service contract with CAL FIRE. The District operates three fire stations that serve approximately 30,000 residents. Its jurisdictional boundaries cover approximately 50 square miles, which includes the City of Half Moon Bay, the communities of Montara, Moss Beach, Princeton-By-The-Sea, El Granada, Miramar, and surrounding unincorporated areas of San Mateo County. A map of the District is included as Attachment A hereto.

The District’s Board of Directors is comprised of five directors that are elected through an at-large system. Directors are elected to four-year terms in staggered elections occurring every two years, so that two of the five seats are filled after one election and the other three seats are filled two years later.

Scope of Work

In order to manage the transition from an at-large election system to a by-district election system, in which the District will be divided into geographical districts of substantially equal populations with each district electing a single council candidate who resides within its boundary, the Contractor must use the most recent federal census data and conform to all relevant laws, transition processes and requirements as defined by the CVRA, California Elections Code Sections 10010, 14025, 14026-14032, California Assembly Bill No. 849, and California Government Code Sections 34870-34886.

Contractor’s responsibilities shall include, but may not be limited to the following:

1. Contractor shall develop a work plan that will at least include the following elements:
 - a. Provide a detailed timeline for all requirements of this scope of work;
 - b. Provide a detailed community outreach plan;
 - c. Create multilingual community outreach to ensure fair representation of all minority groups within the District;
 - d. Prepare illustrative materials, maps, brochures, and advertising for public

meetings, workshops, and outreach;

e. Coordinate with District staff to widely notice the public of opportunities to participate in public outreach meetings;

f. Facilitate meetings and provide short formal presentations on the scope, purpose, process, timelines, and legal issues where Contractor will request input from the public and document input;

g. Obtain public input for criterion to identify “communities of interest” as defined in the State of California Elections Code;

h. Present findings on identifying “Communities of Interest”, and present criterion used in map evaluation, including submittal requirements from members of the public, as a resolution for Board of Directors comment and approval; and

i. Propose a schedule or meetings with District staff needed to accomplish this scope of work.

2. Contractor shall create at least three (3) redistricting plans of five (5) single-member residency districts for consideration by the Board of Directors as follows:

a. Each plan shall have districts that comply with the laws and regulatory requirements listed above;

b. Each redistricting plan shall have a unique objective based on preserving a community of interest;

c. In this creation of districting plans, Contractor shall use GIS software developed specifically for redistricting to create the districts;

d. The contractor shall obtain and utilize the most recent San Mateo County Official Precinct Maps from the San Mateo County Registrar of Voters; and

e. A demographic profile of each district shall be included.

3. Contractor shall provide non-English speaking support for non-English speaker inquiries throughout the community outreach period in the timeline, Monday through Friday 8:00 A.M. to 5:00 P.M.

4. Contractor shall work in conjunction with the District’s staff and the representatives of San Mateo County Registrar of Voters to maximize alignment of County voting precincts with districts to minimize voter confusion and to maximize the ease of conducting elections.

5. Contractor shall provide overall staff support to the District’s redistricting effort as necessary to meet Project goals, objectives, and deadlines.

6. Contractor shall provide expert technical assistance to the District in the event any legal action arises relating to the redistricting process of plans developed with Contractor’s assistance. Contractor shall provide expert testimony and “special services,” if necessary, in state and federal court in the area of redistricting.

Responding to the RFP

Interested individuals or firms should submit an email indicating their intent to submit a proposal to Deputy Chief Jonathan Cox at Jonathan.Cox@fire.ca.gov by April 9, 2021. This will ensure that interested firms and individuals are notified of any changes or updates that occur prior to the submission date. The schedule for this RFP process is as follows:

March 25, 2021	RFP Issued
April 9 2021	Email to Jonathan.Cox@fire.ca.gov expressing intent to submit
April 19, 2021	Submission due by 2:00 P.M. PST
April 20 – 23, 2021	Review submissions, reference checks, calls with proposers
April 28, 2021	Contract award

Questions regarding this RFP should be directed to Jonathan.Cox@fire.ca.gov. All questions and responses to those questions will be provided to individuals and firms that have submitted an email expressing intent to submit after April 9, 2021 and then on a rolling basis through the submission date.

