



Request for Proposal (RFP)

Information Technology (IT) and SCADA Support Services

Zone 7 Water Agency
100 North Canyons Parkway
Livermore, CA 94551

Proposals Due: August 26, 2022
Contact: Karen Bartels, Buyer II
Phone: 925.454.5039
Email: kbartels@zone7water.com

ZONE 7 WATER AGENCY

RFP

IT and SCADA Support Services

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Introduction

Zone 7 Water Agency (Agency) is seeking proposals from qualified firms to provide Information Technology (IT) and Supervisory Control and Data Acquisition System (SCADA) Support Services. This Request for Proposal (RFP) describes the project, the required scope of services and the information that must be included in the proposal. Failure to submit information in accordance with the RFP's requirements and procedure may be cause for disqualification. A Proposal Review Team will review and evaluate the submittals and the Agency will enter into negotiations with the successful vendor to result in an Agreement for Services for the project.

The term of any contract awarded for these services will be for three (3) years beginning January 1, 2023, through December 31, 2025. The Agency reserves the right to extend the term of this contract for two (2) additional one-year terms subject to the review and recommendation of the General Manager.

The Proposal Evaluation Criteria is described in RFP Section – Responsiveness and Selection Process. Each proposal will be evaluated based on completeness and thoroughness of the responses with respect to the requested information.

Background

The Zone 7 Water Agency (Zone 7 or the Agency) is part of the Alameda County Flood Control and Water Conservation District, which is a dependent special district of Alameda County. Its mission is to deliver safe, reliable, efficient and sustainable water and flood protection services. It is governed by an elected seven-member Board of Directors. Zone 7 derives its revenues from property taxes, water sales, development fees, drainage fees, and interest. It has broad authority power to finance, construct and operate a system for the transportation, storage, treatment, and distribution of water. Zone 7 supplies wholesale water to four municipal customers, which are the City of Livermore, City of Pleasanton, Dublin-San Ramon Services District (DSRSD) and the California Water Service Company. These customers distribute the water to municipal and industrial customers.

Zone 7 employs approximately 100 full time staff at four separate sites. Those sites are connected through a Wide Area Network. Zone 7 is connected to the County of Alameda's central network for accounting, payroll, human resources and purchasing applications. Zone 7 has an administrative/business network and a completely separate Operational Technology (OT) Supervisory Control and Data Acquisition System (SCADA) network. Zone 7 has few dedicated information technology positions: an Associate Controls System Engineer, a Geographic Information Systems Analyst (currently vacant), and Instrument Technicians who focus on the Computerized Maintenance Management System (CMMS) - one position) and SCADA.

Zone 7 outsources full IT services to support its desktop, business and SCADA OT networks, application recommendations and information technology consulting. This role is currently supported by Lanlogic, Incorporated. The purpose of this RFP is solicit proposals and gain adequate information by which the Agency may evaluate the services offered by respondents in order to secure a new contract for those services.

Minimum Vendor Qualifications

The vendor shall have been in business performing IT and SCADA Support and supplemental IT Project related work for a minimum of five (5) years and shall have completed similar projects for other government agencies during the last three years. Vendor must provide all services from facilities within the continental U.S. and maintain a local office in the Tri-Valley area (comprising the cities of Pleasanton, Dublin and Livermore, CA).

Pre-Proposal Communications

If, upon review of this RFP, your firm intends to submit a proposal, please email the Agency's point of contact for this RFP, Karen Bartels, Buyer II at kbartels@zone7water.com by 5 p.m. on August 19, 2022, to confirm your intent to submit. Communications related to this RFP, including vendor-submitted questions, answers, addendums, and other vendor communications will be transmitted to the contact information provided in your initial notice.

Questions or comments regarding this RFP should be submitted in writing, via email to Karen Bartels, Buyer II at kbartels@zone7water.com no later than 5:00 p.m. on August 5, 2022 All responses to questions will be posted on the Agency's website under [Construction](#) & Business Opportunities on August 12, 2022.

Submission Requirements

ALL PROPOSALS ARE DUE VIA EMAIL BY 5:00 PM ON August 26, 2022.

Submittals should be directed to:

Karen Bartels, Buyer II

Email: kbartels@zone7water.com

Proposals must be submitted as a single document in PDF or MS Word format, via email with the subject line "**IT and SCADA Support Services.**" Late proposals will not be considered.

For proposals to be considered complete, they must include the following:

- Title Page: including the subject of the proposal, the proposing company's name and postal address, the name, email address, and telephone numbers of a contact person, the date of the proposals, and signature of a duly authorized official representing the vendor.
- Table of Contents
- Executive Summary: should provide a summary of the firm's overall proposal, including the vendor's understanding of the project.
- Company Background: including the number of years actively providing professional services for IT and SCADA OT network services, location of office from which service will be provided, company's normal business hours [PST] for office-providing services and total number of employees.
- Qualifications: A description of the firm's qualifications and experience performing similar services. Vendor should have at least 2 Microsoft Certified Systems Engineer (MCSE) on staff. Additional preferred qualifications include Microsoft Mid-Market Solutions Provider Silver or better; VMware Solution Provider; and/or Veeam Partner.
- Staffing: A list of the proposed staff members who will be assigned to this project as well as their qualifications. Include bios for each proposed individual and indicate where each will be located and the percent of time each will be dedicated to support the Agency. The bios must identify any special skills each would bring to this engagement, including any relevant certifications.
- Insurance Requirements: A statement indicating whether the firm, in the event of award, would be able to provide insurance meeting or exceeding the requirements and acceptance of the Agency's standard Vendor agreement (Refer to Exhibit B, Appendix C)
- Exceptions or Deviations (Exhibit C): Use to indicate any exceptions and/or deviations to the terms and conditions or insurance requirements in Exhibit B.
- Description of any claims: lawsuits, or legal settlements your firm has had in the past and/or those that are currently pending
- References: A minimum of three (3) references, including at least one public agency for whom the vendor has provided similar services.
- Fee Schedule: showing any and all charges for performing the services in the proposed scope of work, expressed in both a hourly and annual basis
- Scope of Work: including a detailed description of services to be provided, the nature and level of support available, and transition plan, as applicable. The vendor may recommend other tasks that it deems appropriate to achieve the objectives set forth in this RFP.

Proposals shall be signed and dated by an authorized officer with a guarantee that the proposal will be valid for a minimum of 120 days. **Responses that do not include the content required in this section will be considered incomplete and will receive no further consideration.**

The preparation of the RFP will be at the total expense of the vendor. There is no expressed or implied obligation for the Agency to reimburse responding vendors for any expense incurred in the preparation of proposals in response to this RFP. All proposals submitted to the Agency shall become properties of Agency and will not be returned.

Current Environment – the current IT and OT environments are described below:

Technology

- There are approximately 23 Servers 56 desktops, 75 laptops. The Agency wishes to deploy field-based tablets in the future.
- Existing desktops and laptops are a mixture of Windows 7 and Windows 10 Professional.
- Server environment contains a mixture of operating systems 2003, 2008 R2, 2012R2, 2016, and 2019. The majority of servers are Windows 2012R2. The environment is built on Dell Server Hardware.
- Electronic mail is currently Office 365.
- The Agency's website is hosted externally.
- The Agency maintains 5 locations with Internet access and staff. AT&T OPT-E-Man circuits are used for all site connectivity.
- The Agency has two Domain Controllers at Headquarters, Del Valle, and Patterson Pass. The Domain Controllers are 2008 R2 and 2012 R2.
- The Agency's current virtual infrastructure is configured with VMware.
- Phone system – Mavericks
- Employees are provided VPN access using SonicWall Global VPN Client

Network

- Network switches and routers (primarily Cisco).
- Firewalls are primarily SonicWall.
- Agency has approximately 75 mobile devices (phones and tablets).
- Meraki Wireless

SCADA OT Network Equipment List

- (10) Dell Servers running Windows 2000
- (2) Dell NAS servers
- (36) Dell workstations running XP
- (4) Cisco 2600 routers
- (3) Cisco Pix 515e firewalls

Facility locations - services shall be provided at the following locations:

Table 1 – Facility Locations	
North Canyons Headquarters	Livermore, CA
Del Valle Water Treatment Plant	Livermore, CA
Patterson Pass Water Treatment Plant	Livermore, CA
Distribution & Wellfield Parkside	Pleasanton, CA
Mocho Groundwater Demineralization Plant	Pleasanton, CA

Proposed Scope of Services

Qualifying submittals will address the vendor’s plan for providing the services listed below. For additional detail on the anticipated scope of services, refer to Exhibit A of this RFP.

Table 2 - Scope of Services	
Day-to-Day Implementation Services Include:	Project-Related Services May Include:
End user support, including support of Virtual Private Network (VPN) and remote users	Mobile Device Management system implementation for management of Phones and Tablets
Help desk - 24/7 availability for SCADA OT network and normal business hours for the administrative/business network	Multi-Factor Authentication implementation to better secure logins
Network support, including LAN/SAN/WLAN/WAN	VPN Upgrade
Business network and server monitoring and management/Alameda County network support	Office Upgrade/Rollout

Table 2 - Scope of Services

Day-to-Day Implementation Services Include:	Project-Related Services May Include:
SCADA OT network and server monitoring and management, remote access management	Server Upgrades/assist with developing annual IT budget for server upgrades and other IT needs
Radio and phone system support	Network Upgrades - Upgrade network switching environment to current generation.
Firewall and WAN management	Application Upgrades
IT Security Services - Implement advanced threat management tools to increase security monitoring. Alternatives potentially include Cylance, Artic Wolf, or other products.	Computer lifecycle, asset inventory and software licenses management
IT Consulting and Strategy	Mobile Device Implementations/Rollouts
IT/Telecom Liaison	SCADA network support and system projects
IT Project Design, Execution and Management	Expanding the network to new facilities
Technical Program Management	Coordinating with ATT for network upgrades
IT Training – Applications, Technology and Security	Video conferencing setup and support
Automate email phishing testing to reduce time spent administering program	Network support of the physical security system
24x7 network and server monitoring with onsite response	Upgrade Active Directory network to Windows server 2019
Creation and maintenance of accurate and updated technology documentation	Cloud based backup solution to include cloud-based recovery of Administrative Systems
Respond to annual financial audit questions	Cloud based backup solution to include email archiving and O365 backup systems

Table 2 - Scope of Services	
Day-to-Day Implementation Services Include:	Project-Related Services May Include:
Maintenance of the custom cost system application and support ERP system upgrades and maintenance	Expand utilization of O365 suite – implement MS Teams and SharePoint for internal and external file sharing and collaboration

Fee Schedule

Each proposal will include a Fee Schedule that outlines all monthly service delivery costs as well as any proposed one-time software, start-up costs, change fees, or other penalties. The Fee Schedule should include a breakdown of pricing structure (per user, per hour, etc.) and any additional billing rates, hourly costs, and additional expenses for each individual or service. Costs must be expressed on an hourly and annual basis. Total annual costs for years 1-3 must be provided, with estimated cost for optional years 4-5.

Transition/Onboarding:

Vendors are expected to ensure that the award of this service contract will not result in disruption to the Agency’s administrative and operational business processes. Proposals should include a transition plan to ensure that this objective is met at both the beginning of services, as well as at the conclusion of the contract, including any costs related to the transition. The description shall include the vendor's approach to developing and executing the transition plan (including collaboration with third-party software and service providers), the estimated duration of the transition, the quality assurance activities related to ensuring that the transition proceeds as planned, a plan for providing periodic status reports to the Agency regarding the status of transition activities, and a description of anticipated costs specific to the transition. The vendor shall clearly identify those activities in its transition plan that shall be the responsibility of the Agency and the Agency's incumbent service provider, and those activities that shall be performed by the vendor.

Service Level Agreements (SLA’s)

The following table provides definition as to the required functions to be performed by the Vendor. Each SLA provides a description of the service, service requirement, and measurement.

When service falls below the identified threshold, the Vendor will work to resolve service problems and report progress. In the event service does not improve, a joint meeting between the Vendor and the Agency will take place to discuss and resolve the issues that have resulted in diminished service. The Vendor will publish and distribute a report from the meeting that documents the results and issue resolution. The Agency reserves the right to add, change or delete any SLA during contract negotiation with the selected

Vendor. Regardless, the Vendor is required to specifically define its approach to meeting and exceeding each specific SLA. If a contract is awarded, the Vendor shall provide the Agency access to the data used to calculate its performance against the Service Levels and the measurement and monitoring tools and procedures utilized by the Vendor to generate such data for purposes of audit and verification.

Table 3 – SLA’s	
Title/Description	Minimum Service Level
All Network Connectivity	99.999% availability
All Business and SCADA Servers	99.999% availability
Emergency service requests - server(s) down, WAN link issue	Resolved within 2 hours at least 90% of the time
Emergency service requests that materially affect a single site.	Resolved within 4 hours 90% of the time
Non-emergency service requests	Resolved within 48 hours 90% of the
Server backups	Nightly (incremental/ differential) and weekly (full) offsite; expectation is that backup process will include backup to disk and backup disk to Internet
Password resets	Resolved within 30 minutes 90% of the time
Restoration of SCADA servers from network backup	Restored within 24 hours 99.999% of the time
Restoration of business servers from network backup	Restored within 48 hours 99.999% of the time
Restoration of desktops	Restored within 48 hours 99.999% of the time
Restoration of individual file from network backup to user's desktop	Restored within four hours 95% of the time

RFP Schedule

Table 4 – RFP Schedule	
Schedule	Date
Release RFP	July 15, 2022
Deadline for Questions	August 5, 2022
Response to Questions	August 12, 2022
Bidder Confirms Intent to Submit Proposal	August 19, 2022
Proposals Due via Email	August 26, 2022
Proposal Review and Evaluation	August 26 – September 14, 2022
Bidder interviews and final selection (at discretion of Agency)	Week of September 19, 2022
Board Approval/vendor award	October 19, 2022
Contract Start Date	January 1, 2023

Interpretation or Correction of RFP Documents

The vendor shall review the RFP documents to determine if there are any particular requirements for this project that may impact the preparation of the proposal including insurance, and any other requirements. In the event the vendor has any questions regarding the meaning of any part of the documents, or finds any error, omission, inconsistency, or ambiguity in the documents, the vendor shall make a written Request for Clarification prior to submitting its proposal. It shall be the vendor's responsibility to ensure any such request is submitted to Zone 7 in a timely manner in order to allow Zone 7 issuance of a written addendum.

If necessary, the Agency shall make clarifications, interpretations, corrections, and changes to the documents by addendum issued as provided in these instructions. Purported clarifications, interpretations, corrections, and changes to the documents made in any other manner shall not be binding on the Agency, and vendors shall not rely upon them.

Submission of a proposal indicates the vendor's acceptance of the conditions contained in this Request for Proposals document, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the Agency and the Vendor selected.

Responsiveness and Selection Process

The decision for selection will be made on a combination of criteria, including: comprehensiveness of proposal, responsiveness and adherence to format, quality and

completeness of proposal, qualifications and experience of the firm or partnership with same or similar equipment/services, vendor's ability to perform in a timely fashion, technical merits of specifications, system capabilities, reliability, and flexibility, system design and implementation, total cost (including ongoing operating costs), local project team and subcontractor/Vendor qualifications, reputation of vendor, and references. The following table represents the principal selection criteria, which will be considered during the evaluation process:

Table 5 - Evaluation Criteria		
	Criteria	Weight
A.	Executive Summary and the Proposer's interest of the project	10 Points
B.	Vendor Team Organization, Qualifications and Experience	15 Points
C.	Relevant project experience and examples, Proven experience in meeting service level minimums and outlined in Table 3	20 Points
D.	Description of proposal services, transition plan, approach and understanding of the project	40 Points
E.	References	5 Points
F.	Cost Proposal (Fee Schedule)	10 Points

RFP responses will be reviewed by Agency staff, with feedback from existing agency consultants as necessary. Reference checks may consist of phone and/or email inquiries to any current or past customer of the vendor, either provided by vendor or contacted independently by the Agency.

The Agency reserves the right to request vendors at any phase of the evaluation process to clarify information provided in RFP responses. Clarifications must be submitted in writing by the requested deadline; otherwise, the RFP response will be deemed non-responsive or evaluated without the benefit of the clarification requested. If the Agency determines that all vendors failed to submit requested information or adequately responded to the same RFP question or request for data, the Agency may, at its discretion, issue an RFP Addendum and provide all vendors with an opportunity to provide a response to the RFP question. Responses to RFP Addendum questions must be submitted in writing by the stated deadline; otherwise, the RFP response will be deemed non-responsive or evaluated without the benefit of the clarification requested.

The Agency reserves the right to reject any or all proposals, in whole or part, to waive any informality in any proposal, and to accept the proposal which, in its discretion, is in the best interest of the Agency. Cost is not the only factor to be considered. The lowest cost vendor may not be selected.

All vendors will be notified by email of the Agency's decision at the conclusion of the selection process.

Notice of Award

Upon conclusion of the RFP response evaluation process, all bidder's will be notified in writing of the contract award recommendation, if any, of Zone 7 Water Agency.

Exhibit A – Scope of Services Required

Zone 7 is highly reliant on the external IT services provider supporting its networks (including routers, hubs, and switches), servers, desktops, and SCADA to effectively coordinate with Agency staff, the County of Alameda, and other external service providers to ensure that its business and engineering applications are available as needed. Proposals submitted in response to this RFP should specifically address the provision of the following services related to the Agency's IT needs:

Account Manager: Vendor is expected to provide an Account Manager for the Agency. The Account Manager will interface with the Agency's technology liaison and management and become the main contact for the Agency for the duration of the project. The Agency reserves the right to request a change in Account Manager based on performance. The Account Manager will be responsible for reporting on services provided, including the delivery of:

- A detailed monthly activity report and invoice showing work performed and time spent. Vendor must separate and identify in detail, particular services (SCADA, Help Desk, etc.) in billing/accounting.
- A Service Level Agreement Report on a monthly basis for tracking service level problems and resolutions

Help Desk Services: The activities required to coordinate and respond to incidents and service requests made by Agency end-users and technical staff. The Agency expects that the Help Desk will serve as the single-point-of-contact for resolution and escalation of all incidents and service requests related to all Agency technical requests. Vendor is expected to provide 24/7 on-call help desk services for the SCADA network and normal business hours for the administrative/business network. Vendor proposals must include how end-users will be serviced for off-hour requests (i.e., evenings, weekends, and holidays). On-call resources for urgent priorities may need immediate response on-site and/or remotely.

Technology Documentation: Vendor shall assist with the creation and maintenance of accurate and updated technology documentation, including, but not limited to:

- Device configuration version control
- Updated equipment, application, warranty, and license lists
- Project-related network diagrams
- Account Administration, Management, and Reporting
- Summary report of all tickets opened, closed, or worked during the month, with a status for each
- Written updates on the status of service requests or projects (as needed)
- Inventory of all IT assets, computer life cycle and software licensing management

Project Management: Vendor's must perform Project Management Services as directed by the Agency in order to improve its ability to deliver projects; promote a closer collaboration between all departments, and advance Agency-wide and departmental objectives in a cohesive and transparent manner, which promotes a more integrated approach to the Agency's technology investments. Project implementation will be coordinated with the Agency schedules in order to minimize any disruptions to normal operations. Project Management Services include, for each project:

- Develop and provide a project charter, scope of work, and work plan to be reviewed and approved by the Agency.
- Provide weekly project status reports, including issues-tracking and reporting

Professional Consulting Services: The Agency expects the Vendor to actively analyze and manage their service delivery performance, utilization, governance, and relationships with Agency departments, to drive to higher accountability and continuous improvement of IT service delivery over the life of the contract. Professional Consulting Services include:

- Management of Agency software licensing and compliance.
- Provide recommendations pertaining to hardware and software upgrades, new hardware or software applications, or expansions of applications.
- Support other specialized technology-related projects as identified
- Part time Chief Information Officer services including consulting and strategic planning for both current and future needs, including attendance at IT committee meetings.

Maintenance Services and Monitoring: These services encompass activities required to provide and support the Agency's current infrastructure, including:

- Desktop Hardware and Software Maintenance Support: Services provided in this area supports desktop hardware, laptops, desktop software, and the peripheral devices attached to them. A wide variety of applications are in use across departments. These services should include application support for the full Microsoft Suite.
- Desktop Client Services: Includes help desk support and user interface, ability to remotely take control of all workstations upon request to speed service response; onsite desktop support as requested; data recovery; hardware, software, and peripheral equipment fixes; technology refresh and lifecycle management; installations, moves, additions, and changes; and troubleshooting of desktop and network issues.
- Desktop Application Services: Basic troubleshooting and connectivity support to Agency applications; image management; patch management (all applications and operating systems); implementation of antivirus automated scheduled scans and automatic definition updates (no manual updates or scan); electronic software distribution, integration, and testing; and mobile Device Management for all laptops, tablets, and smart phones.

- Server and Network Services: Server maintenance, and development and implementation of security protocols; evaluation and daily monitoring of server disk space, backup systems, anti-virus systems, and server event logs; maintenance of a Wide Area Network (WAN) and Local Area Network (LAN) at each site; maintenance of the AT&T Internet TI for Internet access; support of Virtual Private Network (VPN) and remote users; remote monitoring of network including connectivity and event logs on a 24x7 basis; network security and capacity planning; and equipment procurement and installation.
- IT Asset and Software Tracking: Includes computer, server, software licensing lifecycle management and asset disposal.

SCADA OT network:

Provide tier 2 support of the SCADA OT network in conjunction with the internal SCADA support staff including:

- Help desk - 24/7 availability for SCADA OT network.
- Domain, server, and workstation maintenance, including security policies.
- Evaluation and daily monitoring of backup systems.
- Evaluation and daily monitoring of anti-virus systems.
- Evaluation and daily monitoring of server event logs.
- Manage remote access to the SCADA OT network
- Maintenance of WAN and LAN at each site.
- Network routing support between the hard wired and wireless LANs.
- Maintain SCADA OT network servers and workstations, and coordinate with SCADA software vendor if necessary.
- Primary responsibility to prevent accidental Internet access to the SCADA OT network.
- Provide networking and Windows support to SCADA vendor as needed.
- Recovery of all workstations and servers as needed from the network backup.

Exhibit B – Sample Services Agreement

SERVICE AGREEMENT

between

**ALAMEDA COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT, ZONE 7**

and

Consultant Name

for

Project/Program Name

Contract No. _____

Dated _____



This Professional Services Agreement ("**Agreement**") is made effective as of _____, by and between the Alameda County Flood Control and Water Conservation District, Zone 7 commonly known as ZONE 7 WATER AGENCY, hereinafter referred to as ("**Agency**"), a public body, corporate and politic, duly organized and existing under and by virtue of the laws of the State of California and _____, a DESCRIBE BUSINESS ENTITY, E.G., PROFESSIONAL CORPORATION ("**Consultant**") (collectively, the "**Parties**"), at Livermore, California, with reference to the following facts and intentions:

WHEREAS, The Agency is engaging in _____ ("**Project**"); and

WHEREAS, The Agency requires a highly qualified consultant with the requisite knowledge, skill, ability and expertise to provide the necessary services for the Project ("**Services**"); and

WHEREAS, Consultant represents to the Agency that it is fully qualified and available to perform the Services for and as requested by the Agency.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and terms and conditions herein, the Parties agree as follows:

1. SCOPE OF WORK

- 1.1. Consultant shall provide all services set out in Appendix A, Scope of Work, attached and incorporated here to the satisfaction of the Agency.
- 1.2. **Independent Contractor; Agency** - The Consultant is acting hereunder as an independent contractor and not as an agent or employee of the Agency. The Consultant is thus not eligible to receive workers' compensation, medical, indemnity or retirement benefits, including but not limited to enrollment in the Alameda County Employees' Retirement Association (ACERA). Except as expressly provided herein, the Consultant is not eligible to receive overtime, vacation or sick pay. The Consultant shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the Agency.
- 1.3. **Extra Services** - Before performing any services outside the scope of this Agreement ("**Extra Services**"), Consultant shall submit a written request for approval of such Extra Services and receive written approval from the Agency. The Agency shall have no responsibility to compensate Consultant for any Extra Services provided by Consultant without such prior written approval.
- 1.4. **Methods** - Consultant shall have the sole and absolute discretion in determining the methods, details and means of performing the Services



required by the Agency. The Agency shall not have any right to direct the methods, details and means of the Services; however, Consultant must receive prior written approval from the Agency before assigning or changing any assignment of Consultant's project manager or key personnel and before using any Sub-consultants ("Sub-consultants") or Sub-consultant agreements for services or materials under this Agreement and any work authorizations.

- 1.5. **Review** - Consultant shall furnish the Agency with reasonable opportunities from time to time to ascertain whether the Services of Consultant are being performed in accordance with this Agreement. All work done and materials furnished shall be subject to final review and approval by the Agency. The Agency's review and approval of the Services shall not, however, relieve Consultant of any of its obligations under this Agreement.

2. COMPENSATION

- 2.1. **Amount** – As consideration for the Services described above, THE AGENCY will pay the Consultant an amount not to exceed \$_____ ("Maximum Amount"). Payments will be made at the rates set forth in the Fee Schedule which is attached hereto within and incorporated herein as though fully set forth ("Fee Schedule" – Appendix B). Consultant shall submit an invoice within ten (10) days after the end of each month during the term of this Agreement describing the Services performed for which payment is requested.

- 2.2. **Invoicing** – The invoice shall identify and describe the activities performed by Consultant and state the total cost of the Services for the period of the invoice; the hours worked; the name and title of the person(s) performing the work; the hourly rate for the person(s) performing the work; the accrued reimbursable expenses; and the budget amount and percentage remaining (after invoice payment), without reduction for retentions. The invoice shall also identify expenses for which reimbursement is requested and attach supporting documentation, including original receipts and/or bills. Any expenses exceeding \$500 shall require written approval from the Agency. Reimbursable costs shall not include any administrative or overhead expenses and shall be reimbursable as described in the Fee Schedule.

Costs or expenses not designated or identified in the Fee Schedule shall not be reimbursable unless otherwise provided in this Agreement. Only actual time in providing the Services will be charged. The Agency will not make any payments for Consultant's travel time incurred in providing the Services, and Consultant agrees not to invoice the Agency for any travel time incurred in providing the Services.

The Agency shall review and approve all invoices prior to payment. Consultant agrees to submit additional supporting documentation to support



the invoice if requested by the Agency. If the Agency does not approve an invoice, the Agency shall send a notice to the Consultant setting forth the reason(s) the invoice was not approved. Consultant may re-invoice the Agency to cure the defects identified in the Agency notice. The revised invoice will be treated as a new submittal. If the Agency contests all or any portion of an invoice, the Agency and the Consultant shall use their best efforts to resolve the contested portion of the invoice.

The Agency shall pay approved invoice amounts within thirty (30) days of receipt. The Agency's determinations regarding verification of Consultant's performance, accrued reimbursable expenses, and percentage of completion shall be binding and conclusive. Consultant's time records, invoices, receipts and other documentation supporting the invoices shall be available for review by the Agency upon reasonable notice and shall be retained by Consultant for three (3) years after completion of the Project.

All invoices submitted for payment must indicate the Agreement number and either are to be emailed to accountspayable@zone7water.com or a hard copy mailed to Zone 7 Water Agency, 100 North Canyons Parkway, Livermore, CA 94551, Attention: Accounts Payable.

- 2.3. **Withholding Payment** – In the event the Agency has reasonable grounds for believing Consultant will be unable to materially perform the Services under this Agreement or unable to complete the Services within the Maximum Amount described in this Agreement, or if the Agency becomes aware of a potential claim against Consultant or the Agency arising out of Consultant's negligence, intentional act or breach of any provision of this Agreement, including a potential claim against Consultant by the Agency, then the Agency may withhold payment of any amount payable to Consultant that the Agency determines is related to such inability to complete the Services, negligence, intentional act, or breach.

3. TAXES; INSURANCE; PERMITS; LICENSES

- 3.1. **Taxes** - Consultant shall be solely responsible for the payment of all federal, state and local income tax, social security tax, worker's compensation insurance, state disability insurance, and any other taxes or insurance Consultant, as an independent contractor, is responsible for paying under federal, state or local law. Consultant is aware of the provisions of Section 3700 of the California 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 Consultant shall comply with such provisions before commencing the performance of the Services under the Agreement. Consultant and its Sub-consultants shall maintain applicable workers' compensation insurance for their employees in effect during all work covered by the Agreement.



- 3.2. **Permits and Licenses** - Consultant shall procure and maintain all permits, and licenses and other government-required certification necessary for the performance of the Services, all at the sole cost of Consultant. None of the items referenced in this section shall be reimbursable to Consultant under the Agreement. Consultant shall comply with any and all applicable local, state, and federal regulations and statutes including Cal/OSHA requirements.

4. RISK TRANSFER PROVISIONS

- 4.1. **Workers' Compensation Insurance** - By his/her signature hereunder, Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing the performance of the work of this Agreement.
- 4.2. **Indemnification** - To the fullest extent permitted by law, Consultant will immediately defend, indemnify and hold harmless the Agency, its directors, officers, employees, or authorized volunteers, and each of them (collectively "the Agency") from and against:
 - 4.2.1. All claims, demands, liabilities and losses arising out of the performance (or actual or alleged non-performance) of the services by Consultant, including its agents and employees, under this Agreement, for damages to persons or property arising, pertaining to or relating to the Consultant's negligent acts or omissions or willful misconduct or the failure of Consultant to comply with any professional standard of care applicable to Consultant's services.
 - 4.2.2. Any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from, or on account of the intentional or negligent violation of any governmental law or regulation, compliance with which is the responsibility of Consultant.
 - 4.2.3. Any and all losses, expenses, damages (including damages to the work itself), attorneys' fees, and other costs, including all costs of defense, including but not only costs of counsel acceptable to the Agency, which the Agency may incur with respect to the failure, neglect, or refusal of Consultant to perform the Services or its obligations under the Agreement. Such costs, expenses, and damages shall include all costs, including attorneys' fees, incurred by the Agency in any lawsuit to which it is a party. Upon the Agency's tender, Consultant shall immediately defend, at its own cost, expense and risk, any and all such suits, actions or other legal proceedings, with counsel acceptable to the Agency.



Consultant shall further defend itself against any and all liabilities, claims, losses, damages, and costs arising out of or alleged to arise out of performance or non-performance of the work hereunder and shall not tender such claims to the Agency nor to its directors, officers, employees, or authorized volunteers, for defense or indemnity.

- 4.2.4. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against the Agency or its directors, officers, employees, or authorized volunteers, in any and all such aforesaid suits, actions, or other legal proceedings if arising as provided in the previous subsections of this Section.
- 4.2.5. Consultant shall reimburse the Agency or its directors, officers, employees, or authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith.

Consultant's indemnification obligations shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Consultant, its agents, employees under any applicable Worker Compensation Act, Disability Benefits Act, or other employee benefit act. Consultant's obligation to defend and indemnify shall not be restricted by the insurance requirements of this Agreement or to insurance proceeds, if any received by the Agency, or its directors, officers, employees, or authorized volunteers.

Notwithstanding the foregoing obligations, Consultant shall not at any time be responsible for any claims, liabilities or demands to the extent that they arise from the negligence or willful misconduct of the Agency, provided, however, that contributory negligence will not relieve Consultant of its obligation to defend unless the claims, liabilities or demand are the result of the sole negligence or willful misconduct of Agency.

The indemnity provided under this indemnification provision is intended to and will survive the expiration or termination of the Agreement and remain in full force and effect until barred by the applicable statute of limitations.

5. GENERAL CONDITIONS

- 5.1. **Laws, Regulations and Permits** -The Consultant shall give all notices required by law and comply with all laws, ordinances, rules, and regulations pertaining to the conduct of the work. The Consultant shall be liable for all violations of the law in connection with work furnished by the Consultant. If the Consultant performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, the Consultant shall bear all costs arising therefrom.
- 5.2. **Safety** - The Consultant shall execute and maintain his/her work so as to avoid injury or damage to any person or property.



In carrying out his/her work, the Consultant shall at all times exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed, and be in compliance with all applicable federal, state and local statutory and regulatory requirements including State of California, Department of Industrial Relations (Cal/OSHA) regulations, and the U.S. Department of Transportation Omnibus Transportation Employee Testing Act. Safety precautions, as applicable, shall include but shall not be limited to: adequate life protection and life-saving equipment; adequate illumination; instructions in accident prevention for all employees, such as the use of machinery guards, safe walkways, scaffolds, ladders, bridges, gang planks, confined space procedures, trenching and shoring, fall protection, and other safety devices; equipment and wearing apparel as are necessary or lawfully required to prevent accidents, injuries, or illnesses; and adequate facilities for the proper inspection and maintenance of all safety measures.

- 5.3. **Labor Compliance Requirements** - Labor Compliance requirements (Prevailing Wage, SB 854): Contractor/Vendor must comply with all labor compliance requirements including but not limited to prevailing wage requirements, SB 854, Labor Code sections 1771.1(a) & 1725.5, Public Works Contractor Registration Program, and Electronic Certified Payroll Records to Labor Commissioner. Additional information about these requirements and the new public works program regarding compliance monitoring, administration and enforcement are available at the Department of Industrial Relations. **[For Public Works Contracts]** Copies of the rate of per diem prevailing wage shall be on file at the principal office of the Agency and shall be made available to any interested party upon request.

6. REQUIRED INSURANCE

Liability Insurance - The Consultant shall provide and maintain at all times during the performance of the work under this Agreement, the following commercial general liability, professional liability and automobile liability insurance. All of the insurance shall be provided on policy forms and through companies satisfactory to the Agency.

- 6.1. **Coverage** - Coverage shall be at least as broad as the following or as provided in Appendix C:
- 6.1.1. Coverage for Professional Liability appropriate to the Consultant's profession covering Consultant's wrongful acts, negligent actions, errors or omissions. **If Claims Made Policies:** the Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work; insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work**; and 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 Consultant must purchase "extended reporting" coverage for a minimum of **five (5)** years after completion of contract work.

- 6.1.2. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001).
- 6.1.3. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (non-owned and hired automobiles).
- 6.2. **Limits** - The Consultant shall maintain limits no less than the following:
 - 6.2.1. Professional Liability – Two million dollars (\$2,000,000) per claim and annual aggregate.
 - 6.2.2. Commercial General Liability – Two million dollars (\$2,000,000) per occurrence or the full per occurrence limits of the policies available, whichever is greater for bodily injury, personal injury and property damage and products & completed operations liability. If Commercial General Liability Insurance or other form with a general aggregate limit or products-completed operations aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 25 03, or ISO CG 25 04, or insurer's equivalent endorsement provided to the Agency), or the general aggregate limit and products-completed operations aggregate limit shall be twice the required occurrence limit.
 - 6.2.3. Automobile Liability – One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.
 - 6.2.4. Excess Liability – The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Agency (if agreed to in a written contract or agreement) before the Agency's own primary or self-Insurance shall be called upon to protect it as a named insured.
- 6.3. **Required Provisions** - The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
 - 6.3.1. The Agency, its directors, officers, employees, and authorized volunteers are to be given insured status at least as broad as ISO endorsement CG 20 10 10 01 specifically naming all of the Agency parties required in this Agreement or using language that states "as required by contract"). All Sub-consultants hired by Consultant must also have the same forms or coverage at least as broad; as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed



operations of the Consultant; premises owned, occupied or used by the Consultant; and automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the Agency, its directors, officers, employees, or authorized volunteers.

- 6.3.2. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Agency. Additionally, Consultant shall give Agency thirty (30) days written notice prior to any material change or cancellation of said coverage.
- 6.3.3. For any claims related to this project, the Consultant's insurance shall be primary insurance as respects the Agency, its directors, officers, employees, or authorized volunteers, using the ISO CG 20 01 04 13 or coverage at least as broad. Any insurance, self-insurance, or other coverage maintained by the Agency, its directors, officers, employees, or authorized volunteers shall be in excess of the insurance required under this Agreement and shall not contribute to it.
- 6.3.4. Any failure to comply with the reporting or other provisions of the policies including breaches and warranties shall not affect coverage provided to the Agency, its directors, officers, employees, or authorized volunteers.
- 6.3.5. Such liability insurance shall indemnify the Consultant and his/her Sub-consultants against loss from liability imposed by law upon, or assumed under contract by, the Consultant or his/her Sub-consultants for damages on account of such bodily injury (including death), property damage, personal injury, completed operations, and products liability.
- 6.3.6. The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations liability.
- 6.3.7. The automobile liability policy shall cover all owned, non-owned, and hired automobiles.



- 6.4. **Workers' Compensation and Employer's Liability Insurance** - The Consultant and all Sub-consultants shall cover or insure under the applicable laws relating to workers' compensation insurance, all of their employees employed directly by them or through Sub-consultants in carrying out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof, with statutory limits. The Consultant shall provide employer's liability insurance with limits of no less than \$1,000,000 each accident, \$1,000,000 disease policy limit, and \$1,000,000 disease each employee. **Waiver of Subrogation:** The insurer(s) named above agree to waive all rights of subrogation against the Agency, its elected or appointed officers, officials, agents, authorized volunteers and employees 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 Agency has received a waiver of subrogation from the insurer.
- 6.5. **Deductibles and Self-Insured Retentions** - Any deductible or self-insured retention must be declared to and approved by the Agency. At the option of the Agency, the insurer shall either reduce or eliminate such deductibles or self-insured retentions. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named or additional insureds, co-insurers, and/or insureds other than the First Named Insured.
- 6.6. **Acceptability of Insurers** - Insurance is to be placed with insurers having a current A.M. Best rating of no less than A: VII or equivalent or as otherwise approved by the Agency.
- 6.7. **Evidence of Insurance** - Prior to execution of the Agreement, the Consultant shall file with the Agency a certificate of insurance (Acord Form 25 or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include (1) attached additional insured endorsements with primary & non-contributory wording, (2) Workers' Compensation waiver of subrogation. The Agency reserves the right to obtain complete, certified copies of all required insurance policies, at any time. Consultant shall maintain the Insurance required by this Agreement throughout the term of the Agreement and for a period of not less than 5 years following the termination of completion of this Agreement. Consultant further waives all rights of subrogation under this Agreement. Failure to continually satisfy the Insurance requirements is a material breach of contract.

The Consultant shall, upon demand of the Agency, deliver to the Agency such policy or policies of insurance and the receipts for payment of premiums thereon.



- 6.8. **Continuation of Coverage** - If any of the required coverages expire during the term of this Agreement, the Consultant shall deliver the renewal certificate(s) including the general liability additional insured endorsement to the Agency at least ten (10) days prior to the expiration date. Failure to comply with any of the Insurance requirements shall constitute material breach of contract. The insurance requirements in this Agreement do not in any way represent or imply that such coverage is sufficient to adequately cover the Consultant's obligations under this Agreement. All Insurance or self-insurance coverage and limits applicable to a given loss or available to the named insured shall be available and applicable to the additional insured. The insurance obligations under this Agreement are independent of and in addition to the defense and indemnity obligations contained elsewhere in this Agreement and shall not in any way act to limit or restrict the defense or indemnity or additional insured obligations of the Consultant or the Consultant's insurance carrier, and shall be for (1) the full extent of the insurance or self-insurance coverages and limits carried by or available to the Consultant, or (2) the minimum insurance coverage and amounts shown in this Agreement; whichever is greater. Agency reserves the right to add such other parties as may be required in the future to the indemnity and additional insured requirements of this Agreement.
- 6.9. **Sub-Consultants** - In the event that the Consultant employs other consultants ("Sub-consultants") as part of the services covered by this Agreement, it shall be the Consultant's responsibility to require and confirm that each Sub-consultant meets the minimum insurance requirements specified above.

7. LABOR AND MATERIALS

Consultant shall furnish, at its own expense, all labor, materials, equipment, tools, transportation and services necessary for the successful completion of the Services to be performed under this Agreement. Consultant shall give its full attention and supervision to the fulfillment of the provisions of this Agreement by its employees and Sub-consultants and shall be responsible for the timely performance of the Services required by this Agreement. Consultant's standard schedule of fees and charges is attached, which is incorporated herein as though fully set forth in the Fee Schedule attached hereto (Appendix B). All compensation for Consultant's Services under this Agreement shall be pursuant to the Fee Schedule.

8. TERM OF THE AGREEMENT

- 8.1. **Period of Services** – This Agreement between the Agency and Consultant is for a term of NUMBER OF MONTHS, beginning DATE and ending DATE, subject to the termination provisions herein.



- 8.2. **Termination** – The Agency may terminate this Agreement for any reason by giving Consultant at least thirty (30) days or earlier (depending on nature of services) prior written notice of such termination. Such termination shall not relieve the Agency from responsibility for payment for Services rendered by Consultant prior to the date of termination but shall relieve the Agency of its obligations for the full payment of compensation due under the Agreement for the Services of Consultant after the notice of termination.
- 8.3. **Termination for Cause** – The Agency may terminate the Agreement for cause, effective immediately upon written notice of such termination to Consultant, based upon the occurrence of any of the following events:
- 8.3.1. Material breach of the Agreement by Consultant
 - 8.3.2. Cessation of Consultant to be licensed, as required by law
 - 8.3.3. Failure of Consultant to substantially comply with any applicable federal, state or local laws or regulations
 - 8.3.4. The voluntary or involuntary filing of any petition under any law for the relief of debtors with respect to Consultant
 - 8.3.5. Conviction of Consultant of any crime other than minor traffic offenses
- 8.4. **Compensation Upon Termination** - If the Services of Consultant are terminated, in whole or in part, Consultant shall be compensated as provided herein for all Services and approved Extra Services performed prior to the date of such termination.

9. CALIFORNIA LABOR CODE REQUIREMENTS

- 9.1. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall defend, indemnify and hold the Agency, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all sub-consultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors.



- 9.2. **Effective March 1, 2015**, if the services are being performed as part of an applicable "public works" or "maintenance" project, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all sub-consultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the project and require the same of any sub-consultants. This project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.

10. INTERESTS OF CONSULTANT

- 10.1. Consultant represents and warrants that it presently has no interests, and covenants that it will not acquire any interests, direct or indirect, financial or otherwise, that would conflict with the performance of the Services to be provided by Consultant under the Agreement. Consultant further covenants that, in the performance of the Agreement, it will not employ any Sub-consultant or employee with any such interest. Consultant certifies that no one who has or will have any financial interest under this Agreement or within Consultant is a director, officer or employee of the Agency.
- 10.2. Although Consultant is retained as an independent contractor, Consultant's employees or agents may still be required under the California Political Reform Act and the Agency Conflict of Interest Code to file annual financial disclosure statements. Consultant agrees that its employees and/or agents will file with the Agency in a timely manner those financial disclosure statements that the Agency determines Consultant is required to file pursuant to the Political Reform Act. Failure to file such financial disclosure statements by Consultant and any of its employees or agents is grounds for termination of this Agreement.

11. COMPLETED WORK AND WORK PRODUCT

In the event of termination or completion of the Services under the Agreement, Consultant shall, at the Agency's request, promptly surrender to the Agency all completed work and work in progress and all materials, records and notes developed, procured, or produced pursuant to the Agreement. Consultant may retain copies of such work product as a part of its record of professional activity.

12. CONFIDENTIALITY AND RESTRICTIONS ON DISCLOSURE

- 12.1. **Confidential Nature of Materials** - The Consultant understands that all documents, records, reports, data, or other materials (collectively "Materials") provided by the Agency to the Consultant pursuant to the



Agreement, including but not limited to draft reports, final report(s) and all data, information, documents, graphic displays and other items that are not proprietary to the Consultant and that are utilized or produced by the Consultant pursuant to the Agreement are to be considered confidential for all purposes.

- 12.2. **No Disclosure of Confidential Materials** - The Consultant shall be responsible for protecting the confidentiality and maintaining the security of the Agency documents and records in its possession. All Materials shall be deemed confidential and shall remain the property of the Agency. The Consultant understands the sensitive nature of the above and agrees that neither its officers, partners, employees, agents or Sub-consultants will release, disseminate, or otherwise publish said reports or other such data, information, documents, graphic displays, nor other materials except as provided herein or as authorized, in writing, by the Agency. The Consultant agrees not to make use of such Materials for any purpose not related to the performance of the Services under the Agreement. The Consultant shall not make written or oral disclosures thereof, other than as necessary for its performance of the Services hereunder, without the prior written approval of the Agency. Disclosure of confidential Materials shall not be made to any individual, agency, or organization except as provided for in the Agreement or as may be required by law, or by a court of competent jurisdiction.
- 12.3. **Protections to Ensure Control over Materials** - All confidential Materials saved or stored by the Consultant in an electronic form shall be protected by adequate security measures to ensure that such confidential Materials are safe from theft, loss, destruction, erasure, alteration, and any unauthorized viewing, duplication, or use. Such security measures shall include, but not be limited to, the use of current virus protection software, firewalls, data backup, passwords, and internet controls.

The provisions of this Section survive the termination or completion of the Agreement.

13. OWNERSHIP OF DOCUMENTS AND DISPLAYS

All original written or recorded data, documents, graphic displays, reports or other materials which contain information relating to the Consultant's performance hereunder and which are originated and prepared for the Agency pursuant to the Agreement shall be "work for hire" and shall be the property of the Agency. The Consultant hereby assigns all of its right, title and interest therein to the Agency, including but not limited to any copyright interest. In addition, the Agency reserves the right to use, duplicate and disclose in whole, or in part, in any manner and for any purpose whatsoever all such data, documents, graphic displays, reports or other materials delivered to the Agency pursuant to this Agreement and to authorize others to do so.



To the extent that the Consultant utilizes any of its property (including, without limitation, any hardware or software of Consultant or any proprietary or confidential information of Consultant or any trade secrets of Consultant) in performing services hereunder, such property shall remain the property of Consultant, and the Agency shall acquire no right or interest in such property.

14. ASSIGNMENT PROHIBITED

The Consultant shall not assign, transfer, convey, or otherwise dispose of its rights, title or interest in or to this Agreement or any part thereof without the previous written consent of the Agency.

15. REPRESENTATIVES OF THE PARTIES AND SERVICE OF NOTICES

15.1. **Designated Representatives** – The Agency representative designated below shall be the principal representative of the Agency for purposes of the Services that are the subject of this Agreement. Consultant shall designate, in writing, Consultant's project engineer and/or project manager for the performance of the Services under this Agreement, which designation shall be subject to the Agency's reasonable approval.

The representatives of the Parties who are authorized to administer this Agreement and to whom formal notices, demands and communications shall be given are as follows:

ZONE 7 WATER AGENCY Representative:

Name
Title
Zone 7 Water Agency
100 N. Canyons Parkway
Livermore, CA 94551

Consultant:

Name
Title
Firm Name
Address
Firm Tax ID

Notices - Formal notices, demands and communications to be given hereunder by either Party shall be made in writing and may be affected by personal delivery or fax or by registered or certified mail, postage prepaid, return receipt requested to the address set out below and shall be deemed communicated as of the date of mailing.



If the name or address of the person to whom notices, demands or communications shall be given changes, written notice of such change shall be given, in accordance with this section within five (5) working days.

16. MISCELLANEOUS PROVISIONS

- 16.1. Integration – This Agreement represents the complete Agreement of the parties and supersedes any other Agreements between the parties, whether written or oral.
- 16.2. No Waiver – No waiver by either parties of any term or condition of this Agreement shall be a continuing waiver thereof.
- 16.3. Modification – This Agreement only may be amended in writing, signed by all parties.
- 16.4. Attorneys' Fees – In any proceeding to enforce this Agreement, the prevailing party shall be entitled to attorneys' fees and costs in any amount determined by the court.
- 16.5. Choice of Laws/Venue – This Agreement shall in all respects be governed by the laws of the State of California applicable to Agreement executed and to be wholly performed with the State. Any action regarding this Agreement shall be brought in Alameda County Superior Court.
- 16.6. Counterparts – This Agreement may be executed in separate counterparts that, together, shall constitute and be one and the same instrument.
- 16.7. No Third-Party Beneficiaries – This Agreement is for the sole benefit of the parties hereto and their permitted assigns (if any), and nothing herein expressed or implied shall give or be construed to give to any person, other than the parties hereto and such assigns any legal or equitable rights hereunder.
- 16.8. No Presumption Regarding Drafter – The parties to this Agreement acknowledge that its terms and provisions have been negotiated and discussed among them and that it reflects their mutual agreement regarding its subject matter. Therefore, neither party shall be deemed to be the drafter of this Agreement, nor shall there be no presumption for or against the drafter in its interpretation or enforcement.



Vendor Services Agreement – 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 (“Agency”) and _____ (“Vendor”), for the provision of services agreement (“Services”).

Minimum Insurance Requirements: Consultant 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 Consultant, his agents, representatives, employees or sub-contractors.

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. 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 Agency), or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability** - Insurance Services Office (ISO) Business Auto Coverage (Form CA 00 01), covering Symbol 1 (any auto) or if Consultant 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 Agency, its elected or appointed officers, officials, agents, authorized volunteers and employees 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 Agency has received a waiver of subrogation from the insurer.
4. **Cyber Liability Insurance (Technology Professional Liability – Errors and Omissions)**, with limits not less than \$2,000,000 per occurrence or claim, and



\$2,000,000 aggregate or the full per occurrence limits of the policies available, whichever is greater. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

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 Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

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

Other Required Provisions - The 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 (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 Consultant including materials, parts, or equipment furnished in connection with such work or operations.
2. **Primary Coverage:** For any claims related to this project, the Consultant's insurance coverage shall be primary at least as broad as ISO CG 20 01 04 13 as respects to the Zone 7 Water Agency, its directors, officers, employees and authorized volunteers. Any insurance or self-insurance maintained by the Member Water Agency its directors, officers, employees and authorized



volunteers shall be excess of the Consultant'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 Agency.

Self-Insured Retentions - Self-insured retentions must be declared to and approved by the Agency. The Agency may require the Consultant 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 the Agency.

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 the Agency.

Verification of Coverage – Consultant shall furnish the Agency 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 Agency before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Agency reserves the right to require complete, certified copies of all required insurance policies, including policy Declaration pages and Endorsement pages.

Sub-contractors - Consultant shall require and verify that all sub-contractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that Zone 7 Water Agency, its directors, officers, employees, and authorized volunteers are an additional insured are an additional insured on Commercial General Liability Coverage.



Exhibit C – Exceptions / Deviations

List below exceptions and/or deviations, if any, to the RFP and its exhibits and submit with your proposal.

The District is under no obligation to accept any exceptions and/or deviations and may be used in the evaluation of proposals.

Item No.	Reference To:		Description
	Page No.	Paragraph No.	

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<hr/> Bidder Name	<hr/> Bidder Sign	<hr/> Date
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