

Zone 7 Water Agency

100 North Canyons Parkway
Livermore, CA 94551



Request for Proposal (RFP) No. 2024-12

For

Water Supply Risk Model Enhancements and Optimization

POSTED:	February 7, 2024
QUESTIONS:	February 19, 2024, at 3:00PM Pacific
DUE:	March 8, 2024, at 3:00PM Pacific

This RFP, Supporting Documents, and Addenda/Clarifications are posted at:
<http://www.zone7water.com/business/construction-business-opportunities>

**Zone 7 Water Agency
Request for Proposal (RFP) No. 2024-12
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1. OBJECTIVE OF THIS RFP

Alameda County Flood Control and Water Conservation District, Zone 7, (hereinafter referred to as “the Agency” or “Zone 7”) is requesting proposals for enhancement of its RiverWare water supply risk model to serve as a decision support tool as part of the Water Supply Risk Model Enhancements and Optimization project.

This project will include incorporation of the ability to evaluate and optimize potential regional water supply projects and water supply portfolio components in the RiverWare model to meet water supply needs in various hydrologic conditions, refinement of the incorporation of the groundwater basin in the model to support optimization of operations, enhancement of the incorporation of climate change in the model for local hydrologic conditions, and provide streamlined output and reporting workflows to serve as a decision support tool for Zone 7’s water management strategic planning. It will also make refinements to the RiverWare model to support annual water supply planning, support the next Urban Water Management Plan update, streamline sensitivity analysis for alternative water supply portfolios, and integrate consideration of project cost and cost optimization into the RiverWare model.

The selected Consultant shall have expertise in the RiverWare modeling platform and be knowledgeable about Zone 7’s water supply portfolio.

2. DESCRIPTION OF THE AGENCY

Zone 7 is the wholesale treated drinking water supplier to retailers serving over 270,000 people in Pleasanton, Livermore, Dublin and, through special agreement with the Dublin San Ramon Services District, to the Dougherty Valley area of San Ramon. Zone 7 also supplies untreated water for irrigation of about 5,000 acres of agriculture property, primarily South Livermore Valley vineyards. Zone 7 also provides regional flood protection within the service area and administers oversight of the local groundwater basin—the Livermore Valley Groundwater Basin. Of the approximately 55,000 acre-feet of water used in Zone 7’s service area (on average in a normal rainfall year) Zone 7 estimates that approximately 53% of water use is residential, approximately 11% is commercial/industrial, approximately 14% is agricultural, approximately 18% is landscape/other and approximately 4% is public water use. The 55,000 acre-feet of water referred to above includes treated water provided to retailers by Zone 7, local groundwater pumped by the water retailers, untreated agricultural irrigation water provided by the State Water Project, and local surface water.

Zone 7 recently completed the initial development of a new water supply risk model using the [RiverWare](#) software platform. The model supports Zone 7's planning process for securing the water supplies necessary to satisfy forecasted future demand and meet the Agency's [reliability policy](#). The model facilitates development of water supply portfolio alternatives and evaluation of each potential portfolio's ability to meet forecasted demand and maintain supply reliability.

3. SCOPE OF SERVICES

3.1. Preface

A preliminary scope of services, provided below, has been developed to assist the Proposer in gaining an understanding of Zone 7's goals as they relate to this effort. The proposal submitted in response to this RFP should address all tasks in the preliminary scope of services and a cost estimate should be provided that corresponds to the preliminary scope of services.

If desired, the Proposer may also include *recommended services*, which may represent expansion of, or revision to, the services described in the preliminary scope of services. If included, recommended services shall be included separately in the cost estimate.

Subsequent to this solicitation process, the final scope of services and cost estimate will be developed in cooperation with the selected Consultant and included as part of the contract between Zone 7 and the selected Consultant.

3.2. Summary of Services

The selected Consultant shall modify, enhance, and optimize Zone 7's existing RiverWare risk model to serve as a decision support tool (hereinafter referred to as the "Decision Support Tool") and perform related analysis, post-processing, coordination, and documentation, as described in this scope of services. Zone 7 will provide its existing RiverWare model to the selected Consultant. A schematic of the existing RiverWare model is provided in Exhibit B.

NOTE: *The selected Consultant shall have and maintain its own copies of the RiverWare software and necessary licenses. Licensing costs will not be reimbursed by Zone 7, and Zone 7's licenses may not be shared with the selected Consultant.*

3.3. Description of Services by Task

The following subsections describe the Consultant Scope of Work. For each task, the Consultant shall seek prior written authorization from Zone 7 before initiating work.