Proposals shall be submitted electronically to Jonathan.Cox@fire.ca.gov with the subject labeled “RFP Response Districting Services.” It is the responsibility of the proposer to ensure that the submission is received by 2:00 P.M. on the April 19, 2021. Proposals not received prior to the deadline will not be considered. For this reason, the District encourages you to submit proposals early. The District shall acknowledge receipt of the submission once it is received, but will not review any submission prior to the submission deadline. There will be no formal opening of the proposals.

Format and Contents of the Submission

The Submission should be in a single document (PDF or Microsoft Word) and include the following five sections:

1) Cover letter:

The cover letter should include the name, email, and telephone number of the primary contact person for the proposer, the mailing address for the individual or firm submitting the proposal, and the address of the office from which the Project will be managed.

The cover letter should clearly describe the proposer’s understanding of the services being requested by the District. It shall include a statement indicating that the proposal terms shall remain in effect for no less than ninety (90) days following the submittal date. The letter shall also include a statement by the person submitting the proposal that they authorized to bind the proposer to the terms of the proposal.

2) Statement of Qualifications and Experience:

The District will consider submittals from consultants that demonstrate they have successfully completed comparable districting projects. The submission shall include a statement of qualifications that includes a discussion of past projects that illustrate the quality, type, and performance of the Project team. Submittals shall include a detailed description of a minimum of three (3) projects within the past five (5) years which include the following information: contracting agency name, contractor's project manager and contact information, date of contract, date of completion, and project description

3) Proposal Statement:

The Proposal Statement should outline the proposed Project schedule, the methods for accomplishing the scope of work, and the team dedicated to the Project. The Project schedule should include a rough timeline outlining key events, tasks, and deliverables that will occur in order to ensure the District will transition to by-district elections for its November 2022 elections. The Proposal Statement should describe the roles and organization of your proposed team for this Project, and clearly identify and describe the experience of any proposed subcontractors.

Please describe your project management approach and provide a detailed description of how the team and scope of work will be managed. Describe the roles of key individuals on the team. Provide short resumes for all key team members. Short resumes should show relevant experience and the length of employment with the proposing consultant. Key members, especially the project manager, must have significant demonstrated experience with this type of project, and should be committed to stay with the Project for the duration of the Project.

Please provide a full scope of work to be performed, and particularly highlight any proposed work that was not included in the Scope of Work included in this RFP, but which you believe is necessary to successfully accomplish this Project.

4) Cost Proposal

Please clearly identify all proposed costs and fees associated with the Scope of Work and any additional identified work you believe is necessary to complete the Project. This may take the form of a flat fee or hourly rates, but if the proposal to charge at hourly rates, please also include a not-to-exceed amount for which you can successfully accomplish all work necessary to complete the Project with the identified scope of work.

5) Acknowledgement of the District's Agreement for Professional Services

Submissions must include a statement that the proposer has reviewed the attached template Professional Services Agreement and agrees to execute and comply with an agreement in the form of that template if the proposal is selected. This statement should also indicate that the proposer will be able to fulfill the insurance requirements included in the template agreement. If the proposer intends to request changes to the template agreement, those requested changes must be included in a redlined "track changes" draft of the template agreement included with the Submission. If no changes are requested, the selected proposer shall be expected to execute the agreement without alteration.

Evaluation Process

The Board of Directors reserves the right to select a responsive, responsible consultant based on the Board's judgment of "best value." The award may not be made solely on the

basis of proposed cost. District staff will evaluate submissions for substance and completeness. Staff may contact references and/or proposers in its discretion during the evaluation process. Ultimately, staff will make a recommendation to the Board of Directors on which proposer should be awarded a contract.

During its review, staff may consider any aspect of the proposal or the qualifications of the proposer that may affect the “best value” determination. These items may include, but are not necessarily limited to:

- Experience with projects of a similar scope and vision;
- Demonstrated understanding of the Project;
- Proposed Project management approach, including expertise and experience of the team assigned to the Project;
- Cost; and
- Number and nature of proposed changes to the Professional Services Agreement terms, if any.

