January 17, 2020

Request for Proposals
Surveying Support Services

Dear Consultant:

We are pleased to extend an invitation to your firm to submit a Proposal for Surveying Support Services. The enclosed Request for Proposals includes the anticipated Scope of Work. This contract is for an initial three years starting on July 1, 2020 and may be extended up to two additional one-year periods at Zone 7's discretion. For your reference, the standard Zone 7 contract which we will utilize for this project is enclosed as Attachment 2 of this document. Your submission of a Proposal indicates your agreement to the terms and conditions as set forth in the attached sample contract. Zone 7 has implemented new insurance requirements that are enclosed as Attachment 3.

Public Works: To bid on or perform work under a public works contract, a contractor must comply with relevant registration and labor compliance requirements of the California Public Contract Code and the California Labor Code. The Services performed under this Agreement are public works pursuant to California Public Contract Code section 1720 and following. Consultant represents and warrants that it is in compliance with all relevant registration and labor compliance requirements necessary for participation in a public works contract, including but not limited to those identified in Appendix E.

The Proposals will be ranked by a selection panel according to scores based on pre-established review criteria. Firms may be invited for an oral interview, if needed.

Thank you for your interest and participation in this process. Please submit any questions on the Request for Proposal in writing to our mailing address or by e-mail to sellis@zone7water.com. I may also be contacted at (925) 454-5037. Responses to questions will be sent to all Proposers or addressed in the question/answer session.

Sincerely,

Steven Ellis, P.E.
Associate Civil Engineer, Engineering

Attachments to RFP:
1) RFP Mailing List
2) Sample Professional Services Agreement
3) Insurance Requirements
INTRODUCTION

Zone 7 is one of ten active zones of the Alameda County Flood Control and Water Conservation District, which is a special district established by State legislature in 1949. Zone 7 was established by popular vote of the residents of the Livermore-Amador Valley in 1957 under an amendment to the District Act.

Today, Zone 7 owns about 40 miles of flood control channels and provides water to approximately 230,000 residents within a service area of approximately 425 square miles in eastern Alameda County.

As the major water supply and flood control agency in eastern Alameda County, Zone 7 has an ongoing commitment to plan for existing and future needs, implement needed projects, maintain a high quality, reliable water delivery and flood control system, and provide a quality product and service to the community.

Since Zone 7 does not have designated Surveying staff, we are seeking Proposals from qualified firms to provide Surveying services as described in the Scope of Work.

I. INSTRUCTIONS TO PROPOSERS

A. Examination of Proposal Documents

By submitting a Proposal, the Proposer represents that it has thoroughly examined and become familiar with the work required under this RFP, and that it is capable of performing timely and quality work to the level of Zone 7’s expectations and achievement of its objectives.

B. Addenda/Clarifications

Questions or comments regarding this RFP shall be addressed in writing to Steven Ellis, Zone 7 Water Agency, 100 North Canyons Parkway, Livermore, California 94551, or e-mailed to sellis@zone7water.com. Responses from Zone 7 will be communicated in writing or by e-mail to all recipients of this RFP.

C. Submission of Proposals

All Proposals shall be submitted to Steven Ellis, Zone 7 Water Agency, 100 North
Canyons Parkway, Livermore, California 94551. Proposals must be delivered no later than **2:00 p.m. on February 18, 2020**. Proposals received after this time will not be accepted and will be returned to the Proposers unopened.

The Proposer shall submit five (5) copies of its Proposal in a sealed envelope, addressed as noted above, bearing the Proposer’s name and address, and clearly marked as “RFP for Surveying Support Services.”

Zone 7 believes that the public interest is served by securing the best quality work at the lowest price. Accordingly, we request information about your company’s qualifications, past experience and other similar items. Under California law, if requested to provide a copy of your proposal to a third party, we will do so in order to comply with the California Public Records Act. If you believe that any information that you will be providing to Zone 7 is confidential or is subject to protection as a trade secret, please clearly mark that information as confidential in your submittal. You may highlight the confidential information in yellow or otherwise mark it so that Zone 7 personnel clearly know that it is confidential or trade secret information. Zone 7 will do its best not to disclose confidential or trade secret information that is clearly marked as such, but you should know that you bear the risk of marking the confidential/trade secret information sufficiently clearly so as to allow Zone 7 personnel to redact that information prior to providing it to a requestor. Zone 7 assumes no responsibility for any failure on your part to mark the information sufficiently clearly so as to allow our staff to redact the information at the appropriate time. Prior to disclosing your proposal to a requestor, Zone 7 will provide you with reasonable notice of the request and a reasonable opportunity to seek a protective order from a court of competent jurisdiction. Zone 7 will not contest your request for a protective order but will also not contest a request for your response to the request for proposals. Zone 7 will comply with any order regarding disclosure from a court of competent jurisdiction.

**Public Works:** To bid on or perform work under a public works contract, a contractor must comply with relevant registration and labor compliance requirements of the California Public Contract Code and the California Labor Code. The Services performed under this Agreement are public works pursuant to California Public Contract Code section 1720 and following. Consultant represents and warrants that it is in compliance with all relevant registration and labor compliance requirements necessary for participation in a public works contract, including but not limited to those identified in Appendix E.

**D. Proposal Documents Inclusion**

At the sole discretion of Zone 7, the Proposal Documents may be deemed a part of the contract resulting from this RFP, if awarded.
**E. Withdrawal of Proposals**

A Proposer may withdraw its Proposal at any time before the expiration of the time for submission of Proposals as provided in this RFP by delivering to Zone 7 Water Agency, attention Steven Ellis, 100 North Canyons Parkway, Livermore, California 94551, a written request for withdrawal signed by, or on behalf of, the Proposer. The time of delivery shall be the time such request is received in hand by Zone 7. The Proposer assumes the risk of any failed delivery.

**F. Rights of Zone 7**

This RFP does not commit Zone 7 to enter into a contract, nor does it obligate Zone 7 to pay for any costs incurred in the preparation and submission of Proposals or in anticipation of a contract.

Zone 7 may investigate the qualifications of any Proposer under consideration, require confirmation of information furnished by the Proposer, and require additional evidence of qualifications to perform the services described in this RFP.

Zone 7 reserves the right to:

1. Reject any or all Proposals.
2. Issue subsequent Requests for Proposals.
3. Postpone opening for its own convenience.
5. Approve or disapprove the use of particular subcontractors.
6. Negotiate with any, all, or none of the Proposers.
7. Solicit best and final offers from all or some of the Proposers.
8. Award a contract to one or more Proposers.
9. Award a contract to a team created by Zone 7 from the Proposers and/or its subcontractors.
10. Award a contract to a Proposer other than the one with the lowest rates.

**G. Contract Type**

It is anticipated that this contract will be a Professional Services Agreement with Fixed Rate Schedules to be used with issuance of Work Orders for specific assignments on various projects. The contract will begin on July 1, 2020 and will end on June 30, 2023. The initial contract will cover a three-year period. The contract may be extended for up to two additional one-year periods at Zone 7’s discretion. Contract will include placeholder amounts for various departments in Zone 7. This contract will be implemented on an as needed basis. Actual work varies each year. By submitting a Proposal to Zone 7 in response to this RFP, Proposer agrees that if selected by Zone 7
as the successful consultant, it will enter into this contract with Zone 7 containing the terms and conditions as set forth in the attached sample contract (Attachment 2).

II. PROPOSER’S MINIMUM QUALIFICATIONS

1. The Proposer shall submit the required Certificate of Insurance (if consultant has been selected).

2. The Proposer is required to list the key individuals who will be assigned to the project, their qualifications and disciplines, and each individual’s degree of commitment.

3. The Proposer shall provide a resume for each named key personnel that includes but is not limited to the following information:
   - Name and proposed assignment (do not include home addresses or phone numbers)
   - Years of experience
   - Education – degrees, schools and years obtained
   - Professional registration(s)
   - Experience directly related to proposed assignment
   - At least two client references, including contact names, addresses and telephone numbers
   - Description of projects of a similar nature worked on in the past 5 years

4. Proposer shall comply with applicable federal, state and local regulations concerning equal employment opportunity requirements.

5. The Proposer shall possess knowledge of regulations and ordinances regarding surveying and shall be familiar with local conditions relating to these services in Alameda County.

1. SCOPE OF WORK

The Consultant shall perform the following services on an as-needed basis:

1. Provide field surveying related services at various locations within the Zone 7 service area including but not limited to topographic surveys, Global Positioning System (GPS), benchmarks, surface and subsurface utility surveys, boundary surveys, cross-sections, aerial photos, aerial surveys, construction baseline survey and staking, movement monitoring work, and set permanent monuments.
2. Provide office surveying related services including downloading field data to and from computer in AutoCAD 2013 to general files including point, digital terrain model (DTM), triangulated irregular network (TIN), contour, plan, profile cross section, calculating traverse, inverse, area, earthwork and plotting results on 22 x 34 inch (or other requested size) mylar film. Provide Zone 7 with an electronic copy of survey drawings and other information collected and compiled in AutoCAD 2013 (or other agreed upon format) on cd-rom. Zone 7 will provide a sample border and logo, and may also provide CAD Standards to be utilized.

3. Title searches, right-of-way descriptions, and plat preparation work.

4. UAS Data Acquisition: Employment of UAS to take current aerial photographs (orthophoto topo) of each project site to acquire pre, in-progress and post construction imagery of the sites. Pre-construction imagery will be used as the basis for repair and to identify existing opportunities and constraints at the design stage. In-progress imagery will be utilized to gauge work progress and assisting in progress payment calculations. Lastly, post-construction imagery is intended for record drawings/as-built drawings purposes.

Zone 7 will contact the Consultant to determine the type and amount of services required for the individual projects. Execution of the Master Agreement and Task Orders shall obligate Zone 7 to compensate the Consultant only for services provided to Zone 7 for that specific Task Order. Compensation for services will be based on Consultant’s submitted fee schedule and as agreed by the Master Contract.

IV. EVALUATION AND SELECTION

A. Evaluation Criteria: The following criteria will be used to evaluate written proposals that are submitted. Quality and experience will be weighted most heavily. All others will be weighted approximately the same.

1. General response to the RFP: Approach and understanding of Zone 7 goals.

2. Quality and experience: Technical experience in performing work of closely similar nature; qualifications of key personnel; key personnel’s level of involvement in performing related work; adequacy of labor commitment; concurrence in the restrictions on changes in key personnel; experience working with water supply, flood control or other public agencies; record of completing work on schedule; strength and stability of the firm; technical experience and strength and stability of proposed subcontractors.
3. Comments/suggestions on Preliminary Scope of Work.

4. Demonstrated understanding of the project requirements, potential problem areas, and project approach.

5. Assessments by client references.

**B. Evaluation Procedure**

A Review Board, generally made up of Zone 7 staff, will review the qualifications submitted, establish a list of finalists based on pre-established review criteria, interview the finalist firms if necessary, and select the successful proposer based on demonstrated competence and necessary qualifications. The names of the Review Board Members and the individual or composite rating and/or evaluation forms prepared by Board Members will not be revealed. Negotiations of the contracts, the detailed scope of work, and the fee are not within the scope of the Review Board.

Members of the Review Board will review the Proposals to determine those firms to be invited for an oral interview, if needed. Approximately 45 minutes will be allowed for each oral interview and questions and answers. The proposed Project Manager must lead the presentation before the Review Board. Proposers should also be aware that award might be made without interviews or further discussion.

**C. Award**

When the Review Board has completed its review, Proposers will be advised of the number one selection. A contract will then be negotiated with the selected firm for the extent of services to be rendered and for the method of compensation. The recommendations for approval of a Consultant Services Agreement and funding authorization of the contract are expected to be made to the Zone 7 Board of Directors at its June 2014 meeting.

**V. PROPOSAL FORMAT AND CONTENT**

**A. Format**

Please submit five (5) copies of your Proposal, which shall be organized and prepared according to the **Content** section that follows, with attention given to the following:

1. The project team including the organization chart and commitment (hours/%) of the team during the course of the project. The Project Manager listed should be available for, and lead, the oral presentation.
2. A record of experience and qualifications of the project members. Zone 7 is interested in the experience of the project members themselves in addition to the firm. Provide relevant examples of the project personnel experience as it relates to the Preliminary Scope of Work, local experience, and water supply and flood control projects/issues.

3. Any additional relevant services performed by your firm that were not outlined in the Preliminary Scope of Work.

4. **Cost/ Pricing Information:** One (1) copy shall be submitted in a separate, sealed envelope inside the packet. It should include the complete cost for all Surveying services you are proposing for this contract. It must show proposed staff including, at a minimum, the survey supervisor and survey crew and corresponding hourly rates for performing the services discussed in the Preliminary Scope of Work. Write your firm’s name on the outside of the envelope.

**B. Content**

1. **Summary and Overview** - Use this section to summarize your approach to the topics identified in the Preliminary Scope of Work, the strengths of your project team, and why your firm should be selected.

2. **Team Personnel** - Identify the key project personnel and their roles associated with the tasks in the Preliminary Scope of Work. Identify the team and individual personnel experience as it relates to the Preliminary Scope of Work, local experience and water supply/flood control projects/issues. List other major projects the team or its personnel are involved with currently including project title, percent workload, and project responsibility.

3. **Comments on the Preliminary Scope of Work** - This may be used as an opportunity to expand upon your team’s specific experience and expertise which may be applicable to the Preliminary Scope of Work.

4. **Work Plan** - Describe how the project team will fulfill the Preliminary Scope of Work. Include a matrix of personnel and tasks. To illustrate your strategy, describe tools and techniques you will use, and challenges you anticipate, in addressing specific issues identified in the Preliminary Scope of Work.
5. **References** - From recent applicable experience of the Project Manager and key staff, list three (3) relevant projects, and include the agency, staff contact name, address, and telephone number for each.

6. **Resumes** of the proposed project team may also be submitted.

7. **The total proposal length** should not exceed 10 pages, not including resumes.
Appendix A

Zone 7 Water Agency

Annual Service Contract for Surveying Support Services

SCOPE OF WORK

The Consultant shall perform the following services on an as-needed basis:

1. Provide field surveying related services at various locations within the Zone 7 service area including but not limited to topographic surveys, Global Positioning System (GPS), benchmarks, surface and subsurface utility surveys, boundary surveys, cross-sections, aerial photos, aerial surveys, construction baseline survey and staking, movement monitoring work, and set permanent monuments.

2. Provide office surveying related services including downloading field data to and from computer in AutoCAD 2013 to general files including point, digital terrain model (DTM), triangulated irregular network (TIN), contour, plan, profile cross section, calculating traverse, inverse, area, earthwork and plotting results on 22 x 34 inch (or other requested size) mylar film. Provide Zone 7 with an electronic copy of survey drawings and other information collected and compiled in AutoCAD 2013 (or other agreed upon format) on cd-rom. Zone 7 will provide a sample border and logo, and may also provide CAD Standards to be utilized.

3. Title searches, right-of-way descriptions and plat preparation work.

4. UAS Data Acquisition: Employment of UAS to take current aerial photographs (orthophoto topo) of each project site to acquire pre, in-progress and post construction imagery of the sites. Pre-construction imagery will be used as the basis for repair and to identify existing opportunities and constraints at the design stage. In-progress imagery will be utilized to gauge work progress and assisting in progress payment calculations. Lastly, post-construction imagery is intended for record drawings/as-built drawings purposes.

Zone 7 will contact the Consultant to determine the type and amount of services required for the individual projects. Execution of the Master Agreement and Task Orders shall obligate Zone 7 to compensate the Consultant only for services provided to Zone 7 for that specific Task Order. Compensation for services will be based on Consultant’s submitted fee schedule and as agreed by the Master Contract.
<table>
<thead>
<tr>
<th>Company</th>
<th>Contact</th>
<th>Phone Number</th>
<th>Email address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accurate Land Solutions</td>
<td>Ross Kinnie</td>
<td>(510) 553-9700</td>
<td><a href="mailto:rk@accuratelandsolutions.com">rk@accuratelandsolutions.com</a></td>
</tr>
<tr>
<td>Andregg Geomatics</td>
<td>Mark Bardakjian</td>
<td>(510) 220-2595</td>
<td><a href="mailto:markb@andregg.com">markb@andregg.com</a></td>
</tr>
<tr>
<td>BKF Engineers</td>
<td>Michael Shoup</td>
<td>(925) 396-7700</td>
<td><a href="mailto:mshoup@bkf.com">mshoup@bkf.com</a></td>
</tr>
<tr>
<td>Bellecci &amp; Associates, Inc.</td>
<td>Ken Barton</td>
<td>(925) 681-4885</td>
<td><a href="mailto:kbarton@bellecci.com">kbarton@bellecci.com</a></td>
</tr>
<tr>
<td>Fugro West Inc.</td>
<td>Bobbie Vahl</td>
<td>(510) 267-4417</td>
<td><a href="mailto:bvahl@fugro.com">bvahl@fugro.com</a></td>
</tr>
<tr>
<td>Geocadd Surveys</td>
<td>Sandra Williamson</td>
<td>(510) 796-8555</td>
<td><a href="mailto:sandra@geocaddsurveys.com">sandra@geocaddsurveys.com</a></td>
</tr>
<tr>
<td>Kier &amp; Wright Civil Engineers and Surveyors</td>
<td>Tony McCants</td>
<td>(925) 249-6555</td>
<td><a href="mailto:tmccants@kierwright.com">tmccants@kierwright.com</a></td>
</tr>
<tr>
<td>Lam Surveying, Inc.</td>
<td>Jon (Mick) Lamb</td>
<td>(925) 462-3512</td>
<td><a href="mailto:mick@lambsurveying.com">mick@lambsurveying.com</a></td>
</tr>
<tr>
<td></td>
<td>Gary Lamb</td>
<td></td>
<td><a href="mailto:gary@lambsurveying.com">gary@lambsurveying.com</a></td>
</tr>
<tr>
<td>Leptien, Cronin, Cooper, Morris &amp; Poore, Inc.</td>
<td>Christine M. Parks</td>
<td>(925) 228-4218</td>
<td><a href="mailto:cmp@lcc-inc.com">cmp@lcc-inc.com</a></td>
</tr>
<tr>
<td>MacKay &amp; Somps Civil Engineers, Inc.</td>
<td>Steve Lichliter</td>
<td>(925) 225-0690</td>
<td><a href="mailto:slichliter@msce.com">slichliter@msce.com</a></td>
</tr>
<tr>
<td>Mark Thomas &amp; Co</td>
<td>Larry Johnson</td>
<td>(408) 313-2658</td>
<td><a href="mailto:ljohnson@markthomas.com">ljohnson@markthomas.com</a></td>
</tr>
<tr>
<td>PLS Surveys Inc.</td>
<td>Joe Brajkovich</td>
<td>(510) 261-0900</td>
<td><a href="mailto:jmb.pls@pacbell.net">jmb.pls@pacbell.net</a></td>
</tr>
<tr>
<td>Ruggeri Jensen Azar &amp; Associates</td>
<td>Eddie Sieu</td>
<td>(925) 227-9100</td>
<td><a href="mailto:esieu@rja-gps.com">esieu@rja-gps.com</a></td>
</tr>
<tr>
<td>Towill, Inc.</td>
<td>Frank Borges</td>
<td>(925) 682-6976</td>
<td><a href="mailto:Frank.borges@towill.com">Frank.borges@towill.com</a></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ext. 1036</td>
<td></td>
</tr>
</tbody>
</table>
PROFESSIONAL SERVICES AGREEMENT

between

ALAMEDA COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT, ZONE 7

and

- ----------------------------------------

for ________________________________

Contract No.

Dated ________________________________
THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is dated this _______ day of __________, 20____, in the City of Livermore, State of California, by and between __________, hereinafter referred to as ("Consultant") and the ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7 hereinafter referred to as ("District").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, stipulated and agreed, the parties agree as follows:

1. Scope and Cost of Professional Services. The Consultant shall perform all services described in Appendix A ("Services"), for a maximum not-to-exceed _______ and pursuant to the payment terms as set forth in Appendix B ("Payments to Consultants"), which appendixes are attached and made a part of this Agreement.

2. Term. The Term shall expire on June 30, 2023 unless otherwise earlier terminated pursuant to Section 11 below or upon completion of all Services.

3. Standard of Performance. Consultant represents that it possesses all necessary training, licenses and permits to perform the Services, and that its performance of the Services will conform to the standard of practice of a professional that specializes in performing professional services of like nature and complexity of the Services.

Should service agreement become work on "Public Work": A contractor\consultant or subcontractor\subconsultant shall not be qualified to bid on, be listed in a bid proposal, subject to the requirement of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter [1770-1784 Labor Code], unless currently registered and qualified to perform public work pursuant to Section 7029.1 of the Business and Professional Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor\consultant is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

4. Subconsultants. Consultant shall perform the Services using the personnel and subconsultants listed in Appendix A. Consultant has and shall hire only qualified persons or firms who are experienced in performing work of like nature and complexity to the Services, and who agree to be bound to the terms of the Agreement to the extent of their scope of services. Consultant may substitute such personnel or subconsultants prior to any such subconsultants commencing work only upon District’s written consent, which may be withheld or delayed in District’s discretion.

5. Representatives for Both Parties. Both parties shall designate a representative, authorized to act on the parties’ behalf with respect to this Agreement. The parties or such authorized representatives shall render required decisions promptly, to avoid unreasonable delay in the progress of Consultant’s services.

6. Indemnification and Liability.

6.1 To the fullest extent permitted by law, Consultant shall defend (with legal counsel reasonably acceptable to District), indemnify and hold harmless the District and its officers, agents, departments, officials, representatives and employees (collectively "Indemnitees") from and against any and all claims, loss, cost, damage, injury (including, without limitation, economic harm, injury to or death of any person or employee), expense and liability of every kind, nature and description (including,
Simple to moderate form professional services
- $25,000-$250,000 fee contracts
Discussion items set-off in bold and italics
Engineering/Design [Detailed scope of work]

without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise from (1) Consultant’s negligent performance of the Services under this Agreement, or any part thereof, (2) any negligent act or omission of Consultant, any subconsultant, anyone directly or indirectly employed by them, or anyone that they control, or (3) any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by District, or any of the other Indemnitees, of articles or Services to be supplied in the performance of this Agreement, or (4) any breach of this Agreement (collectively “Liabilities”). Such obligations to defend, hold harmless and indemnify any Indemnitee shall not apply to the extent that such Liabilities are caused by the negligence or willful misconduct of such Indemnitee, but shall apply to all other Liabilities.

6.2 Consultant shall place in its subconsulting agreements and cause its subconsultants to agree to indemnities and insurance obligations in favor of District and other Indemnitees in the exact form and substance of those contained in this Agreement.

6.3 District acknowledges that the discovery, presence, handling or removal of asbestos products polychlorinated biphenyl (PCB) or other hazardous substances which may presently exist at the Project site is outside of Consultant’s expertise and is not included in the scope of Services Consultant is to perform nor included in Consultant’s insurance. District shall hire an expert consultant in this field if the Project involves such materials. Consultant shall not be responsible or be involved in any way with the discovery, presence, handling or removal of such materials. Consultant shall be responsible to coordinate with District’s expert consultant as required by Appendix A.

7. Notices. District and Consultant shall provide notices to the other in the form of writing, sent by certified mail return receipt requested, or by overnight courier or delivery service with signature required, as follows:

Zone 7 Water Agency
Attn: General Manager
100 North Canyons Parkway
Livermore, CA 94551

or to such other place as either party may similarly in writing designate to the other. Notices shall be effective three business days after mailing by certified mail, or upon receipt if delivered by overnight courier or delivery service.

8. Insurance. Consultant shall comply with all requirements of Appendix C, which is attached and made a part of this Agreement.

9. Independent Contractor. Consultant shall at all times be deemed an independent or wholly responsible for the manner in which it performs the Services, and fully liable for the acts and omissions of its employees, subconsultants and agents. Under no circumstances shall this Agreement be construed as creating an employment, agency, joint venture or partnership relationship between District and Consultant, and no such relationship shall be implied from performance of this Agreement. Terms in this Agreement referring to direction from District shall be construed as providing for direction as to policy and the result of services only, and not as to means and methods by which such a result is obtained. Consultant shall pay all taxes (including California sales and use taxes) levied upon this Agreement, the transaction, or the Services and/or goods delivered pursuant hereto without additional compensation, regardless of which party has liability for such tax under applicable law, and any
deficiency, interest or penalty asserted with respect thereto. The Consultant shall pay all other taxes including but not limited to any applicable City of Pleasanton business tax, not explicitly assumed in writing by District hereunder. The Consultant shall comply with all valid administrative regulations respecting the assumption of liability for the payment of payroll taxes and contributions as above described and to provide any necessary information with respect thereto to proper authorities.

10. Conflict of Interest; Confidentiality.

10.1 Consultant represents that it is familiar with Section 1090 and Section 87100 et seq. of the Government Code of the State of California, and that it does not know of any facts that constitute a violation of said sections.

10.2 Consultant represents that it has completely disclosed to District all facts bearing upon any possible interests, direct or indirect, which Consultant believes any member of District, or other officer, agent or employee of District or any department presently has, or will have, in this Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute ground for termination of this Agreement by District for cause. Consultant agrees to comply with all conflict of interest codes adopted by Alameda County, the Alameda County Flood Control and Water Conservation District, Zone 7 and their reporting requirements.

10.3 Consultant covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of Services required under this Agreement. Without limitation, Consultant represents to and agrees with District that Consultant has no present, and will have no future, conflict of interest between providing District the Services hereunder and any interest Consultant may presently have, or will have in the future, with respect to any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to District, as determined in the reasonable judgment of District. The provisions of this Section 10 shall remain fully effective indefinitely after termination of Services to District hereunder.

10.4 Consultant acknowledges and agrees that, in the performance of the Services under this Agreement or in the contemplation thereof, Consultant may have access to private or confidential information which may be owned or controlled by District and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to District. Consultant agrees that all information disclosed by District to or discovered by Consultant shall be held in strict confidence and used only in performance of the Agreement. Consultant shall exercise the same standard of care to protect such information as a reasonably prudent Consultant would use to protect its own proprietary data, and shall not accept employment adverse to District’s interests where such confidential information could be used adversely to District’s interests. Consultant agrees to notify District immediately in writing if it is requested to disclose any information made known to or discovered by Consultant during the performance of or in connection with this Agreement.

10.5 Any publicity or press releases with respect to the Project or Services shall be under District’s sole discretion and control. Consultant shall not discuss the Services or Project, or matters pertaining thereto, with the public press, representatives of the public media, public bodies or representatives of public bodies, without District’s prior written consent. Consultant shall have the right, however, without District’s further consent, to include representations of Services among Consultant’s promotional and professional material, and to communicate with persons or public bodies where necessary to perform under this Agreement.
10.6 The provisions of this Section 10 shall remain fully effective indefinitely after termination of Services to District hereunder.

11. Suspension and Termination of Services. (I.) District may direct Consultant to suspend, delay or interrupt Services, in whole or in part, for such periods of time as District may determine in its sole discretion. District may issue such directives without cause. District will issue such directives in writing. Suspension of Services shall be treated as an excusable delay. (ii.) District may terminate performance of Consultant’s right to proceed with the Services under this Agreement in whole, or from time to time in part, for default, should Consultant commit a material breach of this , or part thereof, and not cure such breach within ten (10) calendar days of the date of District’s written notice to Consultant demanding such cure. In the event District terminates Consultant’s right to proceed under this Agreement for default, Consultant shall be liable to District for all loss, cost, expense, damage and liability resulting from such breach and termination. (iii.) District may terminate performance of the Services under this Agreement in whole, or from time to time in part, for convenience, whenever District determines that such termination is in District’s best interests. In the event District terminates this Agreement for convenience, Consultant shall be entitled to recover its costs expended up to the termination plus reasonable profit thereon to the termination date, but may recover no other cost, damage or expense.

12. Ownership of Work Product. Any interest (including copyright interests) of Consultant or its subconsultants, in studies, reports, memoranda, computational sheets, drawings, plans or any other documents (including electronic media) prepared by Consultant or its subconsultants at any time in connection with the Services, shall be, immediately upon its creation, the property of District. To the extent permitted by Title 17 of the United States Code, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of District. In the event that it is ever determined that any works and any former works created by Consultant or its subconsultants under this Agreement are not works for hire under U.S. law, Consultant hereby assigns to District all copyrights to such works when and as created. With District’s prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.


13.1 Consultant shall maintain all documents and records prepared by or furnished to Consultant during the course of performing the Services for at least three (3) years following completion of the Services, except that all such items pertaining to hazardous materials shall be maintained for at least thirty (30) years. Such records include, but are not limited to, correspondence, internal memoranda, calculations, books and accounts, accounting records documenting its work under its , and invoices, payrolls, records and all other data related to matters covered by this . Consultant shall permit District to audit, examine and make copies, excerpts and transcripts from such records. The State of California or any federal agency having an interest in the subject of Agreement shall have the same rights conferred to District by this section. Such rights shall be specifically enforceable.

13.2 The Consultant shall maintain full and adequate records in accordance with District requirements to show the actual costs incurred by the Consultant in the performance of this Agreement. If such books and records are not kept and maintained by Consultant within a radius of fifty (50) miles from the offices of District at 100 North Canyons Parkway, Livermore, California 94551-9486. Consultant shall, upon request of District, make such books and records available to District for inspection at a location within said fifty (50) mile radius or Consultant shall pay to District the reasonable, and necessary costs incurred by District in inspecting Consultant’s books and records, including, but not limited to,
travel, lodging and subsistence costs. Consultant shall provide such assistance as may be reasonably required in the course of such inspection. District further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by District, and the Consultant shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any matter whatsoever for three (3) years after District makes the final or last payment or within three (3) years after any pending issues between District and Consultant with respect to this Agreement are closed, whichever is later.

14. **Non-discrimination.** Consultant shall not discriminate against any employee or applicant for employment, nor against any subconsultant or applicant for a sub, on the basis of race, color, religion, age, sex, actual or perceived sexual orientation, national origin, disability as defined by the ADA or veteran’s status. To the extent applicable, Consultant shall comply with all federal, state and local laws (including, without limitation, County ordinances, rules and regulations) regarding non-discrimination, equal employment opportunity, affirmative action and occupational-safety-health concerns, shall comply with all applicable rules and regulations thereunder, and shall comply with same as each may be amended from time to time. Consultant shall provide all information reasonably requested by District to verify compliance with such matters. Consultant stipulates, acknowledges and agrees that District has the right to monitor Consultant’s compliance with all applicable non-discrimination requirements, and may impose sanctions upon a finding of a willful, knowing or bad faith noncompliance or submission of information known or suspected to be false or misleading.

15. **Non-Judicial Administrative Claim Settlement Procedure for Consultant Claims.** In the event of any dispute between Consultant and District regarding any claim, demand or request by Consultant for time, money, or additional compensation for any reason whatsoever (including, without limitation, any alleged failure of District to make a decision), Consultant shall submit to the District a written and fully documented administrative claim that shall provide a narrative of the pertinent events, Consultant’s theory of entitlement, pricing calculations and attaches supporting documentation. District will then review Consultant’s fully documented administrative claim and may, in its discretion, conduct an administrative hearing (in which case Consultant shall attend, present documentation and information as requested.) District will then make a final administrative decision on the claim. Pursuant to Government Code section 930.2: (i.) Consultant shall initiate this non-judicial settlement procedure by presenting its administrative claim within 60 days of the first event giving rise to the claim or dispute, (ii.) Consultant's timely submittal of the administrative claim and District's decision thereon shall be an unwaivable condition precedent to Consultant thereafter filing a Government Code Claim under the California Government Code Section 901 et seq. (iii.) any and all such Government Code Claims in connection with this Agreement shall be presented to the District no later than 120 days following substantial completion or termination of this Agreement (whichever first occurs); and (iv.), except as so modified, the Government Code claims presentation requirements remain unchanged (e.g., Govt. Code §945.4.) Consultant shall continue its work throughout the course of any dispute, and Consultant’s failure to continue work during a dispute shall be a material breach of this Agreement.

16. **No Special or Incidental Damages.** Notwithstanding any other provision of this Agreement, in no event shall District be liable, regardless of whether any claim is based on or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.

17. **California Law.** This Agreement shall be deemed to have been executed in the City of Livermore, Alameda County, California. Enforcement of this Agreement shall be governed by the laws of
the State of California, excluding its conflict of laws rules. Both parties hereby waive their rights under California Code of Civil Procedure Section 394 to file a motion to transfer any action or proceeding arising out of this Agreement to another venue. The exclusive venue for all litigation arising from or relating to this Agreement shall be in Alameda County, California. Should any clause, provision or aspect of this be determined at any time to be unenforceable or in contravention of law, then the remaining clauses and provisions of this shall be enforceable to the fullest extent permitted by law and construed to give effect to fullest extent possible the intent of this Contract.

18. **No Third Party Beneficiaries.** Except as expressly provided in this Agreement, nothing in this Agreement shall operate to confer rights or benefits on persons or entities not party to this Agreement. Time is of the essence in the performance of this Agreement.

19. **Entire Agreement.** This Agreement and any written modification shall represent the entire and integrated agreement between the parties hereto regarding the subject matter of this Agreement, shall constitute the exclusive statement of the terms of the parties’ agreement, and shall supersede any and all prior negotiations, representations or agreements, written or oral, express or implied, that relate in any way to the subject matter of this Agreement or written modification. All prior negotiations are merged into this Agreement and shall be inadmissible in any enforcement of this Agreement.

20. **No Waiver.** The granting of any payments, and any inspections, reviews, approvals or oral statements by any District representative, or certification by any governmental entity, shall in no way limit Consultant’s obligations under this Agreement. Either party’s waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require strict performance of any provision of this Agreement, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party’s right thereafter to enforce or compel strict compliance with every provision hereof. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by fully authorized representatives of District and Consultant.

21. **Severability and Survival.** Any provision or portion thereof of this Agreement prohibited by, or made unlawful or unenforceable under any applicable law of any jurisdiction, shall as to such jurisdiction be ineffective without affecting other provisions or portions thereof of this Agreement. If the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement may be deemed to be a valid and binding agreement enforceable in accordance with its terms to the greatest extent permitted by applicable law. Except as otherwise separately and expressly provided by the District in writing, the provisions of this Agreement, including but not limited to, its limitations and definitions of liability and claim presentation procedures, shall survive and remain in effect notwithstanding the negligence or breach of this Agreement by either party, or the expiration or termination of this Agreement, or any completion of the Services.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day first mentioned above.

“District”

ALAMEDA COUNTY FLOOD CONTROL and WATER CONSERVATION DISTRICT, ZONE 7

By: ________________________________
   Valerie L. Pryor, General Manager

"Consultant”

______________________________

a ______________________________ corporation,

By: ______________________________

______________________________

Print Name and Title
(If Corporate: Chairman, President or Vice President)

Attest ______________________________

______________________________

Print Name and Title
(If Corporate: Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer)

Tax ID Number ______________________________

______________________________

Company Main Address
LIST OF APPENDICES AND SCHEDULES

Appendix A  Scope of Services
Appendix B  Payments to Consultant
Appendix C  Insurance
Appendix D  Deliverables
Appendix E  Conflict of Interest
APPENDIX A - SCOPE OF SERVICES

This is an appendix attached to, and made a part of, the Professional Services Agreement dated __________________ (“Agreement”) between THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, commonly known as ZONE 7 WATER AGENCY (“District”) and __________________ (“Consultant”), for the provision of professional services (“Services”).

1. Project Description.

1.1 Conceptual Program.

See attached Exhibit 1, Scope of Services, for general description of services to be provided. The established total contract amount is a placeholder amount. Actual work assignments shall be given to Consultant via written task orders which will detail specific tasks, schedule for deliverables, and budget. Only work performed pursuant to authorized task orders shall be payable.

1.5 Criteria Governing Consultant’s Service.

1.5.1 The Project shall be developed and designed to meet all applicable and the most current codes, laws, regulations, and professional standards.

1.5.2 Unless otherwise permitted in writing by District, Consultant shall not propose or recommend any design that has the effect of shifting design responsibilities from Consultant to a Contractor or through performance specifications or any other means. Performance specifications will be allowed only when necessary to preclude single vendor sources or when specifically requested by District.

1.5.3 Unless otherwise permitted in writing by District, Consultant shall not specify unique, innovative, proprietary or sole source equipment, systems or materials. In the event Consultant requests a proprietary or sole source design or equipment, Consultant shall provide District with a written evaluation of whether all periodic maintenance and replacement of parts, equipment or systems, can be performed normally and without excessive cost or time. District will consider such evaluation in making its decision.

1.8 Coordination with Other Consultants/Subconsultants.

Consultant shall fully coordinate all architectural and engineering disciplines and subconsultants involved in completing its Services. Consultant shall participate in design coordination meetings with its subconsultants and, in addition, with any District prime consultants on other projects contiguous or related to the Project, for coordination of design. District shall have the right, but not the obligation, to set the dates of such meetings, to attend and participate in such meetings, and to remain fully advised and informed of the coordination of design work and the performance of each consultant and subconsultant of their design responsibilities. Such meetings shall occur at least monthly, or more frequently as necessary.

1.11 Deliverables Required Under This Agreement.
Required Deliverables are listed in Appendix D. Each deliverable shall be reviewed with representatives of District. Consultant shall promptly correct deficiencies in deliverables and shall promptly make modifications to conform with Project requirements and modifications to achieve acceptability of deliverables to District, and the cost thereof included in the fee for Basic Services.

1.12: Consultant has prepared and supplied District with a proposed scope of work, which is attached to this Appendix as its Exhibit 1, and represents Consultant’s initial proposed scope of services necessary to achieve the results described herein, as well as additional negotiated scope of work items. This Appendix A and its Exhibit 1 are deemed complimentary; what is called for by one is as binding as if called for in both and shall be performed by Consultant. In the case of direct conflict, then the requirement providing District with the broader scope of services shall have precedence.

END OF APPENDIX A
APPENDIX B - PAYMENTS TO CONSULTANT
{FIXED FEE OPTIONAL FORM}

This is an appendix attached to, and made a part of, the Professional Services Agreement dated __________ (“Agreement”) between THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, commonly known as ZONE 7 WATER AGENCY (“District”), and ______________ (“Consultant”), for the provision of professional services (“Services”).

1. **Basic Services.** District will pay Consultant for Basic Services, a maximum compensation of $_______ (“Contract Price”), which sum includes costs for reimbursable expenses as identified below. Such payment shall be full compensation for all Basic Services required, performed or accepted under this Agreement. If District and Consultant previously executed a purchase order for services within the scope of the Services of this Agreement, then the services performed and the compensation paid under that purchase order shall be subject to the terms of this Agreement and the previous payments deemed payments against the Contract Price established in this Appendix.

2. **Work Breakdown Structure.** To assist District in determining progress payments, Consultant shall provide District with an itemization of its fee under this Agreement according to a Work Breakdown Structure (“WBS”) that defines all project tasks, along with a project schedule defining the time line for each task, a project budget defining the planned man-hours and costs for each task, and a schedule of deliverables defining each deliverable to be provided to District. The WBS shall further define which tasks are to be performed by each sub-consultant. N/A

3. **Payment Schedule.** Progress payments for Basic Services for each phase of the work shall be made as follows:

- [ ] upon completion of work
- [ ] monthly based upon Consultant’s percentage completion of the Services as determined by District
- [ ] as set forth in the attached schedule

4. **Additional Services.** District will pay the Consultant for Additional Services as agreed to in a written addendum or amendment (“amendment”) to this Agreement executed by District and the Consultant. Payment for all such Additional Services shall be in an amount and upon the terms set out in such amendment. Each such amendment shall provide for a fixed price; or, where payment for such Additional Services is to be on an hourly basis, for a maximum amount plus Costs and Reimbursables. Each amendment shall also provide for a method of payment (i.e., partial payments or lump sum) and whether it will be based upon percentage of completion or for services billed. Amendments must be negotiated and signed by the Consultant and District prior to commencing work of Additional Services; otherwise, such costs are deemed within Basic Services.

5. **Costs and Reimbursables.**

5.1 **Additional Services.** District will pay Consultant for “Costs and Reimbursable Expenses” in connection with Additional Services as set forth below. All costs not listed will not be allowed in connection with Additional Services.

5.1.1 **Travel Costs.** The reasonable expense of travel costs incurred by Consultant when requested by District to travel to a location more than 50 miles from either
the project site, the Consultant’s office(s), or District’s office, incurred performing Additional Services.

5.1.2 Long Distance Telephone Costs. Long distance telephone calls and long distance fax costs incurred performing Additional Services.

5.1.3 Delivery Costs. Courier services and overnight delivery costs incurred performing Additional Services.

5.1.4 Reproduction Costs. Reproduction and postage costs of required plans, specifications, bidding and Agreement Documents, if any, incurred performing Additional Services.

5.2 Basic Services. For Basic Services, District will not pay Consultant additional compensation for Costs and Reimbursable Expenses, as these costs are deemed included in the Contract Price.

6. Invoices. All payments shall require a written invoice from Consultant in a form acceptable to District. District shall make payment on approved amounts within each invoice within 30 days of receipt.

END OF APPENDIX B
APPENDIX D - DELIVERABLES LIST

This is an appendix attached to, and made a part of, the Professional Services Agreement dated _______________ ("Agreement") between THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, commonly known as ZONE 7 WATER AGENCY ("District") and _______________ ("Consultant"), for the provision of professional services ("Services").

1. Project Deliverables - TBD

END OF APPENDIX D
APPENDIX E

CONFLICT OF INTEREST

This is an appendix attached to, and made a part of, the Agreement dated ____________ between THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT commonly known as ZONE 7 WATER AGENCY ("District") and ______________ ("Consultant") for the provision of professional services ("Services").

[TO BE PROVIDED]

END OF APPENDIX E
APPENDIX C
INSURANCE

This is an appendix attached to, and made a part of, the Services Agreement dated ____________ ("Agreement") between THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7 commonly known as ZONE 7 WATER AGENCY ("District") and ________________ ("Vendor"), for the provision of services agreement ("Services").

Minimum Insurance Requirements: Design Professional shall procure and maintain for the duration of the contract insurance against claims for injuries or death to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Design Professional, his agents, representatives, employees or subcontractors.

Coverage – Coverage shall be at least as broad as the following:

1. Commercial General Liability (CGL) – Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 00 01) including products and completed operations, property damage, bodily injury, personal and advertising injury with limit of at least two million dollars ($2,000,000) per occurrence or the full per occurrence limits of the policies available, whichever is greater for. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (coverage as broad as the ISO CG 25 03, or ISO CG 25 04 endorsement provided to the District) or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability – (If necessary) Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any auto) or if Design Professional has no owned autos, Symbol 8 (hired) and 9 (non-owned) with limit of one million dollars ($1,000,000) for bodily injury and property damage each accident.

3. Workers' Compensation Insurance – as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease. Waiver of Subrogation: The insurer(s) named above agree to waive all rights of subrogation against the District, its directors, officers, employees, and authorized volunteers for losses paid under the terms of this policy which arise from work performed by the Named Insured for the Agency; but this provision applies regardless of whether or not the District has received a waiver of subrogation from the insurer.

4. Professional Liability – (also known as Errors & Omission) Insurance appropriate to the Design Professional profession, with limits no less than $1,000,000 per occurrence or claim, and $2,000,000 policy aggregate.

If Claims Made Policies:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Design
Professional must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.

If the Design Professional maintains broader coverage and/or higher limits than the minimums shown above, the District requires and shall be entitled to the broader coverage and/or higher limits maintained by the Design Professional. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District.

**Other Required Provisions** – The Commercial General Liability policy must contain, or be endorsed to contain, the following provisions:

1. Additional Insured Status: Zone 7 Water Agency, its directors, officers, employees, and authorized volunteers are to be given insured status insurance (at least as broad as ISO Form CG 20 10 10 01 with respect to liability arising out of work or operations performed by or on behalf of the Design Professional including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Design Professional’s insurance.

2. Primary Coverage: For any claims related to this project, the Design Professional’s insurance coverage shall be primary at least as broad as ISO CG 20 01 04 13 as respects to the District, its directors, officers, employees, and authorized volunteers. Any insurance or self-insurance maintained by the District, its directors, officers, employees, and authorized volunteers shall be excess of the Design Professional’s insurance and shall not contribute with it.

**Notice of Cancellation:** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the District.

**Self-Insured Retentions** – Self-insured retentions must be declared to and approved by the District. The District may require the Design Professional to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or District.

**Acceptability of Insurers** – Insurance is to be placed with insurers having a current A.M. Best rating of no less than A: VII or as otherwise approved by District.

**Verification of Coverage** – Design Professional shall furnish the District with certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the District before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Design Professional’s obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including policy Declaration and Endorsements pages listing all policy endorsements.

**Subcontractors** – Design Professional shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Design Professional shall ensure that District is an additional insured on insurance required from subcontractors.