



Daniel Woldesenbet, Ph.D., P.E., Director

399 Elmhurst Street • Hayward, CA 94544 • (510) 670-5480 • www.acpwa.org

Request for Qualifications/Proposal (RFQ/P)

RFQ/P No. FLO202409109

for

Strategic and Technical Support Services

Alameda County SLEB Provisions Apply

Consultants not meeting the definition of a small or emerging local business (SLEB) must commit to subcontracting with at least one County Certified SLEB for at least 20% of the contract amount.

RFQ/P Contact: Anita Franklin

E-mail: anita@acpwa.org

Phone: (510) 670-5569

Mandatory Pre-Proposal Meeting

Tuesday, September 24, 2024 at 2:00 p.m.

Meeting will be held virtually

<https://bit.ly/ac-floodcontrol>

Or call in (audio only)

+1 (415) 915-3950; (888) 715-8170 (Toll-free)

Phone Conference ID: 653 944 644#

RFQ/P Response Due

Friday, October 18, 2024 by 2:00 p.m.

Alameda County Flood Control and Water Conservation District

399 Elmhurst Street, Room 113

Hayward, CA 94544

RFQ/P Issued: September 16, 2024

Calendar of Events
RFQ/P No. FLO202409109
Strategic and Technical Support Services

Event	Date/Time
RFQ/P Issued	September 16, 2024
Mandatory Virtual Networking/Consultant Conference <i>The Microsoft Teams link for the pre-proposal meeting is https://bit.ly/ac-floodcontrol; Dial in: call locally +1 415-915-3950 or (888) 715-8170 (Toll-free); Phone Conference ID: 653 944 644#</i>	September 24, 2024 at 2:00 p.m.
Written Questions Due on RFQ/P via E-mail: anita@acpwa.org	September 25, 2024 by 5:00 p.m.
List of Attendees	September 25, 2024
Questions and Answers Issued	October 3, 2024
Addendum Issued (only if necessary to amend RFQ/P)	October 3, 2024
SOQ/Proposal Responses Due and Delivered to: Alameda County Flood Control and Water Conservation District, 399 Elmhurst Street, Room 113, Hayward, CA 94544-1307	October 18, 2024 BY 2:00 p.m.
Evaluation Period	October 21 to October 25, 2024
Conduct Oral Interviews (if conducted)	Week of October 28, 2024
Contract Negotiation	November 4 to November 22, 2024
Board Award	December 17, 2024
Contract Start Date	December 18, 2024

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I. Statement of Work

A. Background

The Alameda County Flood Control & Water Conservation District (District) provides flood protection for western Alameda County residents and businesses. The District analyzes, plans, designs, constructs, and maintains flood control infrastructure and facilities such as natural creeks, channels, levees, pump stations, dams, and reservoirs. The District performs this function with a dedicated team of program managers, professional engineers, skilled technicians and other talented support staff. Sometimes large and complex projects require that staff be supplemented with the additional expertise and resources of specialized consultants.

B. Intent

This Request for Qualifications/Proposal (RFQ/P) generally describes the project, the anticipated scope of services, the requisite consultant experience and capabilities, District requirements, and the information that must be included in the Consultant's proposal. Failure to submit information in accordance with the RFQ/P requirements and procedures may be cause for disqualification.

The District will be conducting this procurement in a one-step process including an evaluation of the Consultant's qualifications and proposed approach submitted in response to this RFQ/P in combination with an oral interview, if conducted.

The District expects that the Consultant will use its experience and knowledge to make recommendations and refine the scope of work needed to satisfy District objectives for the project.

It is the responsibility of a Proposer to be familiar with all specifications, terms, and conditions of the RFQ/P. By the submission of a Statement of Qualification/Proposal, the Proposer certifies that if awarded a contract it will make no claim against the District based upon ignorance of conditions or misunderstanding of the specifications.

C. Services Needed

1. Project Management

Consultant will establish a strategy, budget, and schedule to meet the District's goals, and then manage the work to deliver the Project in a manner acceptable to the District. Activities will include, but are not limited to:

- a) Conduct a kick-off meeting with District staff to discuss District goals, objectives, and concerns pertaining to the potential required tasks.
- b) Prepare and regularly update a project schedule (Microsoft Project), as appropriate by task assignment, at a sufficient level of detail to show a clear understanding of the precise work required to meet the Project goals, objectives and delivery timeline.
- c) Regularly communicate and coordinate with District staff. Consultant shall schedule, attend and conduct meetings with District staff and others to discuss issues relevant to the assigned tasks. Consultant shall prepare presentation materials (slides, handouts, maps, charts, etc.) for use in meetings with the District and others, as applicable. Consultant shall record meeting minutes, including issues discussed, action items, deliverables and timeline.

- d) Monitor all project activities and implement quality assurance and quality control protocols and standards to ensure that the District's quality goals are met.
- e) Assemble and maintain project files that include all documentation and data resulting from or related to Consultant's services for the projects.

***Deliverables:** Regular meetings with minutes, and monthly progress reports with sufficient detail for District staff to determine whether the Consultant is performing to expectations and is on schedule and within budget. The monthly progress reports shall also communicate interim findings and provide information about any difficulties or special issues that need to be remedied.*

2. Prepare Publications/Reports

- a. Annual Reports - The District has been preparing an annual or bi-annual report since 2000 that outlines the District's projects, accomplishments, and financial conditions. Past annual or bi-annual reports can be viewed at District's website: [Resources | Alameda County Flood Control District \(acfloodcontrol.org\)](https://www.acfloodcontrol.org/resources)
- b. Special technical or engineering reports.
- c. Manuals or guidelines on various topics.
- d. Presentations, handouts, brochures, newsletter, and other informational material.
- e. Preparation of press releases and articles about District efforts.

***Deliverables:** Drafts and final version of the required document (in Word and pdf files).*

3. Digital Services - Consultant will work to support the District with various digital communication efforts including but not limited to:

- a. Prepare graphic rendering for specific project for presentation or funding application purposes.
- b. Perform website updates/design. District's website address is: [Home | Alameda County Flood Control District \(acfloodcontrol.org\)](https://www.acfloodcontrol.org)
- c. Secure high resolution ground photography and/or video of select projects and sites. Conduct drone video as needed by project assignment.
- d. Add content to the District's website.

***Deliverables:** Drafts and final version of the required digital media (Original and pdf files).*

4. Outreach Activities - The District will require occasional assistance with promoting its projects, initiatives, and activities.

- a. Research of key issues and draft correspondence on behalf of District staff.
- b. Provide public relations and community outreach support.
- c. Assist with presentations and displays.

- d. Preparing award applications that showcase the District's projects and personnel.

Deliverables: Drafts and final version of the required documentation (Original and pdf files).

5. Other Potential Tasks

- a. Identify and apply for federal, state, and/or local grants, as applicable.
- b. Evaluate and potentially implement revenue enhancement initiatives.
- c. Technical peer review of watershed planning studies and engineering project designs.
- d. Develop and manage goods and services and professional services procurements to support specific District projects and programs.
- e. Assist District staff in collaborating with its peers and associates in other governmental agencies.
- f. Provide strategic technical and communications support services.

Deliverables: Drafts and final version of the required documentation (Original and pdf files).

D. Consultant Experience and Capabilities

The District is seeking an expert in flood control, public relations, marketing, technical report writing, finances, graphic, video and photography services. The consultant should have demonstrated experience with similar work for public agencies, preferably public works agencies, on projects of a similar nature to those described in this RFP.

Consultants responding to this RFP, including all key personnel to be assigned to this project, shall be regularly and continuously engaged in the business of performing professional, technical, management, and communications support services, including all associated and necessary disciplines, for at least ten (10) years.

There is strong preference on behalf of the District to engage a Consultant who has a technical understanding of and experience with the District's subject matter. Although this RFP is not for engineering services, because the work will be related to public works flood control and management activities, it is desirable, but not required, that the Consultant include a team member with civil engineering background, experience, and licensure.

Consultant shall possess all permits, licenses and professional credentials necessary to perform services as specified under this RFP.

E. Time of Services/Project Schedule

The District intends to enter into a contract with the Consultant for a period of five years. District expects the contract to commence on or about December 18, 2024.

F. Other District Requirements

Local Participation: Note that it is a requirement for award that all contracts such as this one include local (defined as Alameda County-based) businesses to the maximum extent possible consistent with the nature of the services to be provided. The County Small Local and Emerging Business (SLEB) Program requires that to be awarded this contract the lead firm must be a SLEB or, if the lead firm is not a SLEB, the lead firm must partner with SLEBs to

the maximum extent reasonable and possible, with a minimum of 20% SLEB participation required. Please note detailed provisions in **Terms and Conditions for Agreement** section of this RFQ/P.

Environmentally Friendly Packing: Alameda County is an environmentally responsible employer and seeks all practical opportunities for waste reduction and recycling. The County, therefore, encourages its contractors to reduce waste volume and toxicity by using environmentally friendly packaging material whenever possible. Options may include backhauling product packaging to the supplier for reuse or recycling, shipping in bulk or reduced packaging, using soy bean-based inks for packaging printing, using recycled product packaging or using recyclable or reusable packaging material. The County encourages all bidders and contractors for goods and services to adhere to these principles where practicable.

II. Instructions to Consultants

A. District Contact

The evaluation phase of the competitive process shall begin upon receipt of sealed Statements of Qualifications, through the potential interview phase, and continue until a Notice of Intent to Award is issued and contract has been awarded. Consultants shall not contact or lobby evaluators during the evaluation process. Any communication regarding this RFP with other District/County personnel, including evaluators, may result in disqualification.

Any questions regarding this RFQ/P shall be submitted in writing via email to the contact person listed below by the date and time specified on the *Calendar of Events* below.

Contact: Anita Franklin
 E-mail: anita@acpwa.org
 Phone: (510) 670-5569
 Address: Alameda County Flood Control and
 Water Conservation District
 399 Elmhurst Street, Hayward, CA 94544

The District reserves the right to amend this RFQ/P or the criteria for Consultant selection in any manner, to cancel this RFQ/P, or to reject any one or all Statements of Qualifications/Proposals at its discretion, thus not awarding a contract to any firm.

The most current supporting information and addenda for this procurement can be found on the ACPWA business webpage <https://www.acpwa.org/business/current-opp.page?#profservices>.

B. Calendar of Events

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C. Mandatory Consultant Networking/Pre-proposal Meeting

This mandatory consultant networking/pre-proposal meeting is held to:

- Provide an opportunity for Small Local Emerging Businesses (SLEBs) and large firms to meet qualified sub consultants and/or teaming partners and develop subcontracting relationships in order to participate in the contract that may result from this RFQ/P.
- Provide an opportunity for consultants to ask specific questions about the project and request RFQ/P clarification.
- Provide the District with an opportunity to receive feedback regarding the Project and RFQ/P.

The list of attendees will be included in an RFQ/P Addendum after the consultant networking/pre-proposal meeting. Prime Consultants and subconsultants are encouraged to attend the consultant networking/pre-proposal meeting in order to further facilitate subcontracting relationships. Proposals from prime consultants that fail to attend this mandatory consultant networking/pre-proposal meeting will be rejected.