All firms that submit proposals will be notified of staff’s recommended selection, which will be recommended to the Board of Directors for award of the Professional Services Agreement. Final approval of any selected firm is subject to the action of the Board.

This RFP does not commit the District to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services. The District reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified Consultant, or to modify or cancel in part or in its entirety the RFP if it is in the best interests of the District to do so.

Contact Information

Jonathan Cox, Deputy Chief
Coastside Fire Protection District
1191 Main Street
Half Moon Bay, California 94019
(650) 726-5213
Jonathan.Cox@fire.ca.gov

Public Records and Use of Submissions

All information included in this RFP and submissions received in response to this RFP are subject to disclosure pursuant to the California Public Records Act. All submissions become District property and will not be returned. The District reserves the right to retain all proposals, as well as any reports, data, or other material prepared or assembled by proposer and submitted to District in response to this RFP, and to use any idea in any proposal regardless of whether that proposal is selected, or to release the proposal in response to a Public Records Act request without notice to the proposer.

Failure to Execute the Agreement

If the Consultant to whom the award is made fails to enter into the Professional Services

Agreement prepared by the District within twenty (20) days after award by the Board of Directors, the award will be annulled, and an award may be made to the next proposer who will fulfill every stipulation as if it were the party to whom the first award was made in the District's discretion.

March 25, 2021

Jonathan Cox, Deputy Chief
Coastside Fire Protection District

PROFESSIONAL SERVICES AGREEMENT
FOR
[ENTER PROJECT TITLE]

This Agreement is made and entered into as of the _____ day of _____, 20____ by and between the Coastside Fire Protection District hereinafter called "DISTRICT" and _____ hereinafter called "CONSULTANT".

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

- A. That DISTRICT desires to engage CONSULTANT to provide professional services in the DISTRICT;
- B. That CONSULTANT is qualified to provide such services to the DISTRICT and;
- C. That the DISTRICT has elected to engage the services of CONSULTANT upon the terms and conditions as hereinafter set forth.

- 1. Services. The services to be performed by CONSULTANT under this Agreement shall include those services set forth in Exhibit A, which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the work specified in said Exhibit A is hereby made an obligation of CONSULTANT under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of the said parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit A.

- 2. Term; Termination. (a) The term of this Agreement shall commence upon the date hereinabove written and shall expire upon completion of performance of services hereunder by CONSULTANT. (b) Notwithstanding the provisions of (a) above, either party may terminate this Agreement without cause by giving written notice not less than ten (10) days prior to the effective date of termination, which date shall be included in said notice. In the event of such termination, DISTRICT shall compensate CONSULTANT for services rendered, and reimburse CONTRACTOR for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the services actually rendered to the date of termination, consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be deemed a limitation upon the right of DISTRICT to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to DISTRICT hereunder.

3. Compensation; Expenses; Payment. DISTRICT shall compensate CONSULTANT for all services performed by CONSULTANT hereunder in an amount based upon CONSULTANT's hourly rates during the time of the performance of said services. A copy of CONSULTANT's hourly rates for which services hereunder shall be performed are set forth in CONSULTANT's fee schedule marked Exhibit "B" hereof, attached hereto and by this reference incorporated herein.

Notwithstanding the foregoing, the combined total of compensation and reimbursement of costs payable hereunder shall not exceed the sum _____ (\$ _____) unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services or incurring such costs and expenses by the DISTRICT Fire Chief (for contracts less than \$25,000) or DISTRICT Board (for contracts \$25,000 or more) evidenced by motion duly made and carried.

Compensation and reimbursement of costs and expenses hereunder shall be payable upon monthly billing therefor by CONSULTANT to DISTRICT, which billing shall include an itemized statement, briefly describing by task and labor category or cost/expense items billed.