Task 1. Evaluation and Integration of Regional Projects and Operations

The Consultant shall modify the Decision Support Tool to be capable of evaluating and optimizing water supply scenarios consisting of potential regional water supply projects and water supply portfolio components to meet water supply needs in various hydrologic conditions and to support the evaluation of regional water supply and/or storage projects and operational schemes, including:

- Decision Support Tool Refinements:
 - Updated representation and evaluation of up to seven (7) regional water supply and/or storage projects operational schemes into the RiverWare by modifying the object structure and/or logic (RiverWare Policy Language), as necessary.
 - Identification of constraints and evaluation of operational schemes for the Kern County Storage and Recovery Program.
 - Support consideration of various water supply scenarios, such as key facilities being offline, including SWP facilities and/or Zone 7 facilities (such as due to water quality constituents of concern).
- Meetings & Coordination:
 - Facilitation and documentation of up to five (5) meetings with regional entities and/or Zone 7 to collect necessary information to support modeling, including preparing data requests, presentations, agenda, minutes, and any other related meeting materials.
 - Facilitation of review of results with Zone 7 staff via a PowerPoint presentation given during a meeting.
- Deliverables:
 - Provision of the updated Decision Support Tool, including RiverWare files and related Excel file(s) for post-processing and use outside of the RiverWare software.
 - Development of a technical memorandum documenting work performed under this task and summarizing related results.
 - Decision Support Tool written manual and training documentation
 - Copy of the presentation of the results of the Decision Support Tool

Task 2. Operations Optimization of the Groundwater Basin

The Consultant shall incorporate a refined representation of Zone 7's groundwater basin into the Decision Support Tool, including:

- Decision Support Tool Refinements:
 - Note that Zone 7 has a separate ongoing project to update its groundwater model. The Consultant shall refine the RiverWare model to

- better integrate the outputs of the groundwater model into the modeling of water supply in RiverWare.
- Refined relationships between groundwater storage/elevation and maximum well production.
- Consideration and representation of water quality in the Decision Support Tool and its effects on groundwater production (e.g., PFAS regulations).
- Optimization of groundwater production and operational priorities given the integration of regional supply/storage projects from Task 1.
- Meetings & Coordination:
 - Facilitation and documentation of up to three (3) meetings with Zone 7 staff and/or Zone 7 retail agencies to collect necessary information to support modeling, including preparing data requests, presentations, agenda, minutes, and any other related meeting materials.
 - Facilitation of review of results with Zone 7 staff via a PowerPoint presentation given during a meeting.
- Deliverables:
 - Provision of the updated Decision Support Tool, including RiverWare files and related Excel file(s) for post-processing and use outside of the RiverWare software.
 - Development of a technical memorandum documenting work performed under this task and summarizing related results.

Task 3. Enhancement of Climate Change Representation

The Decision Support Tool currently incorporates climate change assumptions for imported water allocations from the State Water Project (SWP), consistent with the 2021 Delivery Capability Report (DCR). However, the model does not contain climate change adjusted hydrology for Zone 7's local surface water supply. This task will develop a climate change scenario for local surface water hydrology and will consist of the following:

- Decision Support Tool Refinements:
 - Review of the climate change assumptions in the most recently published DCR from the California Department of Water Resources (DWR), and coordination with DWR staff to obtain source information and drivers for climate change adjustments in the DCR.
 - Incorporate a timeseries of climate-change-adjusted local watershed flows (i.e., inflow to Lake Del Valle) using adjustment factors informed by work from DWR and other regional agencies.
 - Use the Decision Support Tool to simulate selected water supply portfolios given up to two (2) "bookend" interpretations of the climate-change-adjusted local hydrology.

- Understand and document the sensitivity of the RiverWare model to regional and local climate change representation.
- Meetings and Coordination:
 - Conduct literature review and up to five (5) meetings with other regional water supply agencies who have recently conducted climate change studies for their local supplies to understand best-available data sources and approaches. Includes preparing data requests, presentations, agenda, minutes, and any other related meeting materials.
 - Facilitation of review of results with Zone 7 staff via a PowerPoint presentation given during a meeting.
- Deliverables:
 - Provision of the updated Decision Support Tool, including RiverWare files and related Excel file(s) for post-processing and use outside of the RiverWare software.
 - Development of a technical memorandum documenting work performed under this task and summarizing related results.

Task 4. Develop Annual Operational Planning Workflow

The Consultant shall work with Zone 7 staff to define and implement in RiverWare the ability to model different short-term supply scenarios to assist with annual and 5-year supply/operations forecasting. Currently, Zone 7 performs a mass balance analysis for annual operations planning, and manually specifies a 5-year hydrologic outlook for the 5-year forecast.

This workflow should allow consideration of different SWP allocations, SWP carryover, available water in the local aquifer, available water in the Kern banks, potential Article 21 water, water transfers, and any other storage/supply projects that have been incorporated as part of Zone 7's baseline condition at the time this task is executed. The workflow should also allow for consideration of cost in the optimization and describe trade-offs with respect to cost and supply. The workflow should facilitate entry of variables/assumptions in RiverWare, and provide templates output reports from RiverWare that feed into Zone 7's existing reporting spreadsheet templates.

The consultant shall lead up to three (3) meetings with Zone 7 staff to develop inputs and assumptions for this effort. The consultant shall also summarize and teach the workflow to Zone 7 staff during a fourth meeting, using presentations and hands-on instruction, as appropriate. The workflow shall also be documented in a technical memorandum for later reference.

Task 5. 2025 UWMP Support

The Consultant shall provide support for the 2025 Urban Water Management Plan (UWMP). Support shall include:

- Modeling:
 - In coordination with Zone 7, identify the appropriate model parameters for the model run that will be used in the UWMP (e.g., whether it should reflect climate-change-adjusted local watershed flows, appropriate groundwater operations assumptions, etc.).
 - Incorporate scenarios that reflect new demand forecast(s) that will support the Urban Water Management Plan into the RiverWare model (new demand forecasts would be developed by Zone 7 via a separate effort from this contract). This would include results for project water use in five-year increments for a period of 25 years into the future, or consistent with the recommended forecast period that will be defined by DWR in the future UWMP Guidebook 2025 (not yet published).
 - Modify the model as needed and perform the UWMP model run.
- Meetings and Coordination:
 - Conduct up to (2) meetings with Zone 7 to develop the UWMP model run parameters and assumptions. Includes preparing presentations, agenda, minutes, and any other related meeting materials.
 - Facilitation of review of results of the draft and final UWMP model runs with Zone 7 staff via a PowerPoint presentation given during a meeting.
- Deliverables:
 - Provision of the updated Decision Support Tool, including RiverWare files and related Excel file(s) for post-processing and use outside of the RiverWare software.
 - Development of a technical memorandum documenting work performed under this task and summarizing related results.

Task 6. Develop Sensitivity Analysis Templates to Support Future Water Supply Evaluations

The Consultant shall modify the Decision Support Tool, and develop complementary output reports and spreadsheets, to streamline the sensitivity analyses performed when Zone 7 updates its [Water Supply Evaluation](#) report, including:

- Develop a methodology for modifying project- or system-level variables and assumptions in RiverWare for the purpose of sensitivity analysis. For example, consider variable/assumption input and output input tables within the RiverWare interface that would allow easy setting/tracking of which projects/scenarios/functions were turned on and off in the model.
- Develop a set of spreadsheets to streamline sensitivity analysis and the comparison of new water supply portfolios. The workflow should facilitate taking RiverWare output files and creating summary charts and tables that focus on key metrics such as cost, and supply shortage, and achievement of Zone 7's reliability goals.

- Summary of results in a PowerPoint presentation and accompanying post-processed Excel file for review with Zone 7 staff during a meeting.
- Documentation of this effort and related results via an update to the technical memorandum(s) developed in previous tasks, as applicable.

Task 7. Modify Decision Support Tool to Include Water Supply Portfolio Cost Optimization Analysis

The Consultant shall incorporate the consideration of project cost into the Decision Support Tool for water supply portfolio analysis, which would include:

- Modeling:
 - Add functionality in RiverWare to track project costs in a water supply portfolio over time and compute relevant cost metrics for water supply planning (e.g., \$/acre-foot).
 - Implement a RiverWare methodology to find an optimized water supply portfolio (e.g., minimize cost while meeting reliability goals) and describe tradeoffs among portfolios.
 - Inclusion of cost-analysis functionality shall be incorporated into the Decision Support Tool and deliverables developed for the previous tasks.
- Meetings and Coordination:
 - Conduct up to (2) meetings with Zone 7 to discuss the cost parameters and functions that should be included in RiverWare. Includes preparing presentations, agenda, minutes, and any other related meeting materials.
 - Facilitation of review of results of example model runs with Zone 7 staff via a PowerPoint presentation given during a meeting.
- Deliverables:
 - Provision of the updated Decision Support Tool, including RiverWare files and related Excel file(s) for post-processing and use outside of the RiverWare software.
 - Development of a technical memorandum documenting work performed under this task and summarizing related results.

Task 8. Troubleshooting and Support

The Consultant shall include a total of 120 hours of labor for the appropriate staff to provide the Agency with continued instruction, troubleshooting, model maintenance, and results verification after the Consultant has delivered to Decision Support Tool to the Agency as part of the previous tasks.

Task 9. Project Management

The Consultant shall manage the work to achieve the project objectives within the schedule and budget. The following activities are identified:

- Attend a project kickoff meeting to discuss goals and objectives, approach, schedule, communication, and coordination. Allow two hours for this meeting and include key personnel from the project team. Zone 7 will prepare the agenda and facilitate the project kickoff meeting. Zone 7 will present an overview of the project. The consultant shall present their understanding of the scope and schedule, raise questions/concerns for discussion, and provide Zone 7 with an initial data request list, if necessary.
- The Consultant shall facilitate bi-weekly team meetings to provide updates on project progress and raise and discuss any technical or administrative issues, as needed. The Consultant shall develop a standing agenda for these meetings and provide updates to the agenda, if needed, at least one (1) business day prior to the meeting. These meetings shall inform the monthly progress report that will accompany invoices (see next item). Meetings shall discuss technical and/or administrative topics as needed.
- Develop monthly progress reports to accompany monthly invoices. Reports shall summarize percentage complete by top level task, provide a status of planned versus actual expenditures by task, provide a summary of work completed in the reporting period and major work expected in the following reporting period, and summarize any change management actions agreed upon by Zone 7 and Consultant.
- The Consultant shall perform quality assurance/quality control (QA/QC) activities to ensure work products are of professional quality and meet the objectives of the scope of services within the schedule and budget.