D. Submittal of Statement of Qualifications/Proposal

1. All responses must be SEALED and must be received by the Alameda County Flood Control and Water Conservation District receptionist **BEFORE** 2:00 p.m. on the due date specified in the Calendar of Events.

NOTE: LATE AND/OR UNSEALED RESPONSES CANNOT BE ACCEPTED. IF HAND DELIVERING RESPONSES PLEASE ALLOW TIME FOR SPARSE METERED PUBLIC PARKING OR SPARSE STREET PARKING.

Responses will be received only at the address shown below, and by the time indicated in the Calendar of Events. Any response received after said time and/or date or at a place other than the stated address cannot be considered and will be returned unopened.

All responses, whether delivered by an employee of Consultant, U.S. Postal Service, courier or package delivery service, must be received and time stamped at the stated

address prior to the time designated. The District's Office Services timestamp shall be considered the official timepiece for the purpose of establishing the actual receipt of responses.

2. Responses are to be addressed and delivered as follows:

RFQ/P No. FLO202409109 - Strategic and Technical Support Services

Ms. Anita Franklin

Alameda County Flood Control and Water Conservation District

399 Elmhurst Street, Room 113

Hayward, CA 94544-1307

3. Consultant's name and return address must also appear on the mailing package.
4. No telegraphic, e-mail or facsimile responses will be considered.
5. All costs required for the preparation and submission of a response shall be borne by Consultant.
6. Only one response will be accepted from any one person, partnership, corporation, or other entity; however, several alternatives may be included in one response. For purposes of this requirement, "partnership" shall mean, and is limited to, a legal partnership formed under one of more of the provisions of the state of California or other state's Corporations Code or an equivalent statute.
7. All information regarding the responses will be held as confidential until such time as the Consultant Review Board (CRB) has completed its evaluation, and recommended award has been made by the CRB, and the contract has been fully negotiated with the recommended awardee named in the recommendation to award/non-award notification(s).
8. It is the responsibility of the Consultants to clearly identify information in their responses that they consider to be confidential under the California Public Records Act. See: <http://www.acgov.org/gsa/departments/purchasing/policy/proprietary.htm>.
9. Each response received, with the name of the consultant, shall be entered on a record, and each record with the successful responses indicated thereon, shall, after the award of the contract, be open to public inspection.
10. California Government Code §4552: In submitting a response to a public purchasing body, the consultant offers and agrees that if the response is accepted, it will assign to the purchasing body all rights, title and interest in and to all causes of action it may have under §4 of the Clayton Act (15 U.S.C. §15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the consultant for sale to the purchasing body pursuant to the response. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the consultant.
11. Consultant expressly acknowledges that it is aware that if a false claim is knowingly submitted (as the terms "claim" and "knowingly" are defined in the California False Claims Act, Cal. Gov. Code, §12650 et seq.), District will be entitled to civil remedies set forth in the California False

Claim Act. It may also be considered fraud and the Consultant may be subject to criminal prosecution.

12. The Consultant certifies that it is, at the time of response, and shall be throughout the period of the contract, licensed by the State of California to do the type of work required under the terms of the Contract Documents. Consultant further certifies that it is regularly engaged in the general class and type of work called for in the RFQ/P.
13. The Consultant certifies that it is not, at the time of the response, on the California Department of General Services (DGS) list of persons determined to be engaged in investment activities in Iran or otherwise in violation of the Iran Contracting Act of 2010 (Public Contract Code Section 2200-2208).
14. It is understood that the District reserves the right to reject a response and that the rejected response shall remain open for advancement in this procurement process for a period of 180 days, unless otherwise specified in the RFQ/P documents.

E. Response Format

1. Responses are to be straightforward, clear, concise and specific to the information requested. Submit in 8-1/2 x 11 format one (1) original hardcopy response with original ink signatures, plus four (4) copies of the response, plus an exact duplicate, electronic copy shall be submitted on a USB drive in a single PDF file, and enclosed with the sealed original hardcopy of the response. A PDF file created with searchable text is required. Original response is to be clearly marked "ORIGINAL," printed on plain white paper, and must be either loose leaf or in a 3-ring binder (NOT bound). All copies shall be marked "COPY."

It is preferred that all responses submitted shall be printed double-sided and on minimum 30% post-consumer recycled content paper. Inability to comply with this recommendation will have no impact on the evaluation and scoring of the proposal. Submittals shall contain only material directly related to response to requirements, not general marketing material. Organize your information under tabs in the same order delineated under Section "Response Content/Submittals" Below.

2. In order for responses to be considered complete, Consultant must provide all information and documentation requested, including forms required in Exhibits A and B. Failure to include all requisite information may be grounds for the District's rejection of consultant's response.
3. Responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any response or part thereof so marked. Responses submitted in response to this RFQ/P may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records. Please refer to the County's website at: [Alameda County Proprietary and Confidential Information Policies](https://gsa.acgov.org/do-business-with-us/contracting-opportunities/policies-procedures/proprietary-confidential-information/) [\[https://gsa.acgov.org/do-business-with-us/contracting-opportunities/policies-procedures/proprietary-confidential-information/\]](https://gsa.acgov.org/do-business-with-us/contracting-opportunities/policies-procedures/proprietary-confidential-information/).

RESPONSE CONTENT/SUBMITTALS

The District appreciates brevity. Please keep your response submission, excluding transmittal letter, title page, table of contents, plain section dividers, resumes, and required exhibits/attachments, to a total of 20 printed pages. Clarity and conciseness are essential and will be considered in assessing the Consultant's capabilities.

In order to simplify the process and to obtain the maximum degree of comparability, the response should be organized in the following manner:

1. **Transmittal Letter.** Responses shall include a brief description of Consultant's capabilities and approach in providing its services to the District and provide a brief synopsis of the highlights of the response and overall benefits of the response to the District. Consultants should explain its understanding of the work and basic project approach. This synopsis should not exceed two (2) pages in length and should be easily understood. The letter must also identify the authorized signatories for the proposer and include his/her/their signature(s).

Unsigned submittals or submittals signed by an individual not authorized to bind the prospective Consultant will be considered nonresponsive and rejected.

2. The response shall include the following information:
 - a. **Title Page.** Show the RFQ/P subject, the RFQ/P number, the name of the Consultant's firm, address, telephone number, name of the contact person and their email address, and the date. Indicate Small, Local and Emerging Business (SLEB) firm(s) and other firms serving as sub-consultants. Include the **Department of Industrial Relations (DIR) registration number** for registered consultants and sub-contractors covered by DIR prevailing wages, if any.
 - b. **Table of Contents.** Responses shall include a table of contents listing the individual sections of the response and their corresponding page numbers. Tabs should separate each of the individual sections.
 - c. **Description of the Team.** Response must identify prime consultant, sub consultants and the qualifications of each entity to perform the scope described herein. Due to the breadth of disciplines covered by this scope, please be as detailed as possible, and provide an organizational chart to show flow of communication and how the individual entities will be managed by the prime consultant. The description of Consultant's team shall (1) discuss the team's ability to perform the required services that will meet or exceed the requirements of the District; (2) explain any special resources, procedures, or approaches that make the services of Consultant particularly advantageous to the District; (3) identify any limitations or restrictions of Consultant in providing the services that the District should be aware of in evaluating Consultant's Statement of Qualifications; and (4) discuss how the team will meet Alameda County's Small Local and Emerging Business (SLEB) required minimum 20% participation. The District will look favorably on SLEB participation at a percentage higher than 20%.
 - d. **Key Personnel.** Responses shall include a complete list of all key personnel who will provide services on the projects. For each person on the list, the following information shall be included:

- (1) The person's relationship with Consultant, including job title and years of employment with Consultant.
- (2) Brief one-paragraph description of expertise and experience.
- (3) The role that the person will play on the project.
- (4) Address, telephone number, and e-mail address.
- (5) Person's educational background.
- (6) Person's relevant experience, certifications, and/or merits.

Detailed resumes for key staff may be included as an attachment and will not count towards the page total.

- e. **Description of Consultant's Experience and Expertise.** See Section I. D. Responses shall include a detailed explanation of relevant experience and qualifications, including descriptions of similar project work, years of experience in the field of required scope of services, and general skills sets that can be provided by personnel. Consultant should demonstrate a clear understanding of the project.
- f. **Project Approach and Work Plan.** This section should include a full description of the work elements and the proposed methodology the Consultant proposes to satisfy District objectives. The scope of work provided in Section I. C, "Services Needed," offers a framework to performing this project and outlines the minimum number of tasks.

The work description should be detailed to a sufficient level (work elements, sub elements, etc.) to show a clear understanding of the precise work required to meet project goals. Provide a detailed description and examples covering all the discussed requirements in Section I. C.

Identify other activities that you propose to implement in support of the required tasks. Describe any changes that you would make to the work scope. Discuss the reasons for any changes made to the scope of work as outlined in Section I. C. Identify all tasks or activities that would be fully supported by your organization and those that would require assistance from the District.

- g. **Project Delivery Schedule.** To be developed based on task assignments.
- h. **Management Plan.** This section should describe the Consultant's approach to managing the work. If the proposal is a team effort, the allocation of the work to the team members should be indicated.
- i. **Contract Negotiation Authorization and Financial Responsibility.** Include the name(s), e-mail addresses, and phone numbers of individuals authorized to negotiate this contract and contractually bind the Proposer and who may be contacted during the period of evaluation. A copy of the District's Professional Services Agreement and insurance requirement are enclosed for advanced review. The District shall have the right to request changes to the project team before execution of the contract. District shall have the right to reject any and all Statements of Qualification for any reason.

In this section the Proposer should also effectively demonstrate financial responsibility. At a minimum, the Proposer must certify, by including the following statement: "Our financial management system meets the standards for financial reporting, accounting

records, internal and budget control as set forth in the Uniform Guidance, 2 CFR Part 200, to the extent applicable to the Consultant.” Provide brief explanation on how your markup(s) are financially responsible and competitive. Proposer should demonstrate how to manage expenses and keep costs at a minimum.

- j. **Cost Proposal and Fees.** Under separate sealed envelope, on company letterhead, the consultant must provide a current fee schedule showing labor categories and hourly labor rates for all named personnel and/or type of personnel anticipated on this contract, plus expense costs, as well as a cost proposal for the scope of work described herein.
 - (a) The District’s maximum allowable mark up on sub consultant fees and any expenses is ten (10) percent.
 - (b) Quoted fees shall be firm for the first twelve (12) months of any contract that may be awarded pursuant to this RFQ/P.
 - (c) Maximum annual escalation of fees shall be no more than 3%.
 - (d) Federal and State minimum wage laws apply. The District has no requirements for living wages. The District is not imposing any additional requirements regarding wages.
3. **Exhibits/Attachments.** Consultants shall include in their submittal completed and signed documentation for all listed Exhibits, including any attachments required by the Exhibit. The content and sequence for each required document shall be as follows:

Exhibit A RFQ/P Response Packet- Required Documentation

*Attachment (a): **Consultant Information and Acceptance** (required with submittal of response).* Every Consultant must select one choice under Item 11 of this exhibit and must completed and sign on page 4 of this Attachment.