4. Additional Services. In the event DISTRICT desires the performance of additional services not otherwise included within the services described in Exhibit A, such services shall be authorized in advance of the performance thereof by the DISTRICT Fire Chief (for contracts less than \$25,000) or DISTRICT Board (for contracts \$25,000 or more) by motion duly made and carried. Such amendment to this Agreement shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefor, the time of performance thereof, and such other matters as the parties deem appropriate for the accomplishment of such services. Except to the extent modified by written amendment, all other terms and conditions of this Agreement shall be deemed incorporated in each such amendment.
5. Records. CONSULTANT shall keep and maintain accurate records of all time expended and costs and expenses incurred relating to services to be performed by CONSULTANT hereunder. Said records shall be available to DISTRICT for review and copying during regular business hours at CONSULTANT's place of business or as otherwise agreed upon by the parties.
6. Authorization. This Agreement becomes effective when endorsed by both parties in the space provided below.
7. Reliance on Professional Skill of CONSULTANT. CONSULTANT represents that it has the necessary professional skills to perform the services required and the DISTRICT shall rely on such skills of the

CONSULTANT to do and perform the work. In performing services hereunder CONSULTANT shall adhere to the standards generally prevailing for the performance of expert consulting services similar to those to be performed by CONSULTANT hereunder.

8. Documents. All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by CONSULTANT pursuant to the terms of this Agreement, shall, upon preparation and delivery to DISTRICT, become the property of DISTRICT.
9. Relationship of Parties. It is understood that the relationship of CONSULTANT to the DISTRICT is that of an independent contractor and all persons working for or under the direction of CONSULTANT are its agents or employees and not agents or employees of the DISTRICT.
10. Schedule. CONSULTANT shall adhere to the schedule set forth in Exhibit A; provided, that DISTRICT shall grant reasonable extensions of time for the performance of such services occasioned by governmental reviews of CONSULTANT's work product or other unavoidable delays; provided, further, that such unavoidable delay shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, CONSULTANT's officers or employees.

CONSULTANT acknowledges the importance to DISTRICT of DISTRICT's Project schedule and agrees to put forth its best professional efforts to perform its services under this Agreement in a manner consistent with that schedule.

11. Indemnity. To the fullest extent allowed by law, CONSULTANT hereby agrees to defend, indemnify, and save harmless DISTRICT, its Board, officers, employees and agents, from and against any and all claims, suits, actions liability, loss, damage, expense, cost (including, without limitation, costs and fees of litigation) of every nature, kind or description, which may be brought against, or suffered or sustained by, DISTRICT, its Board, officers, employees or agents caused by, or alleged to have been caused by, the negligence, intentional tortuous act or omission, or willful misconduct of CONSULTANT, its officers, employees, subcontractors or agents in the performance of any services or work pursuant to this Agreement.

The duty of CONSULTANT to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein contained shall be construed to require CONSULTANT to indemnify Coastside Fire Protection District, its Board, officers, employees and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

CONSULTANT's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained within this Agreement.

12. 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 Attorney and/or 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)
¹ Professional Liability	\$1,000,000 per claim and aggregate

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the DISTRICT as an Additional Insured. Furthermore, the requirements for coverage and limits shall be the greater of either (1) the minimum coverage and limits specified in this Agreement or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured.

¹ Note: Professional liability insurance coverage is not required if the CONSULTANT is not providing a service regulated by the state. (Examples of service providers regulated by the state are insurance agents, professional engineers, doctors, certified public accountants, lawyers, etc.) Please check and initial the following if professional liability is **NOT** required for this agreement. Recommended _____
[Project Manager] Approved _____ [Risk Manager]

CONSULTANT agrees to include with all subcontractors in their subcontracts the same requirements and provisions of this agreement including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by CONSULTANT shall agree to be bound to CONSULTANT and DISTRICT in the same manner and to the same extent as CONSULTANT is bound to DISTRICT under this Agreement and its accompanying documents. Subcontractors shall further agree to include these same provisions with any sub-subcontractors. A copy of the indemnity and insurance provisions of this Agreement will be furnished to the Subcontractor upon request. CONSULTANT shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the subcontract agreement and will provide proof of compliance to the DISTRICT prior to commencement of any work by the subcontractor.

Concurrently with the execution of this Agreement, CONSULTANT shall, on the Insurance Coverage form provided in Exhibit C, 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, employees, and agents, as additional insureds; and
- (c) Providing that CONSULTANT's insurance coverage shall be primary insurance with respect to Coastside Fire Protection District, its Board, officers, employees, and agents, and any insurance or self-insurance maintained by DISTRICT for itself, its Board, officers, employees, or agents shall be in excess of CONSULTANT's insurance and not contributory with it. CONSULTANT and its insurer may not seek contribution from DISTRICT's insurance or self-insurance.