3.4. Deliverable Standards

Unless otherwise specified, the following standards shall apply to all deliverables.

- To allow for Zone 7 review and comment, any plan, report, or technical memorandum shall include, at a minimum, a draft and final version.
- Electronic copies of all deliverables shall be provided in a format that facilitates efficient review and comment by Zone 7. All agenda, meeting notes, memorandums, and reports shall be provided in Microsoft Office Word at the draft deliverable, and in Portable Document Format (PDF) format at the final deliverable, unless otherwise instructed by Zone 7.
- For regular meetings to be led by the Consultant, the Consultant shall provide a draft agenda two (2) business days before scheduled meetings to facilitate Zone 7 review.

- For key or formal meetings, workshops, presentations, or events attended by management, members of the Board, or the public, the consultant shall provide draft meeting materials (presentations, slide decks, handouts, etc.) five (5) business days before the scheduled event to facilitate Zone 7 review.

3.5. Milestone Schedule for Scope of Services

Zone 7 is targeting a period of performance as shown in the table below. This milestone schedule is subject to change.

Milestone	Months from NTP
Notice to Proceed (NTP)	0
Complete Task 1 – Evaluation and Integration of Regional Projects/Operations	6
Complete Task 2 – Operations Optimization of the Groundwater Basin	12
Complete Task 3 – Enhancement of Climate Change Representation	12
Complete Task 4 – Develop Annual Operational Planning Workflow	24
Complete Task 5 – 2025 UWMP Support	24
Complete Task 6 – Develop Sensitivity Analysis Templates to Support Future Water Supply Evaluations	36
Complete Task 7 – Modify Decision Support Tool to Include Water Supply Portfolio Cost Optimization Analysis	36
Complete Task 8 – Troubleshooting and Support	36
Complete Task 9 – Project Management	36

4. PROPOSAL INFORMATION

4.1. Proposal and Award Schedule

Below are the major events planned during and following the selection process. Schedule is subject to change.

Event	Date
RFP Issue Date	February 7, 2024
Questions Due	February 19, 2024, at 3:00PM Pacific
Issue Addendum (if needed)	February 21, 2024
Proposals Due	March 8, 2024, at 3:00PM Pacific
Interviews, if applicable	March 2024
Contract Negotiation	March 2024
Board Award	April 2024
Notice to Proceed	April 2024

4.2. For Questions about this RFP

Direct any questions regarding this RFP to James Carney, jcarney@zone7water.com, by February 19, 2024, at 3:00PM Pacific. An addendum will be issued, if needed, within one week. The addendum will be posted to the Zone 7 website.

4.3. Required Format and Content of the Proposal

Proposals are to be clear, concise, and specific to the information requested. Responses are to be in the sequence set forth herein. In order for the proposal to be considered complete, the Proposer must provide all the information requested.

4.3.1. Proposal Format

The proposal shall be submitted as a single PDF file, using 8.5x11-inch (Letter) sized pages only. The PDF file shall not exceed 20MB in size.

As described in the following table, the Proposal is limited to **15 pages**. This limit excludes the cover/title page, table of contents, attached resumes, and the fee proposal. Please refer to the table below. The required contents of the Proposal are described in the next subsection.

Proposal Component	Subject to 15-Page Limit?
1. Cover / Title Page	No
2. Table of Contents	No
3. Introductory Cover Letter	Yes
4. Consultant Team Organization	Yes
5. Qualifications and Experience of Key Team Members	Yes
6. Project Experience and Examples	Yes
7. Project Management	Yes
8. Scope of Services Delivery	Yes
9. Resumes	No
10. Fee Proposal	No

4.3.2. Required Content

All of the specific documentation listed below is required to be submitted with the proposal. While additional data may be presented, the areas detailed below must be included.

4.3.2.1. Cover or Title Page

Show the RFP subject, name of the firm, local address, telephone number, name and title of contact person, and date of submission.

4.3.2.2. Table of Contents

Include a clear and complete identification of the materials submitted in response to this RFP, listing sections and page numbers for easy navigation.

4.3.2.3. Introductory Cover Letter

This letter shall be on the company letterhead and addressed to the Project Manager with a statement of the firm's basic understanding of the Agency's needs. Include the name, office address, email, and telephone number of your team's primary point of contact. If applicable, the names and addresses of any parent or subsidiary of your company shall also be included.

4.3.2.4. Consultant Team Organization

The responding firm(s) shall provide an organizational chart and brief description of the anticipated role for each team member and/or subconsultant, as applicable. All team members listed shall be assigned to the project and responsible for and actively represent their respective technical discipline. Identify the primary office location for each listed team member.

4.3.2.5. Qualifications and Experience of Key Team Members

The responding firm(s) shall identify the Project Manager and other key team members and their responsibilities. Include the expected amount of involvement for each key

team member. Describe the key team members' experience with completing similar work.

4.3.2.6. Project Experience and Examples

The responding firm(s) shall include three (3) examples of projects of similar scale and complexity, demonstrating their experience in similar work. Examples shall indicate key team member involvement, where applicable.

4.3.2.7. Project Management

The responding firm(s) shall outline their approach to project management including oversight of scope, budget, and schedule. The firm(s) shall also note the experience of the assigned Project Manager working with other key personnel.

4.3.2.8. Scope of Services Delivery

The responding firm(s) shall outline their suggested approach to delivering the project described in Section 3, Scope of Services. The Agency is interested in cost-effective approaches to supporting the project, and the final Scope of Services will be subject to negotiation. Responding firms may include a description of any cost-saving ideas or innovative approaches to the performance of the Scope of Services for the Agency's consideration.

4.3.2.9. Resumes

Include resumes (2 pages maximum per team member) of key team members to be assigned to the project. Resumes shall include information on specific projects the individual has been involved with, clearly showing experience relevant to the project requested in this RFP.

4.3.2.10. Fee Proposal

Responding firms shall include a fee proposal for the scope of work included in this RFP. The fee proposal shall:

- Include a fee schedule and matrix that identifies the proposed staff and corresponding hourly rates.
- Include a breakdown of cost by task or subtask, and by individual or rate category.
- Provide separable estimates of cost for recommended services, if applicable (see Section 3.1).
- Show other direct costs in a separable manner, by task or subtask.
- Clearly identify any proposed markups on teaming partners, other direct costs, or direct costs.
- Utilize current year rates for the firm and any proposed teaming partners, and indicate proposed annual rate escalation, if appropriate.

4.4. Proposal Submittal Instructions

Proposals are to be submitted electronically (via email). No paper copies are required. See previous section for content and formatting requirements. It is the responsibility of the Consultant to ensure that the proposals were received by the Zone 7 Project Manager.

Response Deadline: March 8, 2024, at 3:00PM Pacific , to Zone 7 Water Agency.

Consultants shall confirm receipt of the email containing the submittal with the Zone 7 Project Manager (listed below).

Submit proposals by e-mail to: James Carney, jcarney@zone7water.com

Late responses will not be accepted. Any RFP response received after the date and time listed above, or at a place other than the stated address, cannot be considered and will be returned to the Proposer unopened. The date/time of the received email will serve as the timestamp.

All property rights, including publication rights of all reports produced by the Proposer in connection with services performed under this agreement shall be vested in the Agency. The Proposer shall not publish or release any of the results of its examination without the expressed written permission of the Agency.

The Agency requires that, at the conclusion of the selection process, the contents of all proposals be placed in the public domain and be open to inspection by interested parties upon written request. Trade secrets and/or proprietary information that are recognized as such and protected by law may be withheld if clearly identified as such in the proposal. The Agency reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether the proposal was selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this request for proposal, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the Agency and the firm selected.

All proposals become the property of the Agency and shall not be returned to the bidder.

4.5. Proposal Evaluation and Selection

All proposals that follow the RFP instructions and meet the mandatory requirements will be evaluated by a Selection Committee. The Selection Committee may be composed of Agency staff and other parties that have expertise or experience in this type of procurement. The Selection Committee will select qualified Proposers in accordance with the evaluation criteria set forth in this RFP and develop a short list of Proposers to be invited to an interview. Interviews are not expected but could be initiated at the

discretion of the Selection Committee. The evaluation of the RFP responses shall be within the sole judgment and discretion of the Selection Committee. The names of the Selection Committee and the individual or composite rating and/or evaluation forms prepared by committee members will not be revealed.

The Selection Committee will evaluate each RFP response meeting the qualification requirements set forth in this RFP. Firms meeting the mandatory criteria will have their proposals evaluated and scored.

The following represent the principal selection criteria, which will be considered during the evaluation process:

- 1) History and age of the firm, the number of years of experience providing equivalent or related services, unique capabilities and differentiating factors, clear demonstration of understanding of the scope of work. **(15 points)**
- 2) Qualifications, experience, and availability of key personnel necessary to support the project, including clear demonstration of expertise developing RiverWare models for analysis of alternative supply portfolios. Prior experience of team members working together to successfully deliver projects. Articulation (with examples) of how key personnel leveraged their knowledge and expertise to successfully deliver similar projects. **(25 points)**
- 3) Clear articulation of recent and relevant work to the requested services that demonstrate capability to complete the scope of work, including clear demonstration of familiarity with Zone 7's water supply portfolio. Three example projects highlighting relevant work. **(25 points)**
- 4) Scope of Work delivery approach and strategies to deliver a cost-effective and timely project. Identify key assumptions, and list all proposed deliverables. Inclusion of fee proposal. **(30 points)**
- 5) References. **(5 points)**

5. ZONE 7 CONTRACTING

5.1. Contract Type

It is expected that Zone 7 will issue one (1) professional services contract as a result of this RFP process. The contract may require approval from the Board of Directors.

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 and insurance requirements (Exhibit A).

5.2. Terms and Conditions

5.2.1. Contract Conditions

The Agency reserves the right to negotiate the actual contract details after the contractor has been selected. The successful Proposer will be required to conform to all of the terms of, and conditions of, the Agency. A sample agreement, which will be used as the basis for this project, is included in Exhibit A.

The contract will be subject to termination by the Agency upon ten (10) days advance written notice of intention to terminate. The Agency may terminate the contract at any time without written notice upon a material breach of contract by the contractor.

5.2.2. Insurance

Exhibit A of the RFP is a sample of the Agency's Agreement for Professional Services ("Agreement") that contains the insurance requirements that shall be met by the Consultant. The Consultant shall furnish the Agency satisfactory evidence of the insurance prior to execution of the agreement.

5.2.3. Invoicing

Monthly progress payments will be made on the basis of work completed during the course of the engagement. Details of staff hours with billing rates will be required to be included on each monthly invoice. Payment will be made based upon actual costs not to exceed the maximum outlined in the proposal or contract.

5.2.4. Confidentiality

Zone 7 will make available to the consultant such materials from its files as may be required to perform the services under this agreement. These materials and information remain the property of Zone 7 while in the consultant's possession and must be treated as confidential information. This material may not be released or disclosed without the written permission of Zone 7.

In addition, the firm shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review work papers.

5.2.5. 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 sending a written (including email) request for withdrawal signed by, or on behalf of, the Proposer to the Zone 7 Project Manager. The time of receipt of email shall be the time such request is received in hand by Zone 7. The Proposer assumes the risk of any failed delivery. It is the responsibility of the Proposer to ensure that the email was received by the Zone 7 Project Manager.

5.2.6. Public Records Act Requests

Materials submitted by respondents are subject to public inspection under the California Public Records Act (Government Code Sec. 6250 et seq.), unless exempt. Any language purporting to render the entire proposal confidential or proprietary will be ineffective and will be disregarded.

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.

5.2.7. 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.

5.2.8. Terms & Conditions for IRWM Grant Projects

Components of this scope of work are associated with an awarded Integrated Regional Water Management (IRWM) grant from the State of California. The following sections of the sample services agreement (Exhibit A) are pertinent to the contract requirements of the grant program.

- Section 1.6 – Retention of Records
- Section 1.7 – State Right to Inspect
- Section 5.4 – Drug-Free Workplace Act
- Section 6.3.8 – Additional Insurance Endorsements
- Section 6.4 – Worker’s Compensation and Employer’s Liability Insurance
- Section 16.9 – Accounting Records
- Section 16.10 – Discrimination

EXHIBIT A: SAMPLE SERVICES AGREEMENT AND INSURANCE REQUIREMENTS

SAMPLE

SERVICES 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 _____ ("**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.
- 1.6. **Retention of Records** - All records of the Consultant and its subconsultants shall be preserved for audit purposes for 3 years after the final dispersal of funding from the State of California to the Agency costs eligible for reimbursement under the Integrated Regional Water Management grant program. This includes all subcontractor and consultant contracts.
- 1.7. **State Right to Inspect** - Because work under this agreement may be eligible for reimbursement under the Integrated Regional Water Management grant program, the State of California has the right to inspect work being performed at any reasonable time, and the Consultant shall ensure access.

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"). DESCRIBE ANY PERIODIC BILLING REQUIREMENTS, EXPECTATIONS OR OTHER PARTICULARS, E.G., NOT TO EXCEED \$_____ PER MONTH, OR CONSULTANT SHALL NOTIFY THE AGENCY WHEN TOTAL INVOICED AMOUNT EQUALS 80% OF 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.

- 5.4. **Drug-Free Workplace** - The Consultant and any subconsultants shall certify under the penalty of perjury that they are in compliance with the Drug-Free Workplace Act of 1990 (Gov Code Section 8350 et. seq.) and either have or will take the following actions:
- (1) Publish a statement notifying employees, contractors, and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors, or subcontractors for violations, as required by Government Code section 8355.
 - (2) Establish a Drug-Free Awareness Program, as required by Government Code section 8355 to inform employees, contractors, or subcontractors about all of the following:
 - i. The dangers of drug abuse in the workplace,
 - ii. policy of maintaining a drug-free workplace,
 - iii. Any available counseling, rehabilitation, and employee assistance programs, and
 - iv. Penalties that may be imposed upon employees, contractors, and subcontractors for drug abuse violations.
3. Provide, as required by Government Code section 8355, that every employee, contractor, and/or subcontractor who works under this Grant Agreement:
- i. Will receive a copy of Grantee's drug-free policy statement, and
 - ii. Will agree to abide by terms of Grantee's condition of employment, contract, or subcontract.

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.
- 6.3.8. Consultants and subconsultants/subcontractors shall name the State of California, its officers, agents and employees, the Association of Bay Area Governments, and the Metropolitan Transportation Commission as additional insured on the liability insurance described in sections 6.2.2, 6.2.3, and 6.2.4 of this agreement.
- 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 rights, 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:

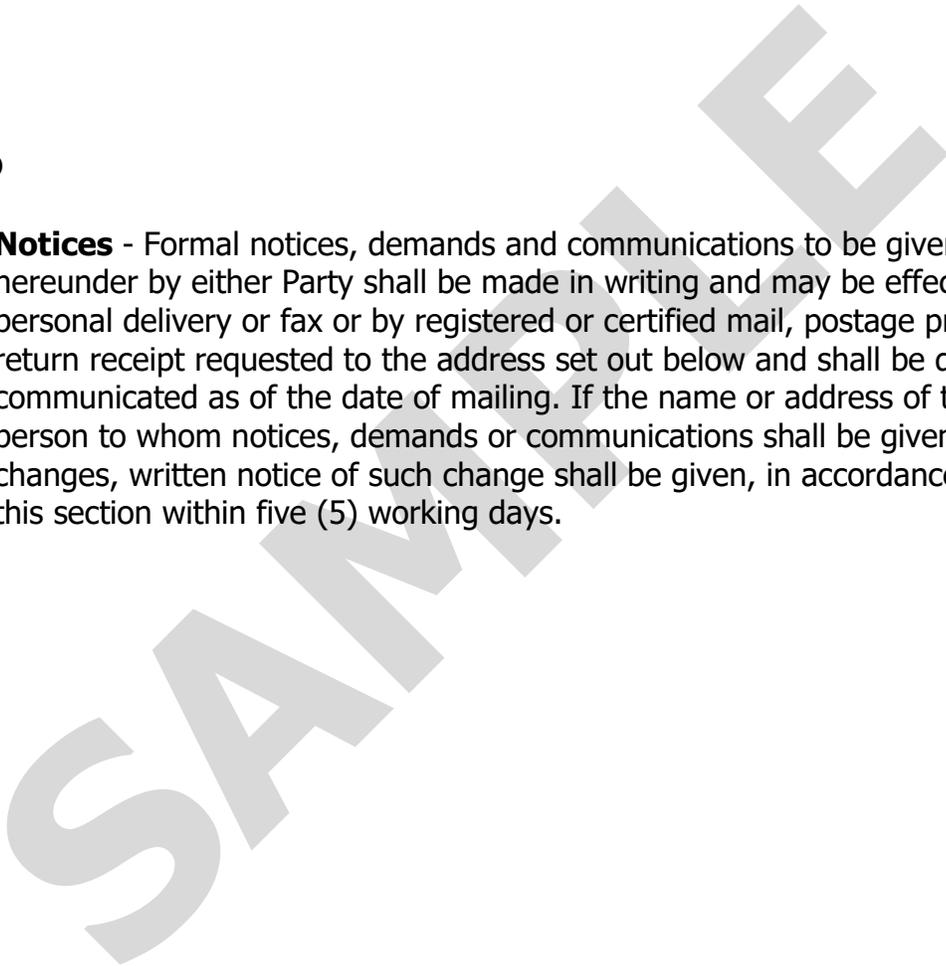
ZONE 7 WATER AGENCY Representative:

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

Consultant:

Name
Title
Firm Name
Address
Firm Tax ID

- 15.2. **Notices** - Formal notices, demands and communications to be given hereunder by either Party shall be made in writing and may be effected 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.
- 16.9. Accounting Records – The Consultant and any subconsultants shall maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by the State of California at any and all reasonable times.
- 16.10. Discrimination – Consultant and any subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, gender identity,

race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), marital/domestic partner status, and denial of medical and family care leave or pregnancy disability leave. Consultant and any subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and any subconsultants shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code, § 12990.) and the applicable regulations promulgated there under (Cal. Code Regs., tit. 2, § 11000 et seq.).

SAMPLE

IN WITNESS WHEREOF, the Parties have executed this Agreement at the place and as of the date first written above.

ALAMEDA COUNTY FLOOD CONTROL and WATER CONSERVATION DISTRICT, Zone 7, commonly known as _____

ZONE 7 WATER AGENCY ("Agency")

Consultant

Valerie L. Pryor
General Manager

Date

Signature

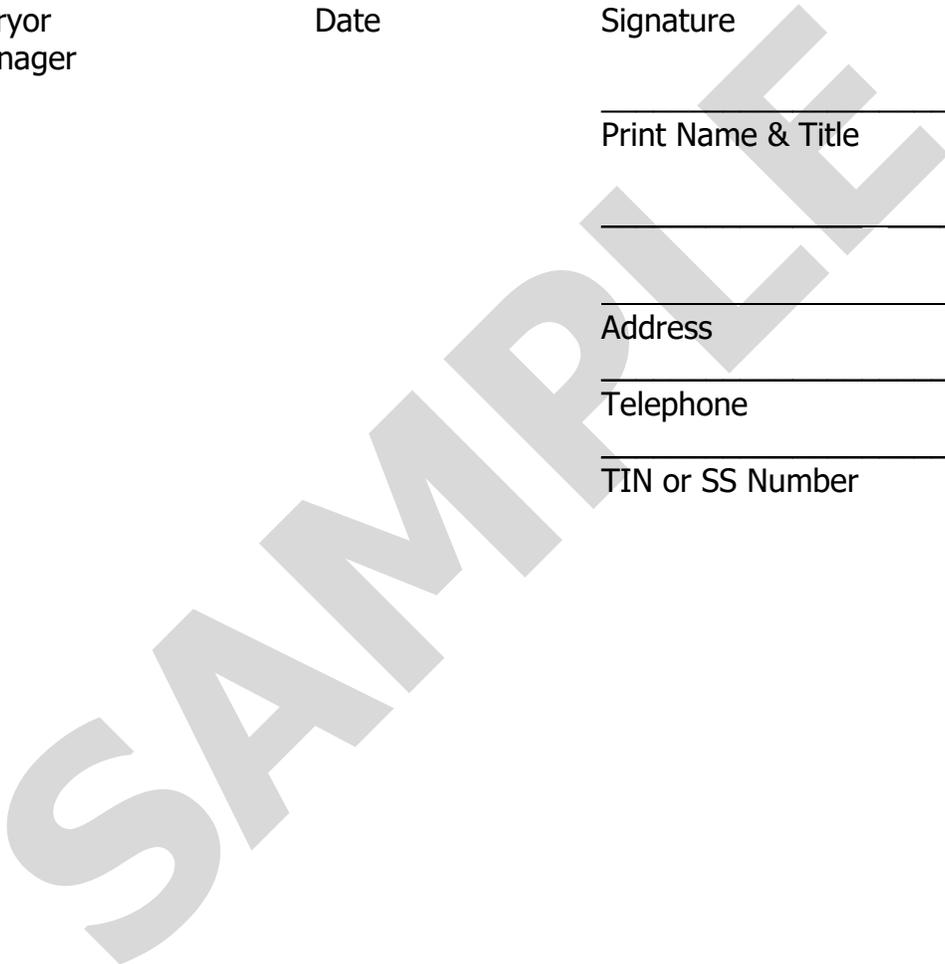
Date

Print Name & Title

Address

Telephone

TIN or SS Number



SAMPLE INSURANCE REQUIREMENTS

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

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

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

1. **Commercial General Liability (CGL)** – Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 00 01) including products and completed operations, property damage, bodily injury, personal and advertising injury with limit of at least two million dollars (\$2,000,000) per occurrence or the full per occurrence limits of the policies available, whichever is greater for. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (coverage as broad as the ISO CG 25 03, or ISO CG 25 04 endorsement provided to the District) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability** – (If necessary) Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any auto) or if Design Professional has no owned autos, Symbol 8 (hired) and 9 (non-owned) with limit of one million dollars (\$1,000,000) for bodily injury and property damage each accident.
3. **Workers' Compensation Insurance** – as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. Waiver of Subrogation: The insurer(s) named above agree to waive all rights of subrogation against the District, its directors, officers, employees, and authorized volunteers for losses paid under the terms of this policy which arise from work performed by the Named Insured for the Agency; but this provision applies regardless of whether or not the District has received a waiver of subrogation from the insurer.

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

If Claims Made Policies:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Design Professional must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

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

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

1. **Additional Insured Status:** Zone 7 Water Agency, its directors, officers, employees, and authorized volunteers are to be given insured status insurance (at least as broad as ISO Form CG 20 10 10 01 with respect to liability arising out of work or operations performed by or on behalf of the Design Professional including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Design Professional's insurance.
2. **Primary Coverage:** For any claims related to this project, the Design Professional's insurance coverage shall be primary at least as broad as ISO CG 20 01 04 13 as respects to the District, its directors, officers, employees, and authorized volunteers. Any insurance or self-insurance maintained by the District, its directors, officers, employees, and

authorized volunteers shall be excess of the Design Professional's insurance and shall not contribute with it.

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

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

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

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

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

EXHIBIT B: FIGURES

RiverWare Model Schematic - -August 2023

--- END ---