*Attachment (b): **References** (required with submittal of response).* Consultants and subconsultants must use the templates on Exhibit A, Attachment (b) to provide references. Consultants and subconsultants are to provide a list of three clients and must verify the contact information for all references. References must be satisfactory as deemed solely by the District. Consultants and subconsultants are strongly encouraged to notify all references that the District may be contacting them to obtain a reference. The District may contact some or all of the references provided in order to determine Consultant’s and subconsultant’s performance record on work similar to that described in this request. The District reserves the right to contact references other than those provided in the Response and to use the information gained from them in the evaluation process.

*Attachment (c): **Small Local Emerging Business (SLEB) Partnering Information Sheet** (required with submittal of response).* This form is required with the submittal of Consultant’s response. If Consultant is not certified, the name, identification information, and goods/services to be provided by the named CERTIFIED SLEB partner(s) with whom the Consultant will subcontract to meet the County SLEB participation requirement must be stated. For any CERTIFIED SLEB subcontractor(s) named, the Exhibit must be signed by the CERTIFIED SLEB(s) according to the instructions. All named SLEB subcontractor(s) must be certified by the time of response submittal.

*Attachment (d): **Exceptions, Clarifications, Amendments** (required with submittal of response).* If Consultants are making ANY clarifications and/or amendments, or taking exception to policies or specifications of this RFQ/P, these MUST be submitted in the Exceptions, Clarifications, Amendments form in Exhibit A, Attachment (d). **The District is under no obligation to accept any exceptions, and such exceptions may be a basis for response disqualification.**

*Attachment (e): **Debarment & Suspension Certification Form** (required with submittal of response).* Consultant must complete, sign, and date the Debarment and Suspension Certification form.

*Attachment (f): **Iran Contracting Act Compliance Certificate** (required with submittal of response).* Consultant must complete, sign, and date the Iran Contracting Act Compliance Certificate form.

Exhibit B **Insurance Requirements** (*for information*). This exhibit contains the minimum insurance limits, required by the County of Alameda to be held by the Consultant and all of its sub consultants performing on the projects. Insurance certificates are not required at the time of submission of the response; however, by signing Attachment (a) - Consultant Information and Acceptance, Consultant and its sub consultants agree to meet the minimum insurance requirements stated in the RFQ/P prior to contract award. This documentation must be provided to the District prior to award and shall include an insurance certificate and additional insured certificate naming the Alameda County Flood Control and Water Conservation District and County of Alameda, which meets the minimum insurance requirements, as stated in the Exhibit B – Insurance Requirements.

Exhibit C **Sample Professional Services Agreement** (*for information*).

III. Process of Selection

All responses that pass the initial evaluation criteria identified as a pass/fail item in the Evaluation Criteria table below will be evaluated by a Consultant Review Board (CRB). The CRB may be composed of District staff and other parties that may have associated expertise or experience. The CRB will review and rank the submittals to create a shortlist of up to three (3) Consultants that may be invited to participate in an oral presentation and interview.

All contacts during the evaluation phase shall be through the District contact only. Consultants shall not contact or lobby evaluators during the evaluation process. Any communication regarding this RFQ/P with other District/County personnel and/or influence members of the CRB may result in disqualification of Consultant.

Consultants should bear in mind that any response that is unrealistic in terms of the technical or schedule commitments may be deemed reflective of an inherent lack of technical competence or indicative of a failure to comprehend the complexity and risk of the District's requirements as set forth in this RFQ/P.

Each of the evaluation criteria below will be used in ranking and determining the quality of the responses. Responses will be evaluated according to each Evaluation Criteria, and scored on the zero to ten-point scale. The scores for all evaluation criteria will then be added, according to their assigned weight to arrive at a weighted score for each response. A response with a high weighted total will be deemed of higher quality than a response with a lesser-weighted total.

As indicated in Section I, this evaluation process is a one-step approach including an initial evaluation of the response and preliminary scoring of the same in combination with an oral presentation/interview score (if interviews are conducted).

As a result of this RFQ/P, the District intends to contract with one (1) best qualified Consultant.

The zero to ten-point scale range is defined as follows:

0	Not Acceptable	Non-responsive, fails to meet RFP specification. The approach has no probability of success. If the unmet specification is a mandatory requirement, this score may result in the disqualification of the proposal.
1-2	Poor	Below average, falls short of expectations, is substandard to that which is the average or expected norm, has a low probability of success in achieving objectives per RFQ/P.
3-4	Fair	Has a reasonable probability of success, however, some objectives may not be met.
5-6	Average	Acceptable and likely to achieves all objectives in a reasonable fashion per RFQ/P specification. This will be the baseline score for each item with adjustments based on the interpretation of the proposal by Evaluation Committee members.
7-8	Above Average/Good	Better than that which is average or expected as the norm. Excellent probability of success in achieving all objectives of the RFQ/P requirements and expectations.
9-10	Excellent/Exceptional	Exceeds expectations, is very innovative, clearly superior to that which is average or expected as the norm. Excellent probability of success and in achieving all objectives and meeting RFQ/P specification.

The Evaluation Criteria and their respective weights are as follows:

	INITIAL CRITERIA	Score
1.	Completeness of Response: Responses must be complete. Responses that do not include the RFQ/P content requirements and subsequent Attachments and do not address each of the items listed in Exhibit A will be considered incomplete, be rated a Fail in the evaluation criteria and will receive no further consideration. Responses that are rated a Fail and are not considered may be picked up by the Consultant at the delivery location within 14 calendar days of contract award and/or the completion of the competitive process.	Pass/Fail
2.	Debarment and Suspension: Consultant, its principals, and named subcontractors are not identified on the list of Federally debarred, suspended or other excluded parties located at www.sam.gov . Certification form attached hereto as Exhibit A, Attachment (e) must be completed and signed.	Pass/Fail

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	EVALUATION CRITERIA – STATEMENT OF QUALIFICATIONS & PROPOSAL RESPONSE	Weight Factor	Max. Rating	Max. Score
1.	<p>Understanding of the Project: Responses will be evaluated against the RFQ/P specifications and the questions below:</p> <ul style="list-style-type: none"> a. Has Consultant demonstrated a thorough understanding of the purpose and scope of the project? b. How well has the consultant demonstrated that it will manage the project team to satisfy District goals for the project? c. Has the Consultant included the appropriate type and level of expertise to execute the project? 	15	10	15
2.	<p>Experience and Expertise: Responses will be evaluated against the RFQ/P required experience and capabilities - demonstrated experience with similar work for public agencies, preferably public works agencies. In each skill area described below, an evaluation will be made of the probability of success and risks associated with the response:</p> <ul style="list-style-type: none"> a. Project management b. Prepare publications/reports c. Digital services d. Outreach activities e. Other potential tasks 	3.5	10	35
3.	<p>Relevant Experience of Key Personnel: Responses will be evaluated against the RFQ/P scope of services and the questions below:</p> <ul style="list-style-type: none"> a. Has the staff been engaged in relevant projects and services as outlined in Section I. D - regularly and continuously engaged in the business of performing professional, technical, management, and communications support services, including all associated and necessary disciplines, for at least ten (10) years? b. Do the individuals assigned to the project have appropriate licenses and certifications and demonstrated expertise and relevant experience on similar projects? c. How extensive is the applicable education and experience of the personnel designated to work on the project? 	3.5	10	35
4.	<p>Management Plan: Proposals will be evaluated against the responses to questions below:</p> <ul style="list-style-type: none"> a. Is the management approach, including roles of prime and subcontractors, and any other team members, clearly explained. b. Is the work assignment structure, including work elements and sub elements performed by subcontractors clearly explained? c. Is it clear that consultant has the capacity to perform multiple task assignments? d. Does the proposal include a description of subcontractor supervision strategy? e. Does consultant provide an overview of quality assurance and quality control procedures with sufficient detail that the District can evaluate how the consultant will meet or exceed the District's expectations on this project? 	1.0	10	10

5.	Cost Proposal: Has the Consultant provided a current fee schedule in a separate, sealed envelope.	0.5	10	5
Maximum SOQ and Proposal Evaluation Score				100

LOCAL <u>OR</u> SLEB PREFERENCES	
1.	Local Preference Points: equaling five percent (5%) of Consultant’s total score, for the above Evaluation Criteria, will be added. This will be the Consultant’s <u>final score</u> for purposes of award evaluation.
2.	Small and Local or Emerging and Local Preference Points: equaling ten percent (10%) of Consultant’s total score, for the above Evaluation Criteria, will be added. This will be the Consultant’s <u>final score</u> for purposes of award evaluation.
Max Response Evaluation Score w/ either Local <u>OR</u> SLEB Preference Points	
110	

The final maximum score for any project is 110 points, including the possible 10 points for local and small, local and emerging, or local preference points (maximum 10% of final score). Preference points awarded to each Consultant for being local and/or certified SLEB will be calculated from the actual scores achieved in the evaluation of their responses.

All Consultants will be notified of the shortlist participants; however, the preliminary scores at that time will not be communicated to Consultants. Response scores of the shortlisted Consultants will be combined with the Consultant’s Interview score if interviews are conducted, for a total maximum final evaluation score of two-hundred ten (210), as detailed in the following table:

	FINAL EVALUATION SCORE	MAX TOTALS
1.	CONSULTANT’S TOTAL SOQ/PROPOSAL SCORE	110
2.	CONSULTANT’S INTERVIEW/ORAL PRESENTATION/REFERENCE SCORE	100
FINAL MAXIMUM SCORE		210

The District reserves the right to conduct an oral interview with up to three (3) highest scoring proposers. If the District elects to conduct oral interviews, additional details will be provided to those who are invited to participate. At the interview, the selection team will expect the Consultant team to present its team members and their qualifications. The project manager and key staff persons who will be working on the project on a daily basis must be present for the interview/presentation. The presentation will be followed by a question-and-answer period by the Consultant Review Board. Oral interviews, if held, will be held virtually.

The Consultant with the highest final score will be invited to negotiate a contract with the District for the professional services described herein.

AWARD

The CRB will recommend award to the Consultant who achieves the highest overall score. Overall scores are determined by adding the response evaluation score, proposal evaluation score, and the oral presentation/interview score.

The District reserves the right to reject any or all responses that materially differ from any terms contained in this RFQ or from any Exhibits attached hereto, to waive informalities and minor irregularities in responses received, and to provide an opportunity for proposers to correct minor and immaterial errors contained in their submissions. The decision as to what constitutes a minor irregularity shall be made solely at the discretion of the District.

The District has the right to decline to award this contract or any part thereof for any reason.

Any proposal that contain false or misleading information may be disqualified by the County.

Board approval to award a contract is required.

A contract must be negotiated, finalized, and signed by the recommended awardee prior to Board approval.

Final Professional Services Agreement terms and conditions will be negotiated with the selected consultant.

The RFQ/P specifications, terms, conditions, and Exhibits, RFQ/P Addenda and Proposer's SOQ/Proposal, may be incorporated into and made a part of any contract that may be awarded as a result of this RFQ/P.