The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of DISTRICT, to the extent required by this Agreement, before the DISTRICT's insurance or self-insurance may be called upon to protect DISTRICT as a named Insured.

All self-insured retentions (SIR) must be disclosed to DISTRICT for approval and shall not reduce the limits of liability coverage. Policies containing and SIR provision shall provide or be endorsed to provide that

the SIR may be satisfied by either the named CONSULTANT/Named Insured or DISTRICT.

DISTRICT reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Any and all Subcontractors shall agree to be bound to CONSULTANT and DISTRICT in the same manner and to the same extent as CONSULTANT is bound to DISTRICT under this Agreement. Subcontractors shall further agree to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, in any agreement with sub-subcontractors to the extent that they apply to the scope of the sub-subcontractor's work. A copy of the indemnity and insurance provisions of this Agreement shall be furnished to any subcontractor upon request.

CONSULTANT shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following completion of this project or service. In the event CONSULTANT fails to obtain or maintain completed operations coverage as required by this Agreement, the DISTRICT at its sole discretion may purchase the coverage required and the cost will be paid by CONSULTANT.

13. WORKERS' COMPENSATION. CONSULTANT certifies that he 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 he will comply with such provisions before commencing the performance of the work of this agreement.

14. NON-DISCRIMINATION. The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex or national origin. 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 by public entities. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the DISTRICT setting forth the provisions of this non-discrimination clause.

15. Notice. All notices required by this Agreement shall be given to the DISTRICT and CONSULTANT in writing, by first class mail, postage prepaid, addressed as follows:

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

CONSULTANT: (Fill in CONSULTANT Name, Address, Phone Number, and Project Manager for CONSULTANT)

16. Non-Assignment. This Agreement is not assignable either in whole or in part.
17. Amendments. This Agreement may be amended or modified only by written agreement signed by both parties.
18. Validity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
19. 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.
20. 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 attempt 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.
21. Conflict of Interest. CONSULTANT may serve other clients, but none who are active within the DISTRICT's service area or who conduct business that would place CONSULTANT in a "conflict of interest" as that term is defined in State law.
22. Entire Agreement. This Agreement, including Exhibits A, B C, and D, comprises the entire Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written by their respective officers duly authorized in that behalf.

COASTSIDE FIRE PROTECTION DISTRICT

Dated: _____

_____, DISTRICT Assistant Fire Chief

Dated: _____

_____,
Fire Board President
(for contracts \$25,000 or more)
[REMOVE signature line if less than \$25,000]

APPROVED AS TO FORM

Dated: _____

Jean Savaree, DISTRICT Attorney

CONSULTANT

Dated: _____

Type Name & Title of CONSULTANT
Authorized to Sign

EXHIBIT A
SCOPE OF WORK AND SCHEDULE
FOR
[ENTER PROJECT TITLE]

EXHIBIT B
CONSULTANT'S FEE SCHEDULE

EXHIBIT C

INSURANCE FORMS

CONSULTANT shall provide, in addition to the Certificates of Insurance, original Endorsement affecting the coverages specified in Section 12 - INSURANCE of the Agreement on the attached form. No substitute form will be accepted.

ATTACHED

1. Insurance Coverage Form

EXHIBIT D

This **INSURANCE COVERAGE FORM** modifies or documents insurance provided under the following:

Named Insured: _____ Effective Work Date(s): _____

Description of Work/Locations/Vehicles: _____

ADDITIONAL INSURED: Coastside Fire Protection District (DISTRICT)
 1191 Main Street
 Half Moon Bay, CA 94019
 Attention: Fire Chief

Endorsement and Certificates of Insurance Required The Additional Insured, its elected or appointed officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: (Check all that apply)	Insurer	Policy No.
<input type="checkbox"/> General Liability: (a) activities performed by or on behalf of the Named Insured, (b) products and completed operations of the Named Insured, (c) premises owned, leased occupied or used by the Named Insured, and/or (d) permits issued for operations performed by the Named Insured. {Note: MEETS OR EXCEEDS ISO Form # CG 20 10 11 85}		
<input type="checkbox"/> Auto Liability: the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Named Insured, regardless of whether liability is attributable to the Named Insured or a combination of the Named Insured and the Additional Insured, its elected or appointed officers, officials, employees or volunteers.		
<input type="checkbox"/> Other:		
Certificates of Insurance Required (no endorsement needed) (Check all that apply)	Insurer	Policy No.
<input type="checkbox"/> Workers Compensation: work performed by employees of the Named Insured while those employees are engaged in work under the simultaneous directions and control of the Named Insured and the Additional Insured.		
<input type="checkbox"/> Professional Liability:		

PRIMARY/NON-CONTRIBUTORY: This insurance is primary and is not additional to or contributing with any other insurance carried by or for the benefit of Additional Insureds.

SEVERABILITY OF INTEREST: The insurance afforded by this policy applies separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limit of liability.

PROVISIONS REGARDING THE INSURED'S DUTIES AFTER ACCIDENT OR LOSS: Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Additional Insured, its elected or appointed officers, officials, employees, or volunteers.

CANCELLATION NOTICE. The insurance afforded by this policy shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice (ten (10) days if canceled due to non-payment) by regular mail return receipt requested has been given to the Additional Insured. Such notice shall be addressed as shown above.

WAIVER OF SUBROGATION: The insurer(s) named above agree to waive all rights of subrogation against the DISTRICT, its elected or appointed officers, officials, agents, volunteers and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for the DISTRICT.

Nothing herein contained shall vary, alter or extend any provision or condition of the Policy other than as above stated.
SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER

I, _____ (print/type name), warrant that I have authority to bind the above-named insurance company and by my signature hereon do so bind this company.

SIGNATURE OF AUTHORIZED REPRESENTATIVE (original signature required)

ORGANIZATION: _____ **TITLE:** _____

ADDRESS: _____

TELEPHONE: () _____ **DATE ISSUED:** _____



**LAW OFFICES OF MELO AND
SARSFIELD LLP**

Mailing:

4216 South Mooney Boulevard
PMB 136
Visalia, California 93277

T (559) 732-3000

Email:

meloandsarsfield@icloud.com

Feb. 9, 2021

Coastside Fire Protection District
1191 Main Street
Half Moon Bay CA 94019

By Certified US Mail

Re: Notice of Violation of the California Voting Rights Act (CVRA) and Intent to File Lawsuit.

Dear Board of Directors and Clerk to the Board:

The Law Offices of Melo and Sarsfield LLP is a law firm that practices in the area of voting rights law. We represent a group of registered voters who reside within the jurisdictional boundaries of the Coastside Fire Protection District. We have been retained to initiate a lawsuit for the Board's violation of the California Voting Rights Act, Election Code Section 14025 et. seq. This lawsuit will be filed in San Mateo County Superior Court after the 45 day litigation hold required by AB 350.

The pending lawsuit is based upon the Board's illegal use of "at large" voting to elect members of the Board of Directors. The Board's use of "at large" voting is in violation of the California Voting Rights Act.

At large voting schemes are unfair to minority voters and suppress minority vote turnout in violation of both state and federal election law.

CFPD

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It is self-evident that minority representation on the Board has been historically lacking.

We would be happy to enter into a consent decree to keep litigation costs down to an absolute minimum. Alternatively, the Board can voluntarily agree to go to "by district" elections.

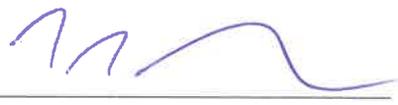
Once the 45 day litigation hold expires, our clients will not delay filing the lawsuit unless the Board is clearly willing to work with them in good faith to develop a remedial plan.

Please be advised that this letter is the pre-litigation administrative "demand letter" that triggers the 45 day litigation hold pursuant to AB 350 (January 2017) (Election Code § 14025 et seq).

We look forward to hearing from the Board in all due haste.

Sincerely,

LAW OFFICES OF MELO AND SARSFIELD LLP

By: 

John Sarsfield, Esq.

cc: Clients