

AGENDA SUBMITTAL

TO: GCS D Board of Directors

FROM: Peter Kampa, General Manager

DATE: August 2, 2018

SUBJECT: Adoption of a Resolution Approving Agreement with Moyle Construction, Inc. for Completion of the Mary Laveroni Park Flood Restoration Project

SUMMARY

The CSD has elected to be subject to the California Uniform Construction Cost Accounting Act (CUCCAA), which provides a fairly simple process for bidding and contracting for public works projects costing less than \$175,000. Under the CUCCAA, the District is required to maintain a list of interested contractors by trade, and to notify them of projects to be informally bid. The District's Informal Bid Ordinance delegates responsibility for contract award to the General Manager however, the Board is required to ratify the award of the General Manager for informal bids.

On June 28, 2018, the District updated its List of Interested Contractors and on July 13, 2018 distributed the attached Notice Inviting Informal Bids to all contractors on the list.

Two contractors submitted bids by the deadline, and one formally declined to bid. A summary of the bids received is attached. Moyle Construction submitted the lowest bid at \$147,920. In order to complete the park restoration work in advance of the 49er Festival, the Board is requested to act on this contract award at this meeting.

RECOMMENDED ACTION

Adopt the Resolution Approving Agreement with Moyle Construction, Inc. for Completion of the Mary Laveroni Park Flood Restoration Project.

ATTACHMENTS

- Notice Inviting Bids
- Construction Contract
- Resolution approving Moyle Contract

FINANCIAL IMPACTS

The cost of the construction contract with Moyle Construction is \$147,920, to be funded up to 75% by CDAA funds.

Groveland Community Services District

18966 FERRETTI ROAD GROVELAND, CA 95321

PHONE (209)-962-7161 Ext. 18

FAX (209)-962-4943

Cover Letter

Request for Informal bids for Mary Laveroni Park Flood Restoration Project

Groveland Community Services District is requesting informal bids for Mary Laveroni Park Flood Restoration Project. Contractors shall fill out the attached BID sheet and return it to 18966 Ferretti Rd. Groveland CA 95321, or email it to lmelchor@gcsd.org by **4:00PM on July 30, 2018**.

The project is located at 18950 Hwy 120 Groveland, CA 95321. The Contractor shall agree to start the work by approximately August 6, 2018 and complete the project no later than August 30, 2018.

Groveland Community Services District
Mary Laveroni Park Restoration Project

Project Scope of Work:

1. Contractor hereby agrees to furnish all labor, materials, services, transportation, appliances, mechanical workmanship, transportation, communication, scaffolding, hoisting, supervision, coordination, permits, sales taxes, shop drawings and samples, to complete in a workman-like manner, the following work:
 - a. Remove all displaced soil and rock deposits as shown on the attached schematic, leveling the areas and placing/compacting the excess materials into eroded locations in the lower park site. Approximately 580 tons of displaced soil is to be redistributed on site.
 - b. Backfill/grade and compact eroded areas shown on the attached schematic.
 - c. Regrade approximately 55,000 SF of roadways, walkways for proper drainage and compact with 4" of gravel or road base
 - d. Install 160 feet of 1-inch PVC SCH 40 water line from valve box to snack shack building
 - e. Install 140 feet of 2-inch PVC electrical conduit
 - f. Remove and replace existing damaged drinking fountain, installed with 3-foot by 3-foot reinforced concrete base (4-inch thickness) and 3 cubic foot gravel drain area below fountain
 - g. Remove old and pour new 1-cubic yard footings with 3-foot by -3 foot reinforced concrete base at grade for (3) canopy support poles on North Side of Amphitheater
 - h. Re-establish creek berm/bank by adding acceptable compacted fill material to an average height of 2-feet and a four foot base width
 - i. Fill and compact washed out drainage ditch and bank below upper park with material from the project site
 - j. Backfill 30" CMP behind Skate Park (next to Cal-Trans yard) with approximately 140 tons of 4-inch + riprap
 - k. Install, grade and compact 6-inches of sub base rock and 3-inches of hot mix asphalt surfacing per attached plans and specifications
 - l. Flush/clean 800-feet of 36" CMP.
 - m. Remove and re-install 75-feet of 4-inch PVC French drain with 1.5" drain rock
 - n. Properly dispose of all discarded asphalt, trash and rubbish and provide disposal receipts
2. Bid additive: Extend 12-inch culvert 130-feet from the upper park to the drainage ditch adjacent to the upper park fence
3. The District will provide the following:
 - a. Water for gravel compaction and dust control
 - b. Equipment staging area see attachment

Groveland Community Services District
Mary Laveroni Park Restoration Project

- c. Removal of the glass and small debris from the lawn area is hereby removed from the work scope

BIDDING REQUIREMENTS

1. Contractor shall provide a Payment Bond in the amount of 100% of the contract.
2. Contractor shall complete work by August 30, 2018

BID SCHEDULE

UNIT PRICE LIST—FIGURES

WORK IDENTIFICATION _____

NAME OF BIDDER _____

BASE BID-SCHEDULE A					
Item No.	Item Description	Quantity	Unit	Unit Price in Figures	*Item Total Price in Figures
1	Equipment Mobilization	1	LS		
2	Clean up Displaced Spoils (rocks, sand, silt, asphalt) If material isn't used as fill it needs to be hauled to an approved landfill	581	TN		
3	Remove and re-install French drain with 1.5" drain rock	75	LF		
4	Backfill/grade/compact eroded areas of lower park	392	TN		
5	Remove old and pour new footings for canopy support poles (3) on North side of Amphitheater	3	LS		
6	Re-grade roadway's, walkway's, for proper drainage and compact with 4" of road base	55,000	SF		
7	Fill and compact washed out drainage ditch & bank below upper Park	98	LF		
8	Backfill 30" CMP with 4" Rip Rap behind Skate Park next to Cal-Trans yard	140	TN		

SCHEDULE OF BID ITEMS - CONT.

9	Replace 1" Water line from valve box to Snack Shack	160	LF		
10	Remove and replace Drinking Fountain with concrete pedestal	1	LS		
11	Flush 36" CMP	800	LF		
12	Replace/Install 2-inch electrical conduit	140	LF		
13	Reestablish Creek berm/bank by adding rock & fill as needed	850	LF		
14	Provide 6" rock sub base and 3" hot mix asphalt surfacing, and parking lot striping as shown on the attached plans; attachment #2	2100	SF		
TOTAL BID – SCHEDULE A \$					

BASE BID TOTAL (Schedule A) (in writing) _____

ADDITIVE ALTERNATIVE – SCHEDULE B					
1B	Extend 12" Culvert from upper Park to lower drainage ditch	130	LF		
TOTAL BID – SCHEDULE B \$					

BASE BID TOTAL (Schedule B) (in writing) _____

NOTE: Pursuant to Public Contract Code section 20103.8, the District will determine the lowest bid based on the total of the Base Bid (Schedule A)

The District has the option to reject all bids with or without cause. The District also has the option to remove bid items at its discretion. It is understood that the foregoing quantities are approximate only and are solely for the purpose of facilitating the comparison of bids, and that the contractor's compensation will be computed upon the basis of the actual quantities in the complete work, whether they be more or less than those shown.

Mary Laveroni Park Restoration

Schematic Drawing of Improvement Locations



- Replace Electrical Conduit
- Replace Drinking Fountain
- Replace Water Sewer/Garage Roads
- Eroded Areas
- Reestablish creek bank
- Parking Lot
- Reinstall French Drain
- Flush Culvert
- Remove Displaced Soils
- Remove Displaced Soils
- Remove Displaced Soils
- Reestablish Creek Bank
- Remove Displaced Soils
- Remove Displaced Soils
- Fill Erosion
- Extend Culvert
- Fill at Culvert
- Flush Culvert
- Grade Roads
- Parking Lot
- Reestablish
- Reinstall French Drain
- Remove Displaced Soils
- Replace Concrete Footings (3)
- Replace Drinking Fountain
- Replace Electrical Conduit
- Replace Water Service

Legend

- ① Eroded Areas
- ② Extend Culvert
- ③ Fill at Culvert
- ④ Fill Erosion
- ⑤ Flush Culvert
- ⑥ Grade Roads
- ⑦ Parking Lot
- ⑧ Reestablish
- ⑨ Reinstall French Drain
- ⑩ Remove Displaced Soils
- ⑪ Replace Concrete Footings (3)
- ⑫ Replace Drinking Fountain
- ⑬ Replace Electrical Conduit
- ⑭ Replace Water Service

© 2013 K&H

Goetz & Hart



Groveland Community Services District
Mary Laveroni Park Restoration Project

Equipment staging is acceptable on site at the park as shown below:

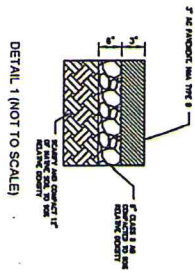
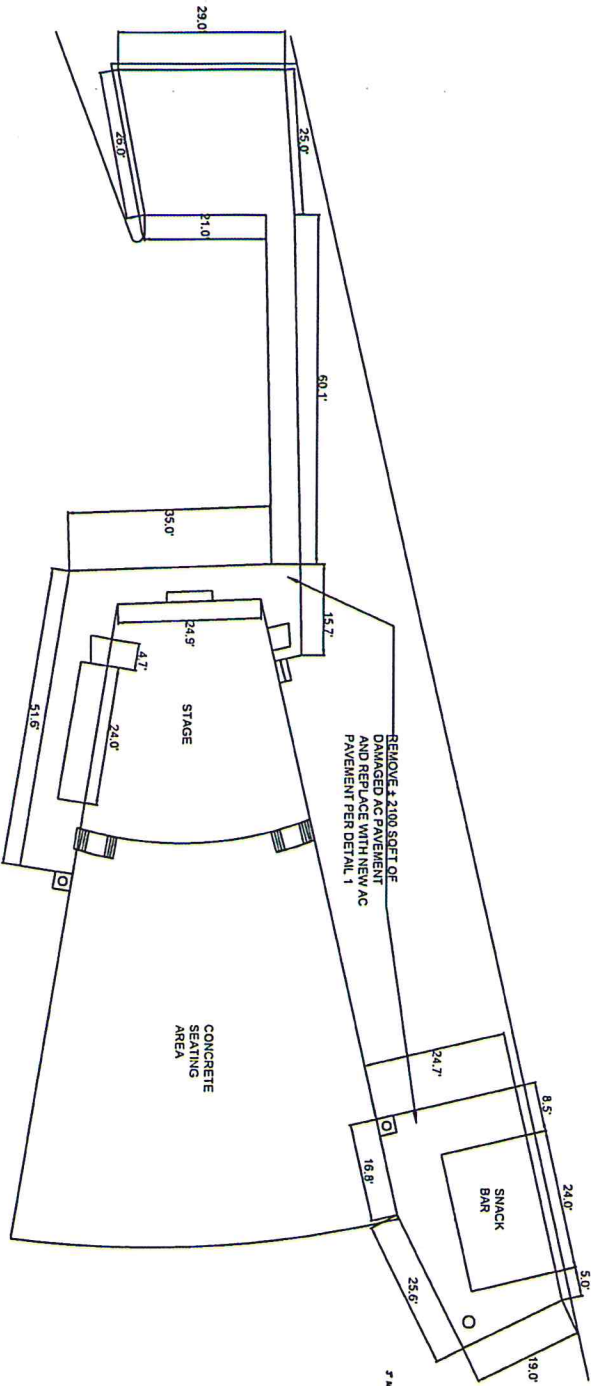