CONTRACT EVALUATION AND ASSESSMENT

During the initial sixty (60) day period of any contract that may be awarded to Consultant, the CRB and/or other persons designated by the District will meet with the Consultant to evaluate the services provided thus far, to identify any issues or potential problems.

The District reserves the right to determine, at its sole discretion, whether:

1. Consultant has complied with all terms of this RFQ/P; and
2. Any problems or potential problems with the proposed services that make it unlikely (even with possible modifications) that such services have met the District requirements,

If, as a result of such determination, the District concludes that it is not satisfied with Consultant, Consultant's performance under any awarded contract and/or Consultant's services as contracted for therein, the Consultant will be notified of contract termination effective forty-five (45) days following notice. Consultant shall be responsible for returning District property at no charge to the District. The District will have the right to invite the next highest ranked consultant to enter into a contract. The District also reserves the right to re-procure this project if it is determined to be in its best interest to do so.

NOTICE OF INTENT TO AWARD

At the conclusion of the evaluation process, all consultants will be notified in writing by e-mail, fax, or US Postal Service mail, of the contract award recommendation, if any, by the District. The document providing this notification is the Notice of Intent to Award.

The Notice of Intent to Award will provide the following information:

1. The name of the consultant being recommended for contract award; and

2. The names of all other parties that submitted proposals.

At the conclusion of the evaluation process and negotiations, debriefings for unsuccessful consultants may be scheduled and provided upon written request and will be restricted to discussion of the unsuccessful consultant's response. Under no circumstances will any discussion be conducted with regard to contract negotiations with the successful consultant.

TERM/TERMINATION/RENEWAL

1. The term of the contract, which may be awarded pursuant to this RFQ/P, will be five (5) years.
2. The District has and reserves the right to suspend, terminate or abandon the execution of any work by the Consultant without cause at any time upon giving to the Consultant prior written notice. In the event that the District should abandon, terminate or suspend the Consultant's work, the Consultant shall be entitled to negotiate its payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. The District may terminate the contract at any time without written notice upon a material breach of contract and substandard or unsatisfactory performance by the Consultant. In the event of termination with cause, the District reserves the right to seek any and all damages from the Consultant. In the event of such termination with or without cause, the District reserves the right to invite the next highest ranked consultant to enter into a contract or re-procure the project if it is determined to be in its best interest to do so.
3. The District may, at its sole option, terminate any contract that may be awarded as a result of this RFQ/P at any time, for reason of non-appropriation of funds. In such event, the District will give Consultant at least thirty (30) days written notice that such function will not be funded for the next fiscal period. In such event, the District will return any associated equipment to the Consultant in good working order, reasonable wear and tear excepted, and vice-versa.

PROCUREMENT PROTEST/APPEALS PROCESS

District prides itself on the establishment of fair and competitive contracting procedures and the commitment made to follow those procedures. The following is provided in the event that Consultants wish to protest the procurement process or appeal the recommendation to award a contract for this project once the Notices of Intent to Award/Non-Award have been issued. Protests submitted prior to issuance of the Notices of Intent to Award/Non-Award will not be accepted by the District.

1. Any protest by any Consultant to any part of the procurement process, must be submitted in writing to the Flood Control Program Manager, located at 399 Elmhurst Street, Hayward, CA 94544, by 5:00 p.m. on the SEVENTH (7th) calendar day following the date of issuance of the Notice of Intent to Award, not the date received by the Bidder. A protest received after 5:00 p.m. is considered received as of the next calendar day. A protest received after 5:00 p.m. on the SEVENTH (7th) calendar day following the date of issuance of the Notice of Intent to Award will not be considered under any circumstances by the Protest Evaluator or their designee.

Generally, the County will promptly send an email acknowledging receipt of the protest; it is the responsibility of the protestor to confirm that the protest was timely received.

- a. The protest must contain a complete statement of the reasons and facts for the protest.
 - b. The protest must refer to the specific portions of all documents that form the basis for the protest.
 - c. The protest must include the name, address, email address and telephone number of the person submitting the protest on behalf of the protesting party.
 - d. The District will transmit a copy of the protest to all Consultants as soon as possible after receipt of the protest.
2. Upon receipt of the written protest, the Flood Control Program Manager or designee will review and evaluate the protest and issue a written decision. The Flood Control Program Manager, may, at his or her discretion, investigate the protest, obtain additional information, provide an opportunity to settle the protest by mutual agreement, and/or schedule a meeting(s) with the protesting Consultant and others (as appropriate) to discuss the protest. The decision on the protest will be issued at least ten (10) business days prior to the Board hearing date. The decision will be communicated by e-mail or fax, and certified mail, and will inform the proposer whether or not the recommendation to the Board of Supervisors in the Notice of Intent to Award is going to change. A copy of the decision will be furnished to all Consultants affected by the decision. As used in this paragraph, a Consultant is affected by the decision on a protest if a decision on the protest could have resulted in the Consultant not being the apparent successful Consultant on the procurement.
3. The decision of the Flood Control Program Manager on the protest may be appealed to the Auditor-Controller's Office of Contract Compliance & Reporting (OCCR) located at 1221 Oak Street, Room 249, Oakland, CA 94612, Email: OCCR@acgov.org, unless the OCCR determines that it has a conflict of interest in which case an alternate will be identified to hear the appeal and all steps to be taken by OCCR will be performed by the alternate. The Bidder whose bid is the subject of the protest, all Bidders affected by the Protest Evaluator's decision on the protest, and the protestor have the right to appeal if they feel the Protest Evaluator's decision is incorrect. All appeals to the Auditor-Controller's OCCR must be in writing and submitted within SEVEN (7) calendar days following the issuance of the decision, not the date the decision is received by the Bidder. An appeal received after 5:00 p.m. is considered received as of the next calendar day. An appeal received after 5:00 p.m. on the SEVENTH (7th) calendar day following the date of issuance of the decision by the Protest Evaluator will not be considered under any circumstances by the Auditor-Controller OCCR or their designee.
 - a. The appeal shall specify the decision being appealed and all the facts and circumstances relied upon in support of the appeal.
 - b. In reviewing protest appeals, the OCCR will not re-judge the proposal(s). The appeal to the OCCR must be limited to review of the procurement process to determine if the contracting department materially erred in following the RFQ/P or, if applicable, County contracting policies or other laws and regulations.
 - c. The appeal to the OCCR also shall be limited to the grounds raised in the original protest and the written decision by the Flood Control Program Manager. As such, a Consultant is prohibited from stating new grounds for the protest in its appeal. The Auditor-Controller (OCCR) shall only review the materials and conclusions reached by the Flood Control Program Manager or department designee and will determine whether to uphold or overturn the protest decision.

- d. The Auditor's Office may overturn the results of a RFQ/P process for ethical violations by District staff, District Selection Committee members, subject matter experts, or any other staff managing or participating in the competitive process, regardless of timing or the contents of a proposal protest. Any participating County staff, including County Counsel or Auditor-Controller, are doing so as staff of the District.
- e. The finding of the Auditor-Controller's OCCR is the final step of the appeal process. A copy of the finding of the Auditor-Controller's OCCR will be furnished to the protestor.
- f. The finding on the appeal must be issued before a recommendation to award the contract is considered and contract awarded by the Board of Supervisors.

The procedures and time limits set forth in this paragraph are mandatory and are each Consultant's sole and exclusive remedy in the event of protest. A Consultant's failure to timely complete both the protest and the appeal procedures shall be deemed a failure to exhaust administrative remedies. Failure to exhaust administrative remedies, or failure to comply otherwise with these procedures, shall constitute a waiver of any right to further pursue the protest, including filing a Government Code Claim or legal proceedings.

IV. Other Terms and Conditions for Agreement

Prior to acting upon this opportunity, qualifying proposers should review all applicable County, State, and Federal policies, terms, and conditions normally included as contractual requirements for projects of this type. The actual contract terms and conditions may differ from those presented here based on contract negotiations or changes in policy or law that might occur prior to executing a final agreement.

Proposers who wish to request exceptions or amendments to this RFQ/P or associated documents must complete the Exceptions and Amendments Form (Exhibit A, Attachment d) and submit it with the Statement of Qualifications/Proposal. The District is under no obligation to accept any exceptions and such exceptions may be a basis for Statement of Qualifications/Proposal disqualification.

Specific terms and conditions presented in this section will supplement or supersede those of the professional services agreement.

1. Contract Term and Renewal

The contract that may be awarded as a result of this RFQ/P is expected to span a period of five (5) years.

2. Pricing

Final scope of work and contract price will be determined during negotiations between the Consultant and the District.

All labor rates pricing will be as negotiated during the term of the contract that may be awarded as a result of this RFQ/P. Maximum labor rate escalation will be limited to three percent (3%) per year.

Federal and State minimum wage laws apply. The District has no requirements for living wages. The District is not imposing any additional requirements regarding wages.

Prevailing Wages: Pursuant to Labor Code Sections 1770 et seq., Contractor shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.

3. SLEB Requirements

Local Participation: The District implements the County of Alameda's Small Local and Emerging Business (SLEB) Program. It is a requirement for award that all contracts such as this one include local (defined as Alameda County based) businesses to the maximum extent possible consistent with the nature of the services to be provided. The SLEB Program requires that to be awarded this contract the lead firm must be a SLEB or, if the lead firm is not a SLEB,

the lead firm must partner with SLEBs to the maximum extent reasonable and possible, with a **minimum of 20% SLEB participation required.**

- a. Small, Local & Emerging Business Program: The County is vitally interested in promoting the growth of small and emerging local businesses by means of increasing the participation of these businesses in the County's purchase of goods and services. As a result of the County's commitment to advance the economic opportunities of these businesses, **Firms must meet the County's Small, Local & Emerging Business Program requirements in order to be considered for the contract award.** These requirements can be found online at: <http://acgov.org/auditor/sleb/overview.htm>, and <https://gsa.acgov.org/do-business-with-us/vendor-support/small-local-and-emerging-businesses/>.

For purposes of this Statement of Qualifications, applicable industries include, but are not limited to, the following NAICS Codes: 541690 - Other Scientific and Technical Consulting Services; 541990 - All Other Professional, Scientific, and Technical Services.

A small business is defined by the United States Small Business Administration (SBA) as having no more than the number of employees or average annual gross receipts over the last three (3) years required per SBA standards based on the small business's appropriate NAICS code.

An emerging business, as defined by the County, is one that has less than one-half (1/2) of the preceding amount and has been in business less than five (5) years.

- b. Compliance with the SLEB program is required for goods, services, and professional services contracts, including but not limited to architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services projects.
- c. Alameda County utilizes the Elation Systems contract compliance application as part of its commitment to assist contractors to conveniently comply with legal and contractual requirements. Elation Systems, a secure web-based system, was implemented to monitor compliance and to track and report SLEB participation in County contracts.
- d. The prime contractor and all participating local and SLEB subcontractors awarded contracts as a result of this bid process for this project are required to use Elation to submit SLEB Program information including, but not limited to, monthly progress payment reports and other information related to SLEB participation. Use of Elation Systems, support and training is available at no charge to prime and subcontractors participating in County contracts.

