



ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7

100 NORTH CANYONS PARKWAY, LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

June 18, 2018

Request for Proposals

Materials Testing and Specialty Inspection Support Services

Dear Consultant:

We are pleased to extend an invitation to your firm to submit a Proposal for Materials Testing and Specialty Inspection Support Services. The enclosed Request for Proposals includes the anticipated Scope of Work. The amount of the services is up to \$50,000 for Fiscal Year 2018/2019. The contract may be extended for 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 an Attachment to this document. Your submission of a Proposal indicates your agreement to the terms and conditions as set forth in the attached sample contract.

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.

It is anticipated that the work performed under this contract will be on Public Works projects. Prevailing wages are required for all work performed on Public Works projects.

A contractor/consultant or subcontractor/sub-consultant 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.

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 awatson@zone7water.com. I may also be contacted at (925) 454-5030. Responses to questions will be sent to all Proposers or addressed in the question/answer session during the oral interview.

Sincerely,

Athena Watson
Associate Civil Engineer
Zone 7 Water Agency

Attachment to the RFP:

Professional Services Agreement

Request for Proposals

Materials Testing and Specialty Inspection Support Services

June 18, 2018

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 Materials Testing staff, we are seeking Proposals from qualified firms to provide materials testing and specialty inspection 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 Athena Watson, Zone 7 Water Agency, 100 North Canyons Parkway, Livermore, California 94551, or e-mailed to awatson@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 Athena Watson, Zone 7 Water Agency, 100 North Canyons Parkway, Livermore, California 94551. Proposals must be delivered no later than **2:00 p.m. on July 6, 2018**. Proposals received after this time will not be accepted and will be returned to the Proposers unopened.

The Proposer shall submit four (4) 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 Materials Testing Support Services."

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 Athena Watson, 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. Public Records Act Requests

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.

G. 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.
4. Remedy technical errors in the Request for Proposal process.
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.
11. Waive informalities and irregularities in Proposals.

H. Contract Type

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 1). Proposer shall note in the proposal any terms in the sample agreement including, but not limited to, the insurance requirements that the Proposer may be unable to meet.

Contract will be for On-Call Materials Testing Services for Various Projects:

Professional Services Agreement with Fixed Rate Schedules to be used with issuance of Work Orders for specific assignments on various projects. The contract is expected to begin on or about July 1, 2018 and end on June 30, 2019. The contract may be extended for two additional one-year periods at Zone 7's discretion.

Work Performed on a Public Work:

It is anticipated that the work performed under this contract will be on Public Works projects. Prevailing wages are required for all work performed on Public Works projects.

A contractor/consultant or subcontractor/sub-consultant 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.

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 structural engineering and shall be familiar with local conditions relating to these services in Alameda County.

III. SCOPE OF WORK

The Consultant shall provide the following construction inspection and materials testing services for various Zone 7 projects on an as-needed basis:

Pre-Construction Services

- Attend meetings (e.g., pre-bid, pre-construction)
- Provide any consultation requested

Construction Inspection and Testing Services

- Provide construction inspection and observation services, including preparation of daily inspection reports that include photos
- Provide materials testing for construction materials (including, but not limited to, concrete, steel, shotcrete, and coatings)
- Provide on-site field testing and conduct prompt pass/fail tests (e.g. tests related to AC paving, earthwork, and welding)
- Provide special inspections of contractors work (including, but not limited to, reinforcement steel placement, concrete placement, AC paving, earthwork, and welding)
- Provide non-destructive testing (including, but not limited to steel and stainless steel chemical tanks)
- Provide specialized testing, inspection or analysis (including, but not limited, to forensic, failure or investigation analysis)
- Provide X-ray or Ground Penetrating Radar to locate rebar prior to coring or drilling
- Assist with enforcement of Zone 7's Quality Control Program
- Prepare written documentation clearly labeling whether the construction testing or materials testing has passed as related to contract documents (e.g., daily field activity reports, weekly reports reviewed by licensed engineers, and laboratory test results)

Other Related Services

- Provide Zone 7 and/or construction management firm of first-hand knowledge of project progress.
- Establish a working relationship that will open lines of communication keeping all responsible parties aware of current and upcoming progress and requirements.

This is a Master Agreement (Contract) for a not-to-exceed amount of up to \$50,000 each year. Actual services will vary depending on project needs for the year and may not be used in some years.

Execution of the Master Agreement for On-Call Services 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 Agreement.

Zone 7 will contact the Consultant to set up a Task Order for Materials Testing related services needed for the individual projects. The Consultant will perform the scope of the Task Order and provide noted deliverables under the agreed to price.

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.

PROPOSAL FORMAT AND CONTENT

A. Format

Please submit four (4) 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 Materials Testing support services you are proposing for this contract and any subconsultants deemed necessary. It must show proposed staff including, at a minimum, the project manager and price list for typical types of inspection and testing services and corresponding hourly rates for performing the services discussed in the Preliminary Scope of Work. It also needs to state the hourly minimums for services, if any. 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 project personnel, 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. A cover letter of up to 2 additional pages may be included.

APPENDIX A

GENERAL TERMS AND CONDITIONS

1. Services Agreement ("Agreement") Force and Effect. District is not responsible for services rendered without the authority of an order on this form. This Agreement shall supercede and control over all inconsistent provisions in any proposal, counter-proposal or addendum supplied by Consultant. The provisions of this Agreement (which may include attachments) constitute the entire agreement between the Consultant and District regarding the work and services described herein. No representation, term or covenant not expressly specified in this Agreement shall, whether oral or written, be a part of this agreement, and no modification of this Agreement shall be effective unless it is in writing. This Agreement shall supersede all other prior service agreements and other agreements between Consultant and District with respect to the work and services described herein. 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. The headings in this Agreement are for convenience only and do not affect the construction of this Agreement.
2. Performance of Services/No Assignment. Time is of the essence in the performance of the Services. Consultant represents that it is skilled in the professional discipline necessary to perform the services ("Services") under this Agreement. Consultant will perform its Services in a skillful manner, comply fully with criteria established by District, and with applicable laws, codes, and all applicable professional standards. Consultant shall not contract any portion of the Services or otherwise assign this Agreement without prior written approval of District. (Consultant shall remain responsible for compliance with all terms of this Agreement, regardless of the terms of any such assignment.) Consultant's authorized representative is the individual signing this Agreement unless Consultant otherwise informs District in writing. The granting of any payment, and any inspections, reviews, approvals or oral statements by any District representative, or certification by any governmental entity, shall in no way limit or waive Consultant's obligations under this Agreement.
3. Phases and Performance Requirements. Consultant shall maintain a quality control program to ensure quality services and deliverables, and shall permit District the right to review the services or deliverables hereunder during development in accord with normal industry standards, for example, the submittal of schematic, design development and/or construction documents in the case of architectural/engineering services. Consultant shall advise District of safety, maintenance, cost, life-cycle cost, and cost/benefit factors associated with equipment, systems, or materials specifications developed under this Agreement; and shall conduct independent investigations as necessary to coordinate, verify and/or take steps as necessary to properly interface with existing conditions, available reports and studies, consultants and/or contractors. If requested, Consultant shall make available to District its design calculations and justifications for its recommendations, designs or other deliverables.
4. Competition. 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.
5. Records and Payment Requests. Consultant shall submit all billings with all necessary invoices or other appropriate evidence of performance, after which District shall make payment within thirty (30) days. District shall have the right to audit the Consultant's work records. Consultant shall make available to District, its authorized agents, officers, or employees, any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursement charged to District, for examination. Consultant shall furnish to District, its authorized agents, officers, or employees, such other evidence or information as District may require with regard to any such expenditure or disbursement charged by Consultant. 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 Agreement, and invoices, payrolls, records and all other data related to matters covered by this Agreement. 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.
6. Independent Contractor. Consultant is an independent Contractor and does not act as District's agent in any capacity, whatsoever. Consultant is not entitled to any benefits that District provides to District employees, including, without limitation, worker's compensation benefits or payments, pension benefits, health benefits or insurance benefits. Terms within this Agreement regarding direction apply to and concern the result of the Consultant's provision of Services not the means, methods, or scheduling of the Consultant's work. Consultant shall be solely responsible for the means, methods, techniques, sequences and procedures with respect to its provision of Services under this Agreement. Consultant shall pay all payroll taxes imposed by any governmental entity and will pay all other taxes not specifically identified in this Agreement as District's responsibility.
7. Indemnity/Liability. To the extent of its proportionate fault, Consultant shall defend, indemnify and save the Zone 7 Water Agency ("District") and all of their officers, directors, representatives, agents and employees (together "Indemnitees"), from and against any and all claims and liability of any type resulting from Consultant's negligent performance of this Agreement. Consultant shall also defend, indemnify and save harmless, to the extent of its proportionate fault, the Indemnitees, from and against all claims, suits, actions, liability, damages, expense or costs of every nature and description to which the Indemnitees may be subject or put by reason of bodily injury to or death of any person or damage to any property, which directly or indirectly arises out of the Consultant's performance of this Agreement, Consultant's provision of Services, or Consultant's activities related thereto. Defense counsel retained under this section shall be subject to the Indemnitees's reasonable approval. Notwithstanding any provision of this Agreement, the Indemnitees shall not be liable, in contract or tort, for any special, consequential, indirect or incidental damages arising out of or in connection with this Agreement or the Services. The Indemnitees's rights and remedies, whether under this Agreement or other applicable law, shall be cumulative and not subject to limitation.
8. Compliance with Laws: Conflict of Interests. Consultant agrees to comply with all applicable federal and state laws, regulations and policies, as amended, including those regarding discrimination, unfair labor practices, collusion and conflicts of interest. Consultant, its officer, partners, associates, agents, and employees, shall not make, participate in making, or in anyway attempt to use the position afforded them by this purchase order to influence any governmental decision in which he or she knows or has reason to know that he or she has a financial interest under applicable state, federal and local conflict of interest regulations. Consultant represents and warrants 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 work and services required under this Agreement.
9. Confidentiality. Any information, whether proprietary or not, made known to or discovered by Consultant during the performance of or in connection with this Agreement for District, will be kept confidential and not be disclosed to any other person. Consultant will immediately notify District in writing if it is requested to disclose any information made known to or discovered by during the performance of or in connection with this Agreement. These conflict of interest, confidentiality and future service provisions and limitations shall remain fully effective indefinitely after termination of Services to District hereunder.
10. Ownership of Results. Any interest (including copyright interests) of Consultant or its contractors or subconsultants (together, "Subconsultants"), in studies, reports, memoranda, computational sheets, drawings, plans or any other documents (including electronic media) prepared by Consultant or its Subconsultants in connection with the Services, shall become 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 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. With District's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.
11. Non-Discrimination Policy. Consultant shall not discriminate against any employee or applicant for employment, nor against any Subconsultant or applicant for a subcontract, because of race, color, religious creed, age, sex, actual or perceived sexual orientation, national origin, disability as defined by the ADA or veteran's status, and shall comply with all applicable laws regarding non-discrimination and equal employment opportunity.
12. Termination and Suspension. District may direct Consultant to terminate, 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, and compensate Consultant for its costs expended up to the termination plus reasonable profit thereon only in the event District terminates this Agreement for District's convenience. Consultant may recover no other cost, damage, or expense. Suspension of Services shall be treated as an excusable delay. District may terminate performance of the Services under this Agreement in whole, or from time to time in part, for default, should Consultant commit a material breach of the Agreement, 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 the Agreement for default, Consultant shall be liable to District for all loss, cost, expense, damage and liability resulting from such breach and termination. 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. 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.
13. Execution; Venue; Limitations. 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. The exclusive venue for all litigation arising from or relating to this Agreement shall be in Alameda County, California. 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. As between the parties to this Agreement, any applicable statute of limitations for any act or failure to act shall commence to run on the date of District's issuance of the final Certificate for Payment, or termination of this Agreement, whichever is earlier, except for latent defects, for which the statute of limitations shall begin running upon discovery of the defect and its cause.
14. Non-Judicial Administrative Claim Settlement Procedure For Consultant Claims. In the event of any dispute between Consultant and District regarding any claim 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, conduct an administrative hearing, and make a final administrative decision thereon. 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.

APPENDIX C INSURANCE

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. Consultant’s Duty to Show Proof of Insurance. Prior to the execution of this Agreement, Consultant shall furnish to District satisfactory proof that Consultant has taken out for the entire period required by this Agreement, as further described below, the following insurance, in a form satisfactory to District and with an insurance carrier satisfactory to District, authorized to do business in California and rated by A. M. Best & Company A- or better, financial category size VII or better, which will protect those described below from claims described below which arise or are alleged to have arisen out of or result from the acts or omissions of Consultant for which Consultant may be legally liable, whether performed by Consultant, or by those employed directly or indirectly by it, or by anyone for whose acts Consultant may be liable:

- 1.1 Commercial General Liability Insurance. Commercial general liability insurance, written on an “occurrence” basis, which shall provide coverage for bodily injury, death and property damage resulting from operations, products liability, blasting, explosion, collapse of buildings or structures, damage to underground structures and utilities, liability for slander, false arrest and invasion of privacy arising out of construction management operations, blanket contractual liability, broad form endorsement, a construction management endorsement, products and completed operations, personal and advertising liability, with per location limits of not less than \$2,000,000 general aggregate and \$1,000,000 each occurrence.
 - 1.2 Business Automobile Liability Insurance. Business automobile liability insurance with limits not less than \$1,000,000 each occurrence including coverage for owned, non-owned and hired vehicles.
 - 1.3 Workers’ Compensation Insurance. Workers’ Compensation Employers’ Liability limits not less than \$1,000,000 each accident, \$1,000,000 per disease and \$1,000,000 aggregate. Consultant’s Workers’ Compensation Insurance policy shall contain a Waiver of Subrogation. In the event Consultant is self-insured, it shall furnish Certificate of Permission to Self-Insure signed by Department of Industrial Relations Administration of Self-Insurance, State of California.
 - 1.4 Professional Liability Insurance. Professional Liability Insurance, either (a) specific to this Project only, with limits not less than \$1,000,000 each claim, or (b) limits of not less than \$1,000,000 each claim and aggregate, all with respect to negligent acts, errors or omissions in connection with services to be provided under this Agreement, and any deductible not to exceed \$5,000 for each claim, with no exclusion for claims of one insured against another insured and with tail coverage for a period of five (5) years after the completion of the Services.
2. Insurance policies shall contain an endorsement containing the following terms:
- 2.1 Additional Insureds. On Consultant’s Commercial General Liability policy and Automobile Liability Policy, Alameda County, Alameda County Flood Control and Water Conservation District, its Zone 7 Water Agency and their affiliates, directors, officers, officials, partners, representatives, employees, consultants, subconsultants and agents, shall be named as additional insureds, but only with respect to liability arising out of the activities of the named insured, and there shall be a waiver of subrogation as to each named and additional insured.
 - 2.2 The policies shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company’s liability.
 - 2.3 Written notice of cancellation, non-renewal or of any material change in the policies shall be mailed to District thirty (30) days in advance of the effective date thereof. Certificates of Insurance and Endorsements shall have clearly typed thereon the title of the Agreement, shall clearly describe the coverage and shall contain a provision requiring the giving of written notice described above
 - 2.4 Insurance shall be primary insurance and no other insurance or self insured retention carried or held by any named or additional insureds other than that amount Consultant shall be called upon to contribute to a loss covered by insurance for the named insured.
 - 2.5 Nothing herein contained shall be construed as limiting in any way the extent to which Consultant or any of its permitted Subconsultants may be held responsible for payment of damages resulting from their operations. If Consultant fails to maintain any required insurance, District may take out such insurance, and deduct and retain amount of premium from any sums due Consultant under this Agreement.

END OF APPENDIX C