Figure 1: Google Earth map of location



SCALE: 1" = 20'



<p>VERIFY SCALES</p> <p>DATE: _____</p> <p>SCALE: _____</p>		<p>PROJECT LOCATION</p> <p>PROJECT NAME: ALDRIDGE WASHINGTON</p> <p>PROJECT NUMBER: 038713</p> <p>DATE: 07/19/18</p> <p>PROJECT ADDRESS: 0000 - 0000</p>		<p>CONSULTING ENGINEERS</p> <p>Consulting Engineers</p>		<p>GROVELAND COMMUNITY SERVICES DISTRICT</p> <p>MARY LAVERONI COMMUNITY PARK SITE PLAN</p>	
<p>DATE: _____</p> <p>SCALE: _____</p>		<p>PROJECT LOCATION:</p> <p>PROJECT NAME: ALDRIDGE WASHINGTON</p> <p>PROJECT NUMBER: 038713</p> <p>DATE: 07/19/18</p> <p>PROJECT ADDRESS: 0000 - 0000</p>		<p>CONSULTING ENGINEERS</p> <p>Consulting Engineers</p>		<p>GROVELAND COMMUNITY SERVICES DISTRICT</p> <p>MARY LAVERONI COMMUNITY PARK SITE PLAN</p>	
<p>DATE: _____</p> <p>SCALE: _____</p>		<p>PROJECT LOCATION:</p> <p>PROJECT NAME: ALDRIDGE WASHINGTON</p> <p>PROJECT NUMBER: 038713</p> <p>DATE: 07/19/18</p> <p>PROJECT ADDRESS: 0000 - 0000</p>		<p>CONSULTING ENGINEERS</p> <p>Consulting Engineers</p>		<p>GROVELAND COMMUNITY SERVICES DISTRICT</p> <p>MARY LAVERONI COMMUNITY PARK SITE PLAN</p>	
<p>DATE: _____</p> <p>SCALE: _____</p>		<p>PROJECT LOCATION:</p> <p>PROJECT NAME: ALDRIDGE WASHINGTON</p> <p>PROJECT NUMBER: 038713</p> <p>DATE: 07/19/18</p> <p>PROJECT ADDRESS: 0000 - 0000</p>		<p>CONSULTING ENGINEERS</p> <p>Consulting Engineers</p>		<p>GROVELAND COMMUNITY SERVICES DISTRICT</p> <p>MARY LAVERONI COMMUNITY PARK SITE PLAN</p>	
<p>DATE: _____</p> <p>SCALE: _____</p>		<p>PROJECT LOCATION:</p> <p>PROJECT NAME: ALDRIDGE WASHINGTON</p> <p>PROJECT NUMBER: 038713</p> <p>DATE: 07/19/18</p> <p>PROJECT ADDRESS: 0000 - 0000</p>		<p>CONSULTING ENGINEERS</p> <p>Consulting Engineers</p>		<p>GROVELAND COMMUNITY SERVICES DISTRICT</p> <p>MARY LAVERONI COMMUNITY PARK SITE PLAN</p>	

GROVELAND COMMUNITY SERVICES DISTRICT

PUBLIC WORKS CONTRACT

This contract ("Contract") is effective as of August 2, 2018, and is between the GROVELAND COMMUNITY SERVICES DISTRICT, a California community services district ("District"), and Moyle Construction, Inc., a corporation/partnership/limited liability company ("Contractor"), collectively referred to as the "Parties."

Section 1. Recitals. This Contract is entered into with respect to the following facts:

District noticed and received sealed bids for the work involved in the Mary Laveroni Flood Restoration Project ("Project"), which is more fully described in the Contract Documents.

The Board of Directors of District determined that Contractor was the lowest responsive bidder and awarded to Contractor the bid.

Contractor has represented it is qualified to perform all of the work required to complete the Project.

Contractor has agreed to perform all such work in the time and manner set forth in the Contract Documents.

The Board of Directors of District has determined that the public interest, convenience and necessity require the execution of this Contract and its implementation.

Section 2. Contract Documents. This Contract consists of the following documents ("Contract Documents"), all of which are made a part of this Contract:

- 2.1 Notice Inviting Bids
- 2.2 Bid Proposal, as accepted
- 2.3 Notice of Award
- 2.4 Notice to Proceed
- 2.5 This Contract
- 2.6 Verification of California Contractor's License
- 2.7 Contractor's Certificate Regarding Workers' Compensation
- 2.8 Security for payment (labor and materials)
- 2.9 Certificate(s) of Insurance
- 2.10 Plans and Standard Drawings
- 2.11 Prevailing Wage Scales

2.12 Other documents (list here)

Exhibit A – Compensation

Exhibit B – Insurance

Section 3. The Work.

- 3.1 The work (“Work”) to be performed by Contractor is described in the Contract Documents.
- 3.2 In completing the Work, Contractor must employ, at a minimum, the applicable generally accepted professional standards of its industry in existence at the time of performance as utilized by persons engaging in similar work.
- 3.3 Except as specifically provided in the Contract Documents, Contractor must furnish, at its sole expense, all of the labor, materials, tools, equipment, services and transportation necessary to perform all of the Work.
- 3.4 Contractor must perform all of the Work in strict accordance with the Contract Documents.

Section 4. Time to Perform the Work.

- 4.1 Time is of the essence with respect to Contractor’s Work. Contractor agrees to diligently pursue performance of the Work within the time specified by the Contract Documents.
- 4.2 Contractor will be excused from any delay in performance or failure to perform due to causes beyond the control of Contractor. Such causes include, but are not limited to, acts of God, acts of terrorism, acts of federal, state or local governments, acts of District, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather or weather that demonstrably interferes with or impedes Contractor’s performance of critical path operations.
- 4.3 If Contractor is delayed by any cause beyond Contractor’s control, District will grant a reasonable time extension for the completion of the Work corresponding to the type and length of the delay. If delay occurs, Contractor must notify District in writing within 48 hours of the cause and the extent of the delay and how such delay interferes with Contractor’s performance of the Work.

Section 5. Compensation and Payment.

- 5.1 Subject to any limitations provided in the Contract Documents, District agrees to pay Contractor as full consideration for the faithful performance of all of the Work the compensation set forth in Exhibit A (“Compensation”), which is made a part of this Contract.
- 5.2 Contractor must furnish District with a Pay Estimate for the Work performed in

CONTRACT

accordance with the Contract Documents. Contractor may not submit a Pay Estimate more often than once every 30 days.

- 5.3 District will review each Pay Estimate and determine whether the Work performed is in accordance with the Contract Documents. The District General Manager may require Contractor to provide a release of all undisputed Contract amounts contained in the Pay Estimate.
- 5.4 If District disputes any item on a Pay Estimate, District will give Contractor notice stating the reasons for the dispute. The Parties will meet and confer in good faith to attempt to resolve the dispute.
- 5.5 For contracts greater than Five Thousand dollars (\$5,000), the District will withhold as retention five percent (5%) of all billings and the Compensation until final completion and acceptance of the Project Work.
- 5.6 Contractor may substitute securities meeting the requirements of Public Contract Code section 22300 for any money withheld by the District to ensure the performance under this Contract.
- 5.7 Except as to any charges for the Work performed that District disputes and the District's standard five-percent retention of the approved progress payment, District will cause Contractor to be paid within 30 days of the date of the invoice or the date that Contractor furnishes District with a release of all undisputed Contract amounts, whichever occurs later, in accordance with Public Contract Code section 20104.50. Federally funded projects will not have a five-percent retention.
- 5.8 Contractor shall furnish District with labor and material releases from all subcontractors performing work on, or furnishing materials for, the Work governed by this Contractor prior to final payment by District.
- 5.9 In the event there is any claim specifically excluded by Contractor from the operation of any release, District may retain the maximum amount allowable under California law.

Section 6. Labor Code and Prevailing Wage Requirements.

- 6.1 Contractor agrees to comply with the requirements of California Labor Code sections 1810 through 1815. Eight hours of labor constitutes a legal day's work per Labor Code section 1810. Contractor will forfeit the statutory penalty to District for each worker employed in the execution of this Contract by Contractor or any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Labor Code sections 1810 through 1815.
- 6.2 Copies of the determination of the Director of the Department of Industrial Relations of the prevailing rate of per diem wages for each craft, classification or type of worker needed to execute this Contract are available for download from the State website: <http://www.dir.ca.gov/OPRL/dprevagedetermination.htm>.

Mary Laveroni Park Flood Restoration Project
Groveland CSD

- 6.3 Contractor must post at the work site, or if there is no regular work site then at its principal office, for the duration of the Contract, a copy of the determination by the Director of the Department of Industrial Relations of the specified prevailing rate of per diem wages. (Labor Code § 1773.2.) When applicable, copies of the prevailing rate of per diem wages will be on file at District's Office and available to Contractor and any other interested party upon request.
- 6.4 No subcontractor who is ineligible to bid work on, or be awarded, a public works project under Labor Code sections 1771.1 or 1777.7 can bid on, be awarded or perform work as a subcontractor on the Project. The Contractor is prohibited from performing work on the Project with a subcontractor who is ineligible to perform work on a public works project under these sections of the Labor Code.
- 6.5 Contractor, and any subcontractor engaged by Contractor, may pay not less than the specified prevailing rate of per diem wages to all workers employed in the execution of the contract. (Labor Code § 1774.) Contractor is responsible for compliance with Labor Code section 1776 relative to the retention and inspection of payroll records.
- 6.6 Contractor must comply with all provisions of Labor Code section 1775. Under Section 1775, Contractor will forfeit the statutory penalty to District for each worker employed in the execution of the Contract by Contractor or any subcontractor for each calendar day, or portion thereof, in which the worker is paid less than the prevailing rates. Contractor may also be liable to pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate.
- 6.7 Nothing in this Contract prevents Contractor or any subcontractor from employing properly registered apprentices in the execution of the Contract. Contractor is responsible for compliance with Labor Code section 1777.5 for all apprenticeable occupations. This statute requires that contractors and subcontractors must submit contract award information to the applicable joint apprenticeship committee, must employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice's work for every five hours of labor performed by a journeyman (unless an exception is granted under § 1777.5), must contribute to the fund or funds in each craft or trade or a like amount to the California Apprenticeship Council, and that contractors and subcontractors must not discriminate among otherwise qualified employees as apprentices solely on the ground of sex, race, religion, creed, national origin, ancestry or color. Only apprentices defined in Labor Code section 3077, who are in training under apprenticeship standards and who have written apprentice contracts, may be employed on public works in apprenticeable occupations.
- 6.8 Contractor has reviewed and agrees to comply with any applicable provisions for any public work subject to Department of Industrial Relations (DIR) Monitoring and Enforcement of prevailing wages, including the registration requirements of Labor Code Section 1771.1(a). District hereby notifies Contractor that Contractor is responsible for submitting certified payroll records directly to the State Compliance Monitoring Unit (CMU). For further information concerning compliance monitoring please visit the website location at: <http://www.dir.ca.gov/dlse/cmucmu.html>.

CONTRACT

- 6.9 Contractor must comply with Labor Code section 1771.1(a), which provides that Contractor may award any contracts and subcontracts for work that qualifies as a "public work" only to subcontractors which are at that time registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Contractor must obtain proof of such registration from all such subcontractors."

Section 7. Non-Discrimination. Contractor, its officers, agents, employees, and subcontractors may not discriminate in the employment of persons to perform the Work in violation of any federal or state law prohibiting discrimination in employment, including based on the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, of any person, except as provided under California Government Code section 12940. Contractor is responsible for compliance with this section.

Section 8. General Legal Compliance.

- 8.1 In performing the Work, Contractor must comply with all applicable statutes, laws and regulations, including, but not limited to, OSHA requirements and the Municipal Code.
- 8.2 Contractor must, at Contractor's sole expense, obtain all necessary permits and licenses required for the Work, and give all necessary notices and pay all fees and taxes required by law, including, without limitation, any business license tax imposed by District.
- 8.3 Contractor must maintain a valid California Contractor's License that is required for the Work on this Project throughout the term of this Contract.
- 8.4 Subcontractors employed by Contractor on the execution of the Work covered in this Contract shall be only those given prior written permission from the District, and otherwise comply with Public Contract Code sections 4100 to 4113, as applicable.

Section 9. Clayton and Cartwright Act Assignments. In entering into this Contract or a contract with a subcontractor to supply goods, services, or materials pursuant to this Contract for the Project, Contractor and any subcontractor will be deemed to have offered and agreed to assign to District all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700 of Part 2 of Division 7 of the California Business and Professions Code), arising from purchases of goods, services, or materials for the Project. This assignment will be deemed made and will become effective at the time District tenders final payment to Contractor, without further acknowledgement by the Parties.

Section 10. Independent Contractor. Contractor is and will at all times remain as to District a wholly independent contractor. Neither District nor any of its officers, employees, or agents will have control over the conduct of Contractor or any of Contractor's officers, employees, agents or subcontractors, except as expressly set forth in the Contract Documents. Contractor may not at any time or in any manner represent that it or any of its officers, employees, agents, or subcontractors are in any manner

officers, employees, agents or subcontractors of District.

Section 11. Indemnification.

- 11.1 Contractor agrees to the fullest extent permitted by law to (1) immediately defend and (2) indemnify District from and against, any and all claims and liabilities, regardless of the nature or type, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Contractor, or its officers, employees, agents, or subcontractors committed in performing any Work under this Contract or the failure to comply with any of the obligations of this Contract (collectively, "Claims"). The Claims subject to Contractor's duties to defend and indemnify include, without limitation, all claims, actions, causes of action, proceedings, suits, losses, damages, penalties, fines, judgments, liens, levies, and associated investigation and administrative expenses. Such Claims also include defense costs, including reasonable attorneys' fees and disbursements, expert fees, court costs, and costs of alternative dispute resolution.
- 11.2 Contractor's duty to defend is a separate and distinct obligation from Contractor's duty to indemnify. Contractor is obligated to defend District in all legal, equitable, administrative, or special proceedings, with counsel approved by District, immediately upon tender to Contractor of the Claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination that persons other than Contractor are responsible for the Claim does not relieve Contractor from its separate and distinct obligation to defend under this section. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if Contractor asserts that liability is caused in whole or in part by the negligence or willful misconduct of any District indemnified party. If it is finally adjudicated that liability was caused by the comparative active negligence or willful misconduct of any District indemnified party, then Contractor may submit a claim to District for reimbursement of reasonable attorneys' fees and defense costs in proportion to the established comparative liability of the District indemnified party.
- 11.3 Contractor agrees that its defense and indemnification obligation under this section, includes the reasonable costs of attorneys' fees incurred by the District's legal counsel to monitor and consult with Contractor regarding the defense of any Claims, including providing direction with regard to strategy, preparation of pleadings, settlement discussions, and attendance at court hearings, mediations, or other litigation related appearances. District will use its best efforts to avoid duplicative attorney work or appearances in order to keep defense costs to a reasonable minimum.
- 11.4 Contractor agrees that settlement of any Claim will require the consent of District. District agrees that its consent will not be unreasonably withheld provided that Contractor is financially able (based on demonstrated assets) to fulfill its obligation to indemnify District for the costs of any such settlement as required under this Contract.
- 11.5 Contractor's obligation to indemnify District applies unless it is finally adjudicated that the liability was caused by the sole active negligence or sole willful misconduct

of a District indemnified party. If a Claim is finally adjudicated and a determination made that liability was caused by the sole active negligence or sole willful misconduct of a District indemnified party, then Contractor's indemnification obligation will be reduced in proportion to the established comparative liability.

- 11.6 For the purposes of this section, "District" includes District's officers, officials, employees and agents.
- 11.7 The provisions of this section will survive the expiration or earlier termination of this Agreement.

Section 12. Insurance.

- 12.1 Contractor agrees to have and maintain in full force and effect during the term of this Contract the insurance coverages listed in Exhibit B ("Insurance"), which is made a part of this Contract.
- 12.2 Pursuant to Labor Code section 1861, by signing this Contract and initialing hereunder the Contractor certifies that:

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Contractor's Initials: _____

Section 13. Notice.

- 13.1 All written notices required or permitted to be given under this Contract will be deemed made when received by the other Party at its respective address as follows:

To District: Groveland Community Services District
18966 Ferretti Road
Groveland, CA 95321
Attention: General Manager

(Tel.) 209-962-7161

To Contractor: _____

Attention: _____
(Tel.) _____
(Fax) _____

- 13.2 Notice will be deemed effective on the date personally delivered or transmitted by

facsimile or email. If the notice is mailed, notice will be deemed given three days after deposit of the same in the custody of the United States Postal Service, postage prepaid, for first class delivery, or upon delivery if using a major courier service with tracking capabilities.

- 13.3 Any Party may change its notice information by giving notice to the other Party in compliance with this section.

Section 14. District Rights of Termination and to Complete the Work.

- 14.1 The occurrence of any of the following is a default by Contractor under this Contract:
- 14.1.1 Contractor refuses or fails to prosecute the Work or any part thereof with such diligence as will insure its completion within the time specified or any permitted extension.
 - 14.1.2 Contractor fails to complete the Work on time.
 - 14.1.3 Contractor is adjudged bankrupt, or makes a general assignment for the benefit of creditors, or a receiver is appointed on account of Contractor's insolvency.
 - 14.1.4 Contractor fails to supply enough properly skilled workers or proper materials to complete the Work in the time specified.
 - 14.1.5 Contractor fails to make prompt payment to any subcontractor or for material or labor.
 - 14.1.6 Contractor fails to abide by any applicable laws, ordinances or instructions of District in performing the Work.
 - 14.1.7 Contractor breaches or fails to perform any obligation or duty under the Contract.
- 14.2 Upon the occurrence of a default by Contractor, District will serve a written notice of default on Contractor specifying the nature of the default and the steps needed to correct the default. Unless Contractor cures the default within 10 days after the service of such notice, or satisfactory arrangements acceptable to District for the correction or elimination of such default are made, as determined by District, District may thereafter terminate this Contract by serving written notice on Contractor. In such case, Contractor will not be entitled to receive any further payment, except for Work actually completed prior to such termination in accordance with the provisions of the Contract Documents.
- 14.3 In event of any such termination, District will also immediately serve written notice of the termination upon Contractor's surety. The surety will have the right to take over and perform pursuant to this Contract; provided, however, that if the surety does not give District written notice of its intention to take over and perform this Contract within five days after service of the notice of termination or does not commence performance within 10 days from the date of such notice, District may

take over the Work and prosecute the same to completion by contract or by any other method it may deem advisable for the account and at the expense of Contractor. Contractor and the surety will be liable to District for any and all excess costs or other damages incurred by District in completing the Work.

- 14.4 If District takes over the Work as provided in this Section, District may, without liability for so doing, take possession of, and utilize in completing the Work, such materials, appliances, plant, and other property belonging to Contractor as may be on the site of the Work and necessary for the completion of the Work.
- 14.5 If District takes over the Work, District may also take possession of outstanding materials on order for the completion of the project, upon payment to the vendor. All excess costs incurred by District in obtaining such materials, will be the responsibility of the Contractor.

Section 15. Project Documents. All data, drawings, maps, models, notes, photographs, reports, studies and other documents (collectively, "Project Documents") prepared, developed or discovered by Contractor in the course of performing any of the Work under this Contract will become the sole property of District. Upon the expiration or termination of this Contract, Contractor must turn over all original Project Documents to District in its possession, but may retain copies of any of the Project Documents it may desire.

Section 16. General Provisions.

- 16.1 Authority to Execute. Each Party represents and warrants that all necessary action has been taken by such Party to authorize the undersigned to execute this Contract and to bind it to the performance of its obligations.
- 16.2 Assignment. Contractor may not assign this Contract without the prior written consent of District, which consent may be withheld in District's sole discretion since the experience and qualifications of Contractor were material considerations for this Contract.
- 16.3 Binding Effect. This Agreement is binding upon the heirs, executors, administrators, successors and permitted assigns of the Parties.
- 16.4 Integrated Contract. This Contract, including the Contract Documents, is the entire, complete, final and exclusive expression of the Parties with respect to the Work to be performed under this Contract and supersedes all other agreements or understandings, whether oral or written, between Contractor and District prior to the execution of this Contract.
- 16.5 Modification of Contract. No amendment to or modification of this Contract will be valid unless made in writing and approved by Contractor and by the Board of Directors of District or District Manager, as applicable. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver will be void.
- 16.6 Counterparts, Facsimile or other Electronic Signatures. This Contract may be executed in several counterparts, each of which will be deemed an original, and

CONTRACT

all of which, when taken together, constitute one and the same instrument. Amendments to this Contract will be considered executed when the signature of a party is delivered by facsimile or other electronic transmission. Such facsimile or other electronic signature will have the same effect as an original signature.

- 16.7 Waiver. Waiver by any Party of any term, condition, or covenant of this Contract will not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Contract will not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Contract. Acceptance by District of any Work performed by Contractor will not constitute a waiver of any of the provisions of this Contract.
- 16.8 Interpretation. This Contract will be interpreted, construed and governed according to the laws of the State of California. Each party has had the opportunity to review this Contract with legal counsel. The Contract will be construed simply, as a whole, and in accordance with its fair meaning. It will not be interpreted strictly for or against either party.
- 16.9 Severability. If any term, condition or covenant of this Contract is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Contract will not be affected and the Contract will be read and construed without the invalid, void or unenforceable provision.
- 16.10 Venue. In the event of litigation between the parties, venue in state trial courts will be in the County of Tuolumne. In the event of litigation in a U.S. District Court, venue will be in the United States Court for the Eastern District of California.

[Signatures on the following page.]

Mary Laveroni Park Flood Restoration Project
Groveland CSD

The Parties have caused this Contract to be executed by their undersigned authorized agents as follows:

GROVELAND COMMUNITY SERVICES DISTRICT



Mr. Peter Kampa, General Manager

ATTEST:



Jennifer Flores, Board Secretary

APPROVED AS TO FORM: LEGAL COUNSEL

CONTRACTOR

(If not an individual, two signatures are required)

Name and Title

Name and Title

EXHIBIT A

COMPENSATION

The total compensation under this Contract will not exceed:

~~ALTERNATE 1~~

~~If a Lump Sum Bid: "The sum of \$ _____."~~

~~ALTERNATE 2~~

~~If a Unit Price Bid: "The total unit prices set forth in the bid and the actual measured quantities utilized for the Project as determined by the Director."~~

ALTERNATE 3

If both Lump Sum and Unit Price Bid: "The sum of \$ 22,922 for lump sum items, and the amount due based upon the unit prices set forth in the bid and the actual measured quantities utilized for the Project as determined by the Director."

EXHIBIT B

INSURANCE

- 1. **General Requirements.** Contractor must procure and maintain in full force and effect during the term of this Contract the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial General Liability	\$1,000,000
Business Automobile Liability	\$1,000,000
Workers' Compensation	Statutory Requirements

- 2. **Commercial General Liability Insurance.** This policy must meet or exceed the requirements of Insurance Services Office (ISO) CGL Form No. CG 00 01. The amount of insurance set forth above will be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Liability policies must be endorsed to name District, its officials, employees and agents as "additional insureds" under the insurance coverage and must state that such insurance will be deemed "primary" such that any other insurance that may be carried by District will be deemed "excess" to that of Contractor. This endorsement must be reflected on ISO Form No. CG 20 10 11 85 or 88, or equivalent form as determined by District. The insurance must be on an "occurrence" not a "claims-made" basis. Defense costs must be paid in addition to limits. There must be no cross-liability exclusion for claims or suits by one insured against another. Limits may be no less than \$1,000,000 per occurrence for all covered losses, and no less than \$2,000,000 general aggregate.

The Commercial General Liability policy must not contain any endorsements limiting coverage beyond the basic policy coverage for any of the following:

- 1. Explosion, collapse or underground hazard (XCU);
- 2. Products and completed operation;
- 3. Pollution liability; or
- 4. Contractual liability.

Coverage must be applicable to District for injury to employees of Contractor, subcontractors, agents or others performing any part of the Work required under this Contract. Each policy must be endorsed to provide a separate limit applicable to this Project.

- 3. **Business Auto Coverage.** This policy must be on ISO Business Auto Coverage Form CA 00 01 including symbol 1 (Any Auto) and Endorsement CA 0025, or equivalent forms approved in writing by District. Limits must not be less than \$1,000,000 per accident, combined single limit, or if Contractor neither leases nor owns vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Contractor or Contractor's employees will use personal autos in any way on this Project, Contractor must provide evidence of personal auto liability coverage for each such person.

4. **Workers Compensation.** Contractor must have a State of California approved policy form providing the statutory benefits required by law with employer's liability limits of no less than \$1,000,000 per accident for all covered losses, or Contractor must provide evidence of an approved self-insurance program.
5. **Other Insurance; Revisions to Insurance.** Contractor may be required to obtain such other insurance coverage as may be required by applicable law or by District. District reserves the right at any time during the term of the Contract to change the amounts and types of insurance required by giving Contractor 60 days' advance written notice of such change. If such change results in substantial additional cost to Contractor, District and Contractor may renegotiate Contractor's compensation.
6. **Acceptable Insurers.** All required insurance policies must be issued by an insurance company currently authorized by the California Insurance Commissioner to transact the business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the District's Risk Manager.
7. **Excess or Umbrella Liability Insurance (Over Primary).** If an excess or umbrella liability policy is used to meet limit requirements, the insurance must provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an excess or umbrella liability policy must include a "drop-down provision" providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage must be provided on a "pay-on-behalf" basis, with defense costs payable in addition to policy limits. There may be no cross-liability exclusion precluding coverage for claims or suits by one insured against another. Coverage must be applicable to District for injury to employees of Contractor, its subcontractors or others performing work to satisfy Contractor's obligations under this Contract. The scope of coverage provided is subject to approval of District following receipt of proof of insurance as required herein. Limits are subject to review, but in no event may be less than \$4,000,000 per occurrence and aggregate.
8. **Certificates of Insurance and Endorsements.** Prior to commencing any Work under this Contract, Contractor must file with the District Certificates of Insurance and Endorsements evidencing the existence of all insurance required by this Contract, along with such other evidence of insurance or copies of policies as may reasonably be required by District. Such Certificates of Insurance and Endorsements must be in a form approved by District's legal counsel. Contractor must maintain current certificates and endorsements on file with District during the term of this Contract reflecting the existence of all required insurance. Each of the certificates must expressly provide that no material change in the policy, or termination thereof, will be effective except upon 30 days' prior written notice to District.
9. **Failure to Maintain Required Insurance.** If Contractor, for any reason, fails to have in place at all times during the term of this Contract all of the required insurance coverage, District may obtain such coverage at Contractor's expense and deduct the cost from the sums due Contractor.

Project

10. **Effect of Coverage.** The existence of the required insurance coverage under this Contract will not be deemed to satisfy or limit Contractor's indemnity obligations under this Contract.
11. **Higher Limits of Insurance.** If Contractor maintains higher limits of insurance than the required amounts shown in Section 1 above, then such amounts will be the minimum required under this Agreement.

RESOLUTION 20-18

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT APPROVING AGREEMENT WITH MOYLE CONSTRUCTION, INC. FOR COMPLETION OF THE MARY LAVERONI PARK FLOOD RESTORATION PROJECT

WHEREAS, the Groveland Community Services District (herein referred to as District) is a local government agency formed and operating in accordance with Section §61000 et seq. of the California Government Code; and

WHEREAS, on March 22, 2018, a flash flood occurred in the community that resulted in erosion, deposition of debris, road and parking lot destruction, building and infrastructure damage in Mary Laveroni Park; and

WHEREAS, the District approved and issued a Notice Inviting Informal Bids dated July 13, 2018 for the Mary Laveroni Park Flood Restoration Project, in accordance with its Informal Bid Ordinance 1-06; and

WHEREAS, Informal Bids for the above referenced project were publicly opened and read on July 30, 2018 and two bids were received; and

WHEREAS, District staff has reviewed the bids received and have determined that Moyle Construction, Inc. has delivered the lowest responsive bid; a bid summary is attached hereto as Exhibit A; and

WHEREAS, the District has the authority to reject any and all bids, or to award the contract to the lowest responsive bidder.

WHEREAS, the Moyle Construction, Inc. bid dated July 29, 2018 is included herein for reference and are to be included in the contract documents as detailed in the project specifications.

NOW THEREFORE BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT DOES HEREBY approve as follows:

1. The General Manager is authorized to execute the construction contract with low bidder Moyle Construction, Inc. in the amount of \$147,920.
2. The General Manager is authorized to negotiate Construction Change Orders (CCO) in an amount not to exceed a 15% increase in the original bid and contract amount.
3. The General Manager is authorized to negotiate deductive (cost) change orders that result in a comparable work product.
4. The General Manager is authorized to negotiate a construction start date and issue the Notice to Proceed to the Contractor in accordance with the Project Plans and Specifications.
5. The General Manager is authorized to approve and process Contractor progress payments within the cost limitations stated herein, in accordance with the Project Plans and Specifications.
6. The General Manager is authorized to file the Project Notice of Completion in accordance with the Plans and Specifications.

WHEREFORE, this Resolution is passed and adopted by the Board of Directors of the Groveland Community Services District on August 2, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Jennifer Flores, Secretary

Robert Swan, President - Board of Directors

CERTIFICATE OF SECRETARY

I, Jennifer Flores, the duly appointed and acting Secretary of the Board of Directors of the Groveland Community Services District, do hereby declare that the foregoing Resolution was duly passed and adopted at a Special Meeting of the Board of Directors of the Groveland Community Services District, duly called and held on August 2, 2018.

DATED: _____