Upon contract award

- 1) The County will provide contractors and subcontractors participating in any contract awarded as a result of this bid process, a code that will allow them to register and use Elation Systems free of charge.
- 2) Contractors should schedule a representative from their office/company, along with each of their subcontractors, to attend Elation training.

- Free multi-agency Elation Systems one-hour training sessions require reservations and are held monthly in the Pleasanton, California area.

It is the Contractor's responsibility to ensure that they and their subcontractors are registered and trained as required to utilize Elation Systems. For further information, please contact Elation Systems at (925) 924-0340.

If you have any other questions regarding the utilization of Elation Systems please contact the Auditor-Controller's Office of Contract Compliance (OCC) located at 1221 Oak Street, Room 249, Oakland, CA 94612 at Tel: (510) 891-5500, Fax: (510) 272-6502 or via E-mail at ACSLEBcompliance@acgov.org.

- e. Compliance Information and Records: As needed and upon request, for the purposes of determining compliance with the SLEB Program, the Contractor shall provide the County with access to all records and documents that relate to SLEB participation and/or certification. Proprietary information will be safeguarded. All subcontractor Submittals must be through the prime contractor.

4. State Requirements:

Department of Industrial Relations Registration:

A contractor or subcontractor shall not be qualified to bid on, be listed in a bid Statement of Qualifications, or engage in the performance of any contract for public work, as defined in this chapter, unless registered and qualified to perform public work pursuant to Labor Code Section 1725.5. As noted above, the proposer must include the DIR registration number for registered Consultants and subconsultants covered by DIR prevailing wages.

Governor Gavin Newsom issued Executive Order (EO) N-6-22:

On March 4, 2022, Governor Gavin Newsom issued EO N-6-22 regarding sanctions in response to Russian aggression in Ukraine. The EO is located at <https://www.gov.ca.gov/wp-content/uploads/2022/03/3.4.22-Russia-Ukraine-Executive-Order.pdf>.

The EO directs all agencies and departments that are subject to the Governor's authority to take certain immediate steps, including notifying all contractors and grantees of their obligations to comply with existing economic sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law.

This correspondence serves as a notice under the EO that as a contractor or grantee, compliance with the economic sanctions imposed in response to Russia's actions in Ukraine is required, including with respect to, but not limited to, the federal executive orders identified in the EO and the sanctions identified on the U.S. Department of the Treasury website (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>). Failure to comply may result in the termination of contracts or grants, as applicable.

If you have any questions concerning this Request for Qualifications, please contact Anita Franklin at (510) 670-5569 or email at anita@acpwa.org.

We look forward to receiving your Statement of Qualifications/Proposal.

* * * END OF REQUEST FOR QUALIFICATIONS/PROPOSAL * * *



EXHIBIT A

RFQ/P RESPONSE PACKET

REQUIRED DOCUMENTATION

RFQ/P– STRATEGIC AND TECHNICAL SUPPORT SERVICES

All of the specific information and documentation listed below is required to be submitted with the Response Packet in order for a response to be deemed complete. Any pages of Exhibit A (Or Attachments therein) not applicable to the Consultant, must still be submitted as part of a complete Response, with such pages or items clearly marked “N/A.” Consultants that do not comply with the requirements, and/or submit incomplete response packages, shall be subject to disqualification and their responses rejected in total.

Consultants shall submit all information and documentation, in the order listed below and clearly label each section with the appropriate title (i.e. Table of Contents, Letter of Transmittal, Description of Proposer’s Experience and Expertise, Key Personnel, etc.). Please consider the following a checklist of items required:

- 1. **Transmittal Letter**
- 2. **Title Page & Table of Contents**
- 3. **Description of the Team**
- 4. **Key Personnel**
- 5. **Description of Consultant’s Experience and Expertise**
- 6. **Project Approach and Work Plan**
- 7. **Project Delivery Schedule**
- 8. **Management Plan**
- 9. **Contract Negotiation Authorization and Financial Responsibility**
- 10. **Cost Proposal and Fees**
- 11. **Attachments to be Completed:** Responses shall include a complete set of the following forms:
 - **Attachment (a): Consultant Information and Acceptance:** Every Consultant must select one choice under Item 11 of this Attachment and must complete and sign Page 3 of this form (or page 6 of Exhibit A).
 - **Attachment (b): References:** Consultants and subconsultants must use the templates on Attachment (b) of Exhibit A to provide references. Consultants and subconsultants are to provide a list of three clients and must verify the contact information for all references.

References must be satisfactory as deemed solely by District. Consultants and subconsultants are strongly encouraged to notify all references that the District may be contacting them to obtain a reference. The District may contact some or all of the references provided in order to determine Consultant's or subconsultant's performance record on work similar to that described in this request. The District reserves the right to contact references other than those provided in the Response and to use the information gained from them in the evaluation process.

- **Attachment (c): County Small, Local, and Emerging Business (SLEB) Forms:** Every Consultant must fill out and submit a signed SLEB Partnering Information Sheet, (Attachment (c) of Exhibit A) indicating their SLEB certification status. If Consultant is not certified, the name, identification information, and goods/services to be provided by the named CERTIFIED SLEB partner(s) with whom the Consultant will subcontract to meet the County SLEB participation requirement must be stated. For any CERTIFIED SLEB subcontractor(s) named, the Exhibit must be signed by the CERTIFIED SLEB(s) according to the instructions. All named SLEB subcontractor(s) must be certified by the time of response submittal.
 1. SLEB Certification Instructions
 2. East Bay Inter-agency Alliance (EBIA) Common Application for Local Certification
 3. SLEB Partnering Information Sheet
 4. Request for Preference

- **Attachment (d): Exceptions, Clarifications, Amendments:** If Consultants are making ANY clarifications and/or amendments, or taking exception to policies or specifications of this RFQ, these MUST be submitted in the Exceptions, Clarifications, Amendments form of Exhibit A. THE DISTRICT IS UNDER NO OBLIGATION TO ACCEPT ANY EXCEPTIONS, AND SUCH EXCEPTIONS MAY BE A BASIS FOR RESPONSE DISQUALIFICATION.

- **Attachment (e): Debarment & Suspension Form:** Consultant must complete, sign, and date the *Debarment and Suspension Certification* form.

- **Attachment (f): Iran Contracting Act Compliance Certificate:** Consultant must complete, sign, and date the *Debarment and Suspension Certification* form.



EXHIBIT A
Attachment (a)

CONSULTANT INFORMATION AND ACCEPTANCE

**RFQ/P No. FLO202409109
For
STRATEGIC AND TECHNICAL SUPPORT SERVICES**

1. The undersigned declares that the Response Documents, including, without limitation, the RFQ/P, Q&A, Addenda, and Exhibits have been read and accepted.
2. Consultant hereby certifies to District that all representations, certifications, and statements made by Consultant, as set forth in this form and attachments are true and correct and are made under penalty of perjury pursuant to the laws of California.
3. The undersigned is authorized, offers, and agrees to furnish the articles and/or services specified in accordance with the Specifications, Terms & Conditions of the Response Documents of RFQ/P, Hydrologic Data Acquisition and Management for Alameda County.
4. The undersigned has reviewed the Response Documents and fully understands the requirements in this RFQ/P including, but not limited to, the requirements under the District provisions, and that each Consultant who is awarded a contract shall be, in fact, a prime Contractor, not a subcontractor, to District.
5. The undersigned acknowledges receipt and acceptance of all addenda.
6. The undersigned agrees to the following terms, conditions, certifications, and requirements found on the County's website:
 - a. **Debarment/Suspension Policy** *See also Exhibit A, Attachment (e)*
[\[https://gsa.acgov.org/do-business-with-us/contracting-opportunities/debarment-suspension-policy/\]](https://gsa.acgov.org/do-business-with-us/contracting-opportunities/debarment-suspension-policy/)
 - b. **Iran Contracting Act (ICA) of 2010**
[\[https://gsa.acgov.org/do-business-with-us/contracting-opportunities/policies-procedures/iran-contracting-act-of-2010-ica/\]](https://gsa.acgov.org/do-business-with-us/contracting-opportunities/policies-procedures/iran-contracting-act-of-2010-ica/)
 - c. **General Environmental Requirements**
[\[https://gsa.acgov.org/do-business-with-us/contracting-opportunities/policies-procedures/general-environmental-requirements/\]](https://gsa.acgov.org/do-business-with-us/contracting-opportunities/policies-procedures/general-environmental-requirements/)
 - d. **Alameda County SLEB Program Overview** *See also Exhibit A, Attachment (c)*
[\[http://acgov.org/auditor/sleb/overview.htm\]](http://acgov.org/auditor/sleb/overview.htm)
 - e. **Alameda County SLEB Program Additional Information**
[\[https://gsa.acgov.org/do-business-with-us/vendor-support/small-local-and-emerging-businesses/\]](https://gsa.acgov.org/do-business-with-us/vendor-support/small-local-and-emerging-businesses/)
 - f. **First Source**
[\[http://acgov.org/auditor/sleb/sourceprogram.htm\]](http://acgov.org/auditor/sleb/sourceprogram.htm)
 - g. **Online Contract Compliance System**
[\[http://acgov.org/auditor/sleb/elation.htm\]](http://acgov.org/auditor/sleb/elation.htm)

h. **General Requirements**

[\[https://gsa.acgov.org/do-business-with-us/contracting-opportunities/policies-procedures/general-requirements/\]](https://gsa.acgov.org/do-business-with-us/contracting-opportunities/policies-procedures/general-requirements/)

7. The undersigned acknowledges that Consultant will be in good standing in the State of California, with all the necessary licenses, permits, certifications, approvals, and authorizations necessary to perform all obligations in connection with this RFQ/P and associated RFQ/P Documents, and any contract that is awarded.
8. It is the responsibility of each consultant to be familiar with all of the specifications, terms and conditions and, if applicable, the site conditions. By the submission of a response, the Consultant certifies that if awarded a contract they will make no claim against the District based upon ignorance of conditions or misunderstanding of the specifications.
9. Patent indemnity: Consultants who do business with the District shall hold the Alameda County Flood Control and Water Conservation District, the County of Alameda, their officers, agents and employees, harmless from liability of any nature or kind, including cost and expenses, for infringement or use of any patent, copyright or other proprietary right, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the contract or purchase order.
10. Insurance certificates are not required at the time of submission. However, by signing Exhibit A, Consultant Information and Acceptance, the Consultant agrees to meet the minimum insurance requirements stated in the RFQ. This documentation must be provided to the District, prior to award, and shall include an insurance certificate and additional insured certificate naming the Alameda County Flood Control and Water Conservation District and the County of Alameda, which meets the minimum insurance requirements, as stated in the RFQ/P.
11. The undersigned acknowledges **ONE** of the following (please check only one box):
 - Consultant is not local to Alameda County and is ineligible for any evaluation preference points; OR
 - Consultant is a certified SLEB and is requesting 5% evaluation preference; (Consultant must check the first box and provide its SLEB Certification Number in the Attachment (d) SLEB PARTNERING INFORMATION SHEET); OR
 - Consultant is LOCAL to Alameda County and is requesting 5% evaluation preference points **and has attached the following documentation to this Exhibit:**
 - Copy of verifiable business license, issued by the County of Alameda or a City within the County; AND
 - Proof of six (6) months business residency, identifying the name of the vendor and the local address. Utility bills, deed of trusts or lease agreements, etc., are acceptable verification documents to prove residency.

