



**RCA
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 16
AGENDA DATE: Thu 06/10/2004
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SUBJECT: Authorize the City Manager to develop a list of mediation and conflict resolution professionals to provide construction contract dispute resolution services.

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Public Works
DEPARTMENT:

**DIRECTOR'S
AUTHORIZATION:** Leon Barba

FOR MORE INFORMATION CONTACT: Sondra Creighton, 974-7175; Rosie Truelove, 974-3064

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

The City's current construction contract documents include a dispute resolution process. Disputes can arise between the City and the prime contractor, and between the prime contractor and subcontractors. Disputes include disagreements regarding payment, completion of work, delayed work, and other contract issues.

The current process for resolving disputes between the City and the prime contractor is as follows: 1) a notice of claim is sent by one party to the other; 2) informal meetings and discussion to resolve the dispute are conducted, and if the meetings are not successful; 3) previously uninvolved staff review the situation and attempt to facilitate a resolution of the issue. If none of these efforts are successful, the parties are required to enter mediation. Additionally, there are provisions in the contract documents requiring prompt payment of subcontractors by the prime contractor, surety bond requirements, and provisions allowing the City to withhold payments until disputes are resolved.

Staff is in the process of enhancing the current dispute resolution process as follows:

1. Development of procedures and staff training to ensure that disputes can be resolved as soon as possible after the claim is transmitted. Project managers will have specific written guidelines to ensure consistency and quick resolution. Training will also be provided regarding the appropriate role of the staff in facilitating the resolution.
2. Adding additional language to the current contract provisions for dispute resolution to specify that the process applies to prime contractor and subcontractor disputes.
3. Developing and providing a list of qualified mediators and dispute resolution professionals with experience in construction management and dispute issues. This list will assist the prime contractor and subcontractor in choosing an experienced mediator to expedite the resolution of the dispute.