



Coastside Fire Protection District

STAFF REPORT

TO: Honorable Board of Directors

FROM: Jonathan Cox, Deputy Fire Chief

DATE: September 28, 2022

SUBJECT: EMERGENCY CONTRACT IN THE AMOUNT OF \$37,500 WITH HALF MOON BAY ROOFING FOR ROOF REPAIRS AT FIRE STATION 41

Staff Recommendation

Staff recommends that the Board consider and, by a 4/5 vote, approve the resolution attached to this report awarding a contract in an amount not to exceed \$37,500 to Half Moon Bay Roofing for emergency roof repairs at Fire Station 41.

Background

Pursuant to the District's Procurement Policy Section VI, Emergency Procurements, the District may, without issuance of bids or RFPs, make emergency purchases of supplies, equipment, materials and services if the Board makes proper findings and, by a 4/5 vote, authorizes emergency contracting pursuant to Section 22050 of the California Public Contracts Code.

Emergency purchases are for immediate procurements required to safeguard life, health, or property, or to prevent the immediate interruption or cessation of necessary District services.

When the intended procurement will exceed \$10,000 for construction work or the intended procurement is for professional services exceeding \$25,000, the emergency must be declared by the Board and a resolution approved by a 4/5 vote of all members of the Board pursuant to California Public Contracts Code Sections 20812(c)(5), 20813(d), and 22050.

Attached for the Board's review and approval, by a 4/5 vote, is a resolution authorizing immediate roof repairs at Fire Station 41. The emergency contract with Half Moon Bay Roofing is proposed to be in an amount not to exceed \$37,500. Staff requests that this contract be approved on an emergency basis because the recent rains have caused damage to Fire Station 41 due to leaks in the existing roof, thereby creating a need for an immediate repair to avoid additional damage should further rains occur in the next several weeks.

Attachments

1. Resolution
2. Contract with Half Moon Bay Roofing for Roof Repairs at Fire Station 41

ATTACHMENT 1

RESOLUTION NO. 2022-62

RESOLUTION OF THE BOARD OF DIRECTORS OF THE COASTSIDE FIRE PROTECTION DISTRICT APPROVING AN AGREEMENT FOR IMMEDIATE ROOF REPAIRS AT FIRE STATION 41, ON AN EMERGENCY BASIS, WITH HALF MOON BAY ROOFING IN AN AMOUNT NOT TO EXCEED \$37,500

WHEREAS, the District's Procurement Policy provides at Section VI, Emergency Procurements, for the procurement of supplies, equipment, materials and services by the Board without issuance of bids or RFPs if the Board determines, by a 4/5 vote, that the immediate procurement is required to safeguard life, health, or property, or to prevent the immediate interference with or cessation of necessary District services; and

WHEREAS, staff has advised the Board that immediate roof repairs are required at Fire Station 41 to address roof leaks caused by rains on September 18 and 19, 2022, and to prevent additional damage to the station from rain, should it occur in the coming weeks; and

WHEREAS, staff has obtained a bid from Half Moon Bay Roofing in the amount of \$37,500 for immediate roof repairs and staff has further determined that Half Moon Bay Roofing has the capacity and capability to complete these repairs immediately; and

WHEREAS, the Board has determined that the need for repairs to address damage incurred in the September rain storm and to prevent additional damage is necessary.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of Coastsid Fire Protection District does hereby approve, by a 4/5 vote, pursuant to District Procurement Policy Section VI, Emergency Procurements, the Agreement for Roof Repairs with Half Moon Bay Roofing in an amount of \$37,500 as shown in "Exhibit A."

PASSED AND ADOPTED as a resolution of the Coastsid Fire Protection District at the Board meeting held on the 28th day of September, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gary Burke, Board President

ATTEST:
Fire Chief Jonathan Cox, District Secretary

ATTACHMENT 2

PUBLIC PROJECT AGREEMENT
FOR
EMERGENCY ROOF REPAIRS AT FIRE STATION 41

This Agreement is made and entered into as of the _____ day of September, 2022 by and between the Coastside Fire Protection District, hereinafter called "DISTRICT", and Half Moon Bay Roofing, hereinafter called "CONTRACTOR".

RECITALS

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

- A. That DISTRICT desires to engage CONTRACTOR to perform work on a public works project;
- B. That CONTRACTOR is qualified to provide such services to the DISTRICT; and
- C. That the DISTRICT has elected to engage the services of CONTRACTOR upon the terms and conditions as hereinafter set forth.

- 1. Services. The services to be performed by CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR. (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 CONTRACTOR 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 CONTRACTOR for all services performed by CONTRACTOR hereunder in an amount based upon CONTRACTOR's hourly rates during the time of the performance of said services. A copy of CONTRACTOR's hourly rates for which services hereunder shall be performed are set forth in CONTRACTOR's fee schedule marked Exhibit "A" 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 Thirty-Seven Thousand Five Hundred Dollars (\$37,500) 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 by amendment to this Agreement.

Compensation and reimbursement of costs and expenses hereunder shall be payable upon monthly billing therefor by CONTRACTOR 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 by amendment in advance of the performance. 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. CONTRACTOR shall keep and maintain accurate records of all time expended and costs and expenses incurred relating to services to be performed by CONTRACTOR hereunder. Said records shall be available to DISTRICT for review and copying during regular business hours at CONTRACTOR'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 CONTRACTOR. CONTRACTOR represents that it has the necessary professional skills to perform the services required and the DISTRICT shall rely on such skills of the CONTRACTOR to do and perform the work. In performing services hereunder CONTRACTOR shall adhere to the standards generally prevailing for the performance of services similar to those to be performed by CONTRACTOR hereunder.

8. Documents. All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by CONTRACTOR 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 CONTRACTOR to the DISTRICT is that of an independent contractor and all persons working for or under the direction of CONTRACTOR are its agents or employees and not agents or employees of the DISTRICT.
10. Schedule. CONTRACTOR 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 CONTRACTOR'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, CONTRACTOR's officers or employees.

CONTRACTOR 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, CONTRACTOR hereby agrees to defend, indemnify, and save harmless DISTRICT, its boards, commissions, 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 boards, commissions, officers, employees or agents caused by, or alleged to have been caused by, the negligence, intentional tortuous act or omission, or willful misconduct of CONTRACTOR, its officers, employees, subcontractors or agents in the performance of any services or work pursuant to this Agreement.

The duty of CONTRACTOR 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 CONTRACTOR to indemnify DISTRICT, its boards, commissions, officers, employees and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

CONTRACTOR'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. CONTRACTOR shall acquire and maintain Workers' Compensation, employer's liability, commercial general liability, and owned and non-owned and hired automobile liability insurance coverage relating to CONTRACTOR'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 CONTRACTOR's vehicle usage in performing services hereunder)

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.

CONTRACTOR 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 CONTRACTOR shall agree to be bound to CONTRACTOR and DISTRICT in the same manner and to the same extent as CONTRACTOR 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. CONTRACTOR 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, CONTRACTOR shall, on the Insurance Coverage form provided in Exhibit B, 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 officers, boards, commissions, employees, and agents, as additional insureds; and
- (c) Providing that CONTRACTOR's insurance coverage shall be primary insurance with respect to Coastside Fire Protection District, its officers, boards, commissions, employees, and agents, and any insurance or self-insurance maintained by DISTRICT for itself, its Council, officers, boards, commissions, employees, or agents shall be in excess of CONTRACTOR's insurance and not contributory with it. CONTRACTOR 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 CONTRACTOR/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 CONTRACTOR and DISTRICT in the same manner and to the same extent as CONTRACTOR 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-

CONTRACTOR: Half Moon Bay Roofing
239 San Mateo Road
Half Moon Bay, CA 94019
Attention: Gregory Garcia

17. Non-Assignment. This Agreement is not assignable either in whole or in part.
18. Amendments. This Agreement may be amended or modified only by written agreement signed by both parties.
19. 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.
20. 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.
21. 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.
22. Entire Agreement. This Agreement, including Exhibits A, B, C, and D, comprises the entire Agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

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: _____

Jonathan Cox, Deputy Chief

Dated: _____

Gary Burke, Board President

APPROVED AS TO FORM

Dated: _____

Jean Savaree, District Legal Counsel

CONTRACTOR

Dated: _____

Half Moon Bay Roofing

EXHIBIT A

SCOPE OF WORK, SCHEDULE, AND CONTRACTOR'S FEE SCHEDULE
FOR
EMERGENCY ROOF REPAIRS AT FIRE STATION 41

HALF MOON BAY ROOFING



9/15/22

CONTRACT

Coastside Fire Protection District
Att: John Riddell
(650) 726-5213
john.riddell@fire.ca.gov

Half Moon Bay Roofing hereby submits specifications and estimate for re-roofing at: 531 Obispo Rd.
Hmb. as follows:

1. Obtain required building permit.
(Owners required having a smoke alarm in each bedroom and Co2 alarm on each floor.)
2. Tear off existing 25 squares of tar and gravel roof, and haul away all debris.
3. Inspect roof deck and repair or replace any damaged wood (cost for this will be figured a \$100.00 per man hour plus materials and will be in addition to cost quoted below).
4. Install 25 squares of three ply GTA membrane, one ply UDL underlayment, and one ply STA smooth, and one ply GTA Granulated-(White).
5. Install new sheet metal flashing, heater exhaust, and vent pipes, re-use all other flashing.
6. Clean and prep metal roof, and coat with Smartcoat 450 Silicone White.
7. Clean up all debris resulting from above work, **EXCLUSIVE OF INTERIOR SPACES.**
8. All workmanship will carry a ten year warranty.

Half Moon Bay Roofing proposes to perform the above work in accordance with the specifications submitted and to complete it in a workmanlike manner according to standard practices for the sum of: \$37,500.00.

THIS QUOTE IS GOOD FOR 30 DAYS FROM THE PROPOSAL DATE.

Payments to be made as follows:

\$4,000.00 upon signing contract to start:

\$10,500.00 to: Roofline Supply to secure materials on completion.

Balance upon completion to: Half Moon Bay Roofing upon completion of work under this contract.

Sincerely,

Gregory Garcia

www.hmbroofing.com

Accepted Terms, and Contract: _____

Being a California Licensed roofing Contractor we are required to carry Liability Insurance and Workers Compensation Insurance. A portion of this proposal reflects the cost for these required insurances. These insurances are for your protection. With them you have legal and financial protection. Unlicensed or uninsured contractors are a dangerous risk because they expose you to significant financial harm in the event of injury or property damage.

239 San Mateo Rd., Half Moon Bay, CA 94019
hmbroofing@gmail.com • (650) 726-9603 • License #543728

EXHIBIT B

INSURANCE FORMS

CONTRACTOR 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

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: _____
Contract Administrator

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)		
(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:

EXHIBIT C

LABOR CODE REQUIREMENTS FOR PUBLIC WORKS PROJECTS

1. **Public Works Project/ Prevailing Wage.** The work to be performed under this Agreement is for "Public Works" within the meaning of Labor Code Sections 1720 to 1861. CONTRACTOR must therefore comply with state prevailing wage and labor law (California Labor Code Sections 1720 to 1780, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000) for work performed under this Agreement. CONTRACTOR's obligations under prevailing wage and labor compliance laws include, among other things, to: pay at least the applicable prevailing wage and travel and subsistence payments for public works activities performed under this Agreement; comply with overtime and working hour requirements; comply with apprenticeship obligations; comply with payroll recordkeeping requirements; and comply with other obligations as required by law. Copies of the applicable prevailing wage rates are on file with the DISTRICT's Project Manager, and shall be made available to any interested party upon request. CONTRACTOR shall ensure that the above requirements are included in all its contracts and any lower tier subcontracts for activities for the Project.
2. **Registration with Department of Industrial Relations.** This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. CONTRACTOR must be registered with the Department of Industrial Relations under Labor Code section 1725.5 when bidding and throughout performance of this agreement.
3. **Wage Rates.**
 - 3(A). It shall be mandatory upon CONTRACTOR and upon any subcontractor to pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the Contract. It is further expressly stipulated that CONTRACTOR shall, as a penalty to DISTRICT, forfeit two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each laborer, worker, or mechanic paid less than the stipulated prevailing rates for any work done under this Agreement by CONTRACTOR or by any subcontractor; and CONTRACTOR agrees to comply with all provisions of Section 1775 of the Labor Code.
 - 3(B). The DISTRICT will not recognize any claim for additional compensation because of the payment by the CONTRACTOR of any wage rate in excess of the prevailing wage rate set forth in the Agreement. The possibility of wage increases is one of the elements to be considered by the CONTRACTOR in determining its bid, and will not under any circumstances be considered as the basis of a claim against the DISTRICT on the Agreement.
4. **Payroll Records.** The CONTRACTOR and each subcontractor must comply with Labor Code Section 1776 and all requirements of contractors stated therein for the maintenance, inspection and certification of payroll records. The CONTRACTOR and each subcontractor who fails to timely furnish payroll records or make the records available for inspection will forfeit to the DISTRICT the penalty for non-compliance set forth in Labor Code Section 1776 for their respective failure.

5. **Discrimination**. The CONTRACTOR and each subcontractor must comply with the anti-discrimination requirements of Labor Code Section 1777.6.

EXHIBIT D

A. Required Provisions On Contract Claim Resolution

Any claim arising under this contract which the CONTRACTOR wishes to assert against the DISTRICT ("public entity") shall be governed by California Public Contract Code Section 9204. Claims which do not exceed three hundred seventy-five thousand dollars (**\$375,000**) are also subject to the provisions of Article 1.5 of the California Public Contract Code (commencing with Section 20104). Pursuant to California Public Contracts Code Section 9204, claims shall be resolved as follows:

1.
 - (a) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.
 - (b) The claimant shall furnish reasonable documentation to support the claim, pursuant to Document 00 7200 (General Conditions), Article 12.
 - (c) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.
 - (d) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.
2.
 - (a) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.
 - (b) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.
 - (c) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(d) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(e) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

3. Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.
4. Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.
5. If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

B. Compliance With Americans With Disabilities Act

1. CONTRACTOR acknowledges that, pursuant to the Americans with Disabilities Act (**ADA**), programs, services and other activities provided by a public entity to the public, whether directly or through a Contractor, must be accessible to the disabled public. CONTRACTOR shall provide the services specified in the Contract Documents in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. CONTRACTOR agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under the Contract Documents and further agrees that any violation of this prohibition on the part of CONTRACTOR, its employees, agents or assigns shall constitute a material breach of the Contract Documents.

C. Compliance With IRCA

1. CONTRACTOR acknowledges that CONTRACTOR, and all subcontractors hired by CONTRACTOR to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act (**IRCA**). CONTRACTOR is and shall remain in compliance with the IRCA and shall ensure that any subcontractors hired by CONTRACTOR to perform services under this Agreement are in compliance with the IRCA. In addition, CONTRACTOR agrees to indemnify, defend and hold

harmless Owner, its agents, officers and employees, from any liability, damages or causes of action arising out of or relating to any claims that CONTRACTOR's employees, or employees of any subcontractor hired by CONTRACTOR, are not authorized to work in the United States for CONTRACTOR or its subcontractor and/or any other claims based upon alleged IRCA violations committed by CONTRACTOR or CONTRACTOR's subcontractors.