Official Name of Consultant _____

Street Address Line 1 _____

Street Address Line 2 _____

City _____ State _____ Zip Code _____

Webpage _____

Type of Entity/Organizational Structure (check one):

- | | |
|--|--|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Joint Venture |
| <input type="checkbox"/> Limited Liability Partnership | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Limited Liability Corporation | <input type="checkbox"/> Non-Profit/Church |
| <input type="checkbox"/> Other: _____ | |

Jurisdiction of Organization Structure _____

Date of Organization Structure _____

Federal Tax Identification Number _____

DIR Contractor Registration Number (if applicable): _____

Primary Contact Information

Name/Title _____

Telephone No. _____ Fax No. _____

E-mail Address _____

12. Addendum Acknowledgement: The Proposer has verified that the following is a complete list of addenda issued prior to the submittal deadline. Receipt of the following addenda is hereby acknowledged and all changes have been incorporated in the Statement of Qualifications. Failure to acknowledge will cause the Statement of Qualifications to be considered non-responsive.

Addendum No. _____, dated _____ Addendum No. _____, dated _____

Addendum No. _____, dated _____ Addendum No. _____, dated _____

The undersigned acknowledges receipt of above referenced RFQ and/or Addenda and offers and agrees to furnish the articles and/or services specified on behalf of the firm indicated below, in accordance with the specifications, terms and conditions of this RFQ Acknowledgement.

Signature _____

Print Name _____

Title _____

Dated this _____ Day of _____ 20 _____



EXHIBIT A
Attachment (b)

REFERENCES
(Include Three)

RFQ/P No. FLO202409109
For
STRATEGIC AND TECHNICAL SUPPORT SERVICES

Consultant Name: _____

Company Name:	Contact Person:
Address:	Telephone Number:
City, State, Zip:	E-mail Address:
Services Provided/Date(s) of Service	

Company Name:	Contact Person:
Address:	Telephone Number:
City, State, Zip:	E-mail Address:
Services Provided/Date(s) of Service	

Company Name:	Contact Person:
Address:	Telephone Number:
City, State, Zip:	E-mail Address:
Services Provided/Date(s) of Service	



COUNTY OF ALAMEDA
SMALL, LOCAL AND EMERGING BUSINESS PROGRAM
SLEB CERTIFICATION INSTRUCTIONS

1. Complete the application form

3 Easy Steps

Program Definitions

Local Business: A business having a fixed office with a street address in Alameda County for a minimum period of 6 months and a valid business license issued by the County or a City within Alameda County

Small Business: A business which has been certified by the County as local and meets the U.S. Business Administration (SBA) size standards for its classification. Size standards and classification codes information available at <https://www.naics.com/search/>

Emerging Business: A business which has been certified by the County as local and meet less than one half of the U.S. SBA size standards for its classification and has been in business less than 5 years.

If you own less than 51% interest in your business, please indicate other owner(s) name(s), title(s) and percentage of ownership. List all current business and professional licenses. If you have been in business for less than three years, please provide your actual gross receipts received for the period that you have been in business. If you have not been in business for a complete tax year, please provide actual gross receipts to date. If any item on the application form is not applicable, please put "N/A" in the designated area. If additional space is needed, please attach additional sheet(s).

2. Please sign* and mail Application to:

Alameda County Auditor-Controller Agency
Office of Contract Compliance
1221 Oak Street, Room 249
Oakland, CA 94612

*The application form must be signed by the owner, principal partner or authorized officer of the corporation. We will contact you within 10 days to schedule a site visit upon receipt of your application.

3. On-site Visit

The following items must be available for our review during the visit to your business address:

- Signed Federal Tax Returns showing Gross Business Receipts for the last 3 years**
- Business Licenses
- Current Identification (i.e. Driver's License, Identification Card)
- Deed, Rental or Lease Agreement showing Business Address

**Personal Net Worth Statement (if the business has never filed taxes)

If you have questions regarding your certification, please contact:

Office of Contract Compliance Tel: (510) 891-5500 Fax: 510-272-6502 or Email:
ACSLEBcompliance@acgov.org

Thank you for your interest in doing business with Alameda County.

East Bay Interagency Alliance (EBIA)

COMMON APPLICATION for LOCAL CERTIFICATION

Alameda County – Alameda County Transportation Commission – City of Oakland – Port of Oakland

Submittal Date: _____

Check Certifying Agency for Supplemental:

- Alameda County – No supplemental required
- Alameda County Transportation Commission – Complete **Supplement B**
- City of Oakland – Complete **Supplement C**
- Port of Oakland – Complete **Supplement D**
- All the above

The Common Application is a sharing of information between agencies and NOT a reciprocal certification.

1) Contact Information

Legal Name of Entity		Contact Person (Name & Title)	
Street Address of Entity (No P.O. Box)			
City	State	Zip Code	County
Telephone () ()	Fax # () ()	Cell# () ()	
Email Address		Web Site	

2) Company Profile

Primary Service undertaken/offered:		Specialty Service undertaken/offered:	
Date Entity was established (mm/dd/yr)	Does the entity have one or more additional offices outside the city of Oakland, CA? <input type="checkbox"/> Y <input type="checkbox"/> N If yes, list other location(s)	Date Oakland office was established (mm/dd/yr)	
Method of Acquisition	<input type="checkbox"/> New <input type="checkbox"/> Merger or consolidation	<input type="checkbox"/> Purchased existing <input type="checkbox"/> Inherited	<input type="checkbox"/> Secured concession <input type="checkbox"/> Other (explain)
Federal ID Number:			
Has this entity operated under a different name during the past five years? <input type="checkbox"/>			
Type of Firm <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Joint Venture <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Partnership <input type="checkbox"/> Limited Liability Corporation <input type="checkbox"/> Publicly traded entity <input type="checkbox"/> Non-Profit or Church <input type="checkbox"/> Other _____		Ethnicity Group of owners(s) that own greater than 50% of the business. (for tracking purposes only) <input type="checkbox"/> African American <input type="checkbox"/> Asian <input type="checkbox"/> Asian Pacific /Hawaiian <input type="checkbox"/> Asian Indian <input type="checkbox"/> Caucasian <input type="checkbox"/> Filipino <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Multi ethnic ownership <input type="checkbox"/> Multi ethnic minority ownership <input type="checkbox"/> Other _____	
		Gender (for tracking purposes only) <input type="checkbox"/> Male <input type="checkbox"/> Female	
Gross Receipts for the last three recent fiscal years: Please attach copies of appropriate tax returns: (e.g. Form 990, Form 1040, Form 1120, etc)			
	Year Ended _____	Total Receipts \$ _____	
	Year Ended _____	Total Receipts \$ _____	
	Year Ended _____	Total Receipts \$ _____	

2) Company Profile: (Continue)

Number of Employees at the local office Permanent Full time ____ Permanent Part time ____	Temporary Full Time ____ Temporary Part Time ____	Seasonal Full Time ____ Seasonal Part Time ____
TOTAL Number of Employees at all locations. Permanent Full time ____ Permanent Part time ____	Temporary Full Time ____ Temporary Part Time ____	Seasonal Full Time ____ Seasonal Part Time ____

3) Certifications:

Name of Issuing Authority	Type	Number	Expiration Date
City / County Business Tax Certificate			
Internal Revenue Service (required) – If your firm is a Non-Profit, submit the Letter of Determination of Not For Profit Status.			
State of CA /CUCP Certification for DBE/ACDBE firm			
State of CA /SBA Certification for Small firm			
Other Certification			
Other Certification			
Other Certification			

4) Professional Licenses, Permits and/or Certificates (e.g. contractor, architect, engineer, etc. – list all that apply - attach copies. List on a separate page if additional space is needed)

Name of Issuing Authority	Type	Number	Expiration Date
State of CA Contractor’s License Board – Contractor’s License:			
State of CA Professional Service License or Permit:			
State of CA Service Provider License or Permit:			
Other:			
Other:			

5) NAICS Codes: Please review the NAICS¹ listing of work codes and indicate below your areas of expertise ranked in order of importance (begin with primary and specialty areas as indicated in the Company Profile section) NAICS Codes can be found at: <https://www.naics.com/search/> & <https://www.census.gov/naics/>. Add separate sheet for additional NAICS codes if needed.

NAICS Code	Description of Work

6) Additional Information:

Are you a Trucking Firm? Yes No Are you a Truck Broker? Yes No Both? Yes No
A supplier? Yes No

7) When submitting this application to any of the checked Certification Taskforce members, I consent to the sharing of information contained herein and declare under penalty of perjury that statements in this application are true and correct. Yes No _____

Signature

Print Name

Title

Date

¹ North American Industry Classification System – www.naics.com
Rev. 05/2011

SMALL LOCAL EMERGING BUSINESS (SLEB) PARTNERING INFORMATION SHEET

In order to meet the Small Local Emerging Business (SLEB) requirements of this RFP, all Bidders must complete this form. If a bidder is unable to meet the SLEB requirements, they must take exception to this requirement in the [Exceptions and Clarifications](#) section of this solicitation. Please note that the County is under no obligation to accept any exceptions or clarifications, and any exceptions or clarifications may be the basis for bid disqualification.

Bidders that are not certified SLEBS (for the definition of a SLEB, see [Alameda County SLEB Program Overview; \[http://acgov.org/auditor/sleb/overview.htm\]](#)) are required to subcontract with a SLEB for at least 20% of the total estimated bid amount in order to be eligible for contract award. SLEB subcontractors must be independently owned and operated from the prime Contractor with no employees of either entity working for the other. A copy of this form must be submitted for each SLEB that the Bidder will subcontract with as evidence of a firm contractual commitment to meeting the SLEB participation requirement.

Bidders are encouraged to form a partnership with a SLEB that can participate directly with this contract. One of the benefits of the partnership will be economical, but this partnership will also assist the SLEB to grow and build the capacity to eventually bid as a prime on their own.

Once a contract has been awarded, substitutions of the named subcontractor(s) are not allowed without prior written approval from the Auditor-Controller, Office of Contract Compliance & Reporting (OCCR).

County departments, prime, and subcontractors are required to use the web-based Elation Systems to monitor SLEB subcontractor compliance with [Elation Systems; \[http://www.elationsys.com/elationsys/\]](#).

<input type="checkbox"/> BIDDER IS A CERTIFIED SLEB (sign at bottom of page) SLEB BIDDER Business Name: _____ SLEB Certification #: _____ SLEB Certification Expiration Date: _____ NAICS Codes Included in Certification: _____
--

OR

<input type="checkbox"/> BIDDER IS NOT A CERTIFIED SLEB AND WILL SUBCONTRACT ____% WITH THE SLEB NAMED BELOW FOR THE FOLLOWING GOODS/SERVICES: _____ SLEB Subcontractor Business Name: _____ SLEB Certification #: _____ SLEB Certification Expiration Date: _____ SLEB Certification Status: <input type="checkbox"/> Small / <input type="checkbox"/> Emerging NAICS Codes Included in Certification: _____ SLEB Subcontractor Principal Name: _____ SLEB Subcontractor Principal Signature: _____
--

<p>Upon award, Bidder (the Prime Contractor) and all SLEB subcontractors agree to register and use the secure web-based ELATION SYSTEMS. ELATION SYSTEMS will be used to submit SLEB subcontractor participation, including, but not limited to, subcontractor contract amounts, payments made, and confirmation of payments received.</p>

Prime Bidder Authorized Signatory Name/Title: _____ / _____

Street Address: _____ **City** _____ **State** _____ **Zip Code** _____

Bidder Signature: _____ **Date:** _____

COUNTY OF ALAMEDA

REQUEST FOR PREFERENCE

PLEASE READ AND COMPLETE THIS FORM CAREFULLY:

IF YOU ARE A PRIME FIRM WHO IS A **LOCAL BUSINESS**, AND/OR A **CERTIFIED SMALL AND LOCAL BUSINESS** OR A **CERTIFIED EMERGING AND LOCAL BUSINESS**, COMPLETE THIS FORM AND RETURN IT WITH YOUR RFP/SOQ SUBMITTAL.

Subject to the requirements of the SLEB program and the criteria of each procurement process, the maximum proposal evaluation preference points for being certified is 10% (5% local & 5% certified). Compliance with the SLEB program is required for architectural, landscape architectural, engineering, environmental land surveying, and construction project management services projects.

Check the appropriate boxes below (2 maximum) and provide the requested information.

<input type="checkbox"/> Request for 5% LOCAL Proposal Preference (Complete 1-4, print name, title, sign and date below) Submit the following:			
<ul style="list-style-type: none"> • Copy of a verifiable business license, issued by the County of Alameda or a City within the County; and • Proof of six (6) months business residency, identifying the name of the vendor and the local address. Utility bills, deed of trusts or lease agreements, etc., are acceptable verification documents to prove residency. 			
1. Company Name			
2. Street Address			
3. Telephone Number			
4. Business License #			
(Check One) <input type="checkbox"/> Request for 5% SMALL Local Business Proposal Preference <i>OR</i> <input type="checkbox"/> Request for 5% EMERGING Local Business Proposal Preference (Complete certification information below)			
SLEB Certification #:		SLEB Certification Expiration Date	/ /
NAICS Codes Included in SLEB Certification			

The Undersigned declares that the foregoing information is true and correct:

Print/Type Name: _____

Print/Type Title: _____

Signature: _____

Date: _____



EXHIBIT A

Attachment (d)

EXCEPTIONS, CLARIFICATIONS, AMENDMENTS

RFQ/P No. FLO202409109
 For
STRATEGIC AND TECHNICAL SUPPORT SERVICES

Consultant: _____

List below requests for clarifications, exceptions and amendments, if any, to the RFQ/P and associated documents, and submit with your response.

The County is under no obligation to accept any exceptions and such exceptions may be a basis for bid disqualification.

Reference to:			Description
Page No.	Section	Item No.	
p. 23	D	1.c.	<i>Vendor takes exception to...</i>
EXAMPLE			

*Print additional pages as necessary



EXHIBIT A

Attachment (e)

DEBARMENT AND SUSPENSION CERTIFICATION

For Procurements Over \$25,000

RFQ/P No. FLO202409109

For

STRATEGIC AND TECHNICAL SUPPORT SERVICES

The bidder, under penalty of perjury, certifies that, except as noted below, bidder, its Principal, and any named and unnamed subcontractor:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

If there are any exceptions to this certification, insert the exceptions in the following space. For any exception noted, indicate to whom it applies, initiating agency, and dates of action. Exceptions will not necessarily result in denial of the award but will be considered in determining Contractor responsibility.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof will also constitute the signature of this Certification.

CONSULTANT: _____

NAME OF AUTHORIZED SIGNER: _____ TITLE: _____

SIGNATURE: _____ DATE: _____



EXHIBIT A

Attachment (f)

IRAN CONTRACTING ACT COMPLIANCE CERTIFICATE

(for contracts of \$1,000,000 or more)

COUNTY OF ALAMEDA

The Iran Contracting Act (ICA) of 2010

The California Legislature adopted the Iran Contracting Act (ICA) to respond to policies of Iran in a uniform fashion (PCC § 2201(q)). The ICA prohibits persons engaged in investment activities in Iran from bidding on, submitting proposals for, or entering into or renewing contracts with public entities for goods and services of one million dollars (\$1,000,000) or more (PCC § 2203(a)). A person who “engages in investment activities in Iran” is defined in either of two ways:

1. The person provides goods or services of twenty million dollars (\$20,000,000) or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
2. The person is a financial institution (as that term is defined in 50 U.S.C. § 1701) that extends twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created by the California Department of General Services (DGS) pursuant to PCC § 2201(b) as a person engaging in the investment activities described in paragraph 1 above.

By signing below, I hereby certify that as of the time of bidding or proposing for a new contract or renewal of an existing contract, neither I nor the company I own or work for are identified on the DGS list of ineligible persons and neither I nor the company I own or work for are engaged in investment activities in Iran in violation of the Iran Contracting Act of 2010.

If either I or the company I own or work for are ineligible to bid or submit a Statement of Qualifications or to renew a contract, but I believe I or it qualifies for an exception listed in PCC § 2202(c), I have described in detail the nature of the exception:

FIRM NAME: _____

PRINCIPAL: _____ TITLE: _____

SIGNATURE: _____ DATE: _____

EXHIBIT B
COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following minimum insurance coverage, limits and endorsements:

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
A	Commercial General Liability Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability	\$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
B	Commercial or Business Automobile Liability All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability is acceptable for individual contractors with no transportation or hauling related activities	\$1,000,000 per occurrence (CSL) Any Auto Bodily Injury and Property Damage
C	Workers' Compensation (WC) and Employers Liability (EL) Required for all contractors with employees	WC: Statutory Limits EL: \$1,000,000 per accident for bodily injury or disease
D	Professional Liability/Errors & Omissions Includes endorsements of contractual liability and defense and indemnification of the County	\$1,000,000 per occurrence \$2,000,000 project aggregate
E	<p>Endorsements and Conditions:</p> <ol style="list-style-type: none"> 1. ADDITIONAL INSURED: All insurance required above with the exception of Professional Liability, Commercial or Business Automobile Liability, Workers' Compensation and Employers Liability, shall be endorsed to name as additional insured: Alameda County Flood Control and Water Conservation District (District), its Board of Supervisors, the individual members thereof, and all District and County of Alameda officers, agents, employees, volunteers, and representatives. The Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13. 2. DURATION OF COVERAGE: All required insurance shall be maintained during the entire term of the Agreement. In addition, Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until 3 years following the later of termination of the Agreement and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement. 3. REDUCTION OR LIMIT OF OBLIGATION: All insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to the County. The primary and non-contributory endorsement shall be at least as broad as ISO Form 20 01 04 13. Pursuant to the provisions of this Agreement insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties. 4. INSURER FINANCIAL RATING: Insurance shall be maintained through an insurer with a A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to the County. Acceptance of Contractor's insurance by County shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. 5. SUBCONTRACTORS: Contractor shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this Exhibit. The additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13. 6. JOINT VENTURES: If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods: <ul style="list-style-type: none"> - Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured" (covered party), or at minimum named as an "Additional Insured" on the other's policies. Coverage shall be at least as broad as in the ISO Forms named above. - Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured." 7. CANCELLATION OF INSURANCE: All insurance shall be required to provide thirty (30) days advance written notice to the County of cancellation. 8. CERTIFICATE OF INSURANCE: Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to County, evidencing that all required insurance coverage is in effect. The County reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The required certificate(s) and endorsements must be sent as set forth in the Notices provision. 	

EXHIBIT C
SAMPLE PROFESSIONAL SERVICES AGREEMENT

SAMPLE DOCUMENT STARTS ON NEXT PAGE

Professional Services Agreement

With

Consultant Name

for

On-call Strategic Professional and Technical Support Services

Contract No. #####

Alameda County Flood Control and Water Conservation District

AGREEMENT BETWEEN
THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
AND
CONSULTANT NAME

This AGREEMENT is made this the _____ day of _____, 2024, in the City of Oakland, State of California, by and between **CONSULTANT NAME, ADDRESS**, hereinafter referred to as “CONSULTANT” and the **Alameda County Flood Control and Water Conservation District**, a political subdivision of the State of California, hereinafter referred to as “DISTRICT.”

AGREEMENT

1. Definitions

Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Agreement, it shall have the meaning herein set forth.

AGREEMENT This Agreement together with all attachments and appendices and other documents incorporated herein by reference, including, but not limited to, Appendices “A”, “B”, “C”, “D”, “E”, and “F” attached hereto.

CONSULTANT **CONSULTANT NAME**

DISTRICT Alameda County Flood Control and Water Conservation District

Project The DISTRICT’s project – On-call Strategic Professional and Technical Support Services - as further described in Appendix “A”, Scope of Services

Services All work, labor, materials, and services required under the terms and conditions of this Agreement, provided pursuant to the terms and conditions of this Agreement, including without limitation architectural, engineering, coordination and administrative services.

Subconsultant or Subcontractor CONSULTANT’s consultants, subconsultants, contractors and subcontractors, of any tier.

2. Term of Agreement

All work comprising the Services shall be deemed performed under this Agreement. The contract period will be from _____, 2024 through December 31, 2029.

3. Services Consultant Agrees to Perform

3.1 CONSULTANT shall perform all Services described in Appendix “A”, “Scope of Services” to be provided by CONSULTANT, attached hereto and incorporated by reference as though fully set forth herein.

3.2 CONSULTANT and DISTRICT shall mutually agree upon a specific work requirement, time frames for completion and cost in writing prior to commencement of each task. It is anticipated that most tasks will be performed on a “time and material” basis and in such cases, proposed cost should be expressed as an “estimated cost”, and rates of payment shall be as shown in the Fee Schedule Appendix B-1. CONSULTANT shall complete all Services required by this Agreement within the times specified by mutual agreement. CONSULTANT shall achieve its agreed-upon time frames unless an excusable event causes delay (excusable delay), and unless CONSULTANT gives written notice of the excusable event and requests a time extension within ten days of the occurrence of the excusable event. (Excusable events shall be limited to acts of neglect by District or District’s agents or CONSULTANTS when acting at District’s direction, breaches of this Agreement by District, Acts of God such as fire, flood, earthquake, unforeseeable pandemic, or delay by a construction contractor during the construction phase of the Project, or any other circumstances beyond CONSULTANT’S reasonable control).

If the period of excusable delay caused by an excusable event concurs with a Consultant-caused or other non-excusable delay, District may (but shall not be required to) grant a time extension without compensation. The

COVID-19 pandemic shall not constitute an excusable event or be deemed a cause of excusable delay.

- 3.3 CONSULTANT may recover extra costs resulting from excusable delay upon showing that the costs claimed (i) resulted from time and/or expenses actually incurred in performing Services, (ii) were incurred by CONSULTANT as a direct result of the delay and not otherwise within CONSULTANT's scope of Services, and (iii) are documented to the DISTRICT's satisfaction. (For example, and not by way of limitation, contract punch list and final inspection Services, whenever performed, and Services related to correcting deficiencies in CONSULTANT's work, shall not entitle CONSULTANT to extra costs).
- 3.4 Should the progress of the Services under this AGREEMENT at any time fall behind schedule for any reason other than excusable delays, CONSULTANT shall apply such additional manpower and resources as necessary to bring progress of the Services under this AGREEMENT back on schedule and consistent with the standard of professional skill and care required by this AGREEMENT. Time is of critical importance in the performance of this AGREEMENT.

4. Compensation

- 4.1 DISTRICT shall pay CONSULTANT compensation according to the Payment Terms established in Appendix "B," Payments to CONSULTANT. DISTRICT shall pay CONSULTANT in monthly payments on or before the last day of each month for Services properly invoiced by the CONSULTANT which have been properly performed as of the last day of the immediately preceding month and for which payment is due under Appendix "B".
- 4.2 DISTRICT shall not incur any charges under this AGREEMENT, nor shall any payments become due to CONSULTANT for any payment period on the Project, until DISTRICT receives all deliverables required under Appendix "A" for the payment period (if any) and reasonably accepts such deliverables as meeting the requirements of this AGREEMENT. In cases where CONSULTANT has partially completed one or more deliverables due during a payment period, and if CONSULTANT demonstrates diligent progress thereon, then DISTRICT may make a partial progress payment based upon CONSULTANT's percentage completion of the partially completed deliverables and diligent progress but taking into account any adverse impacts upon DISTRICT.
- 4.3 DISTRICT will not withhold entire payment if a questioned amount is involved, but will issue payment in the amount of the total invoice less any questioned amount(s). DISTRICT will make payment for questioned amount(s) upon DISTRICT's receipt of any requested documentation verifying the claimed amount(s) and DISTRICT's determination that the amount is due under the terms of this AGREEMENT. DISTRICT shall advise CONSULTANT of its determination, in writing, within 15 days of receipt of the requested documentation. Final payment will be made when all Services required under this AGREEMENT have been completed to the reasonable satisfaction of DISTRICT including, without limitation, CONSULTANT's transmittal of all deliverables to DISTRICT required by Appendix "A."
- 4.4 Invoices furnished by CONSULTANT under this AGREEMENT must be in a form acceptable to DISTRICT. All amounts paid by DISTRICT to CONSULTANT shall be subject to audit by DISTRICT. Payment shall be made by DISTRICT to CONSULTANT at the address stated hereinabove.
- 4.5 DISTRICT may set off against payments due CONSULTANT under this AGREEMENT any sums that DISTRICT determines that CONSULTANT owes to DISTRICT because of CONSULTANT's errors, omissions, breaches of this AGREEMENT, delays or other acts which caused DISTRICT monetary damages. Prior to exercising such right, DISTRICT must demand and attend mediation pursuant to Section 27.3 of this AGREEMENT, to be attended by DISTRICT, CONSULTANT, and any applicable insurance carriers; such mediation to occur within 30 days of demand. If the parties cannot agree upon the time, place, and mediator, within one week of the DISTRICT's demand, then the Alameda County Superior Court may upon application by any party make such selection for the parties. If a party other than DISTRICT refuses to mediate under this Section, then DISTRICT shall have satisfied its obligations under this Section.

5. Maximum Costs

- 5.1 DISTRICT's obligation hereunder shall not at any time exceed the amount approved by the Board of Supervisors for payment to the CONSULTANT pursuant to the terms of this AGREEMENT.
- 5.2 Except as may be provided by applicable law governing emergency conditions, DISTRICT has not authorized its employees, officers and agents to request CONSULTANT to perform Services or to provide materials, equipment and supplies that would result in CONSULTANT performing Services or providing materials, equipment and supplies that exceed the scope of the Services, unless the DISTRICT amends the AGREEMENT in writing and approves the amendment as required by law to authorize the additional Services, materials, equipment or supplies.
- 5.3 DISTRICT shall not reimburse CONSULTANT for Services, materials, equipment or supplies provided by

CONSULTANT beyond the scope of the Services, materials, equipment and supplies agreed upon in the AGREEMENT and unless approved by a written amendment to the AGREEMENT having been executed and approved in the same manner as this AGREEMENT.

6. Qualified Personnel

- 6.1 For purposes of this AGREEMENT, except for notices specified under Section 17 below, DISTRICT shall direct all communications to CONSULTANT through **NAME, TITLE, ADDRESS** and CONSULTANT shall direct all communications to "DISTRICT" through DISTRICT's Project Manager.
- 6.2 Services under this AGREEMENT shall be performed only by competent personnel under the supervision of and/or in the employment of CONSULTANT. CONSULTANT shall conform with DISTRICT's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at DISTRICT's request, shall be supervised by CONSULTANT.
- 6.3 CONSULTANT agrees that all professional personnel assigned to the Project will be listed in its proposal, Appendix "A", attached hereto and by this reference incorporated herein, and that the listed personnel will continue their assignments on the Project during the entire term of this AGREEMENT. It is recognized that the listed personnel are not bound by personal employment contracts to CONSULTANT. CONSULTANT agrees that reassignment of any of the listed personnel during the AGREEMENT period shall only be with other professional personnel who have equivalent experience and shall require the prior written approval of DISTRICT. Any costs associated with reassignment of personnel shall be borne exclusively by CONSULTANT.
- 6.4 CONSULTANT agrees that should the above personnel not continue their assignments on the Project during the entire term of this AGREEMENT, then CONSULTANT shall not charge DISTRICT for the cost of training or "bringing up to speed" replacement personnel. DISTRICT may condition its reasonable approval of substitution personnel upon a reasonable transition period wherein new personnel will learn the Project and get up to speed at CONSULTANT's cost.

7. Representations

- 7.1 CONSULTANT represents that it has reviewed Appendix "A," "Scope of Services" to be provided by CONSULTANT, and that in its professional judgment the Services to be performed under this AGREEMENT can be performed for a fee within the maximum amount set forth in the "Payment Terms" to CONSULTANT established in Appendix "B." Billing rates for CONSULTANT shall be from the "Fee Schedule Rates" established in Appendix "B-1."
- 7.2 CONSULTANT represents that it is qualified to perform the Services and that it possesses the necessary licenses and/or permits required to perform the Services or will obtain such licenses and/or permits prior to the time such licenses and/or permits are required. CONSULTANT also represents that it has reasonable knowledge of all applicable building codes, laws, regulations and ordinances.
- 7.3 CONSULTANT represents that it and its sub-consultants have specialized expertise in engineering services similar to those intended for the Project. CONSULTANT agrees that the Services shall be performed in a manner that conforms to the standards of engineering practice observed by a specialist in performing services similar to the Services. CONSULTANT agrees that for a period of one year after the completion of the Services or at the final acceptance of the construction resulting from the Services, whichever is later, it will re-perform or replace any part or all of the Services deemed by DISTRICT to be defective and/or not meeting the above standard.
- 7.4 The granting of any progress payment by DISTRICT, or the receipt thereof by CONSULTANT, or any inspection, review, approval, or oral statement by any representative of DISTRICT or any other governmental entity, shall in no way waive or limit the obligations in this Section 7 or lessen the liability of CONSULTANT to re-perform or replace unsatisfactory Services to the extent required by Section 7.3 above, including but not limited to cases where the defective or below standard Services may not have been apparent or detected at the time of such payment, inspection, review, or approval.

8. Indemnification and General Liability

- 8.1 To the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782.8), Consultant shall indemnify, defend, and hold harmless the DISTRICT, and its officers, agents, departments, officials, representatives and employees (collectively "Indemnitees") from and against any and all claims, losses, damages, injuries (including, without limitation, injury to or death of an employee of Consultant or its Subconsultants), expenses, liabilities of every kind, nature and description (including, without limitation, incidental special and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) to the extent they arise from, or are brought

for, or on account of any loss or cost arising out of, pertaining to, relating to or resulting from Consultant's negligence, recklessness, or willful misconduct in connection with the performance of any work performed under this Contract by the Consultants as a design professional; provided that this duty shall not apply to injuries or damages for which the DISTRICT has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence, recklessness, or willful misconduct.

- 8.2 Consultant shall defend (with legal counsel reasonably acceptable to the DISTRICT), indemnify and hold harmless the Indemnitees from all loss, cost, damage, expense, liability or claims, in law or in equity, including attorneys' fees, court costs, litigation expenses and fees of expert consultants or expert witnesses, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by DISTRICT, or any of the other Indemnitees, of Articles or Services to be supplied in the performance of this Agreement.
- 8.3 [Intentionally Omitted]
- 8.4 CONSULTANT shall place in its subconsulting agreements and cause its Subconsultants to agree to indemnities and insurance obligations in favor of DISTRICT and other Indemnitees in the exact form and substance of those contained in this AGREEMENT. Consultant shall require all subconsultants to comply with all indemnification and insurance requirements of this Agreement, including, without limitation, Appendix "C." Consultant shall verify subconsultant's compliance.
- 8.5 DISTRICT acknowledges that the discovery, presence, handling or removal of asbestos products, polychlorinated biphenyl (PCB) or other hazardous substances which may presently exist at the Project site is outside of CONSULTANT's expertise and is not included in the Scope of Services CONSULTANT is to perform nor included in CONSULTANT's insurance. DISTRICT shall hire an expert CONSULTANT in this field if the Project involves such materials. CONSULTANT shall not be responsible or be involved in any way with the discovery, presence, handling or removal of such materials. CONSULTANT shall be responsible to coordinate with DISTRICT's expert CONSULTANT as required by Appendix "A," Scope of Services to be provided by CONSULTANT.

9. Liability of District

- 9.1 Except as provided in Appendix "A," Scope of Services to be Provided by CONSULTANT, and Appendix "C," Insurance, DISTRICT's obligations under this AGREEMENT shall be limited to the payment of the compensation provided for in Sections 3, 4, and 5 of this AGREEMENT.
- 9.2 Notwithstanding any other provision of this AGREEMENT, in no event shall DISTRICT be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this AGREEMENT or the Services performed in connection with this AGREEMENT.
- 9.3 DISTRICT shall not be responsible for any damage to persons or property as a result of the use, misuse, or failure of any equipment used by CONSULTANT, or by any of its employees, even though such equipment be furnished, rented, or loaned to CONSULTANT by DISTRICT. The acceptance or use of such equipment by CONSULTANT or any of its employees shall be construed to mean that CONSULTANT accepts full responsibility for and agrees to exonerate, indemnify, defend, and save harmless DISTRICT from and against any and all claims for any damage or injury of any type, including attorneys' fees, arising from the use, misuse or failure of such equipment, whether such damage be to the CONSULTANT, its employees, DISTRICT employees or third parties, or to property belonging to any of the above except to the extent caused by the sole negligence of willful misconduct of DISTRICT.
- 9.4 Nothing in this AGREEMENT shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which DISTRICT may have under this AGREEMENT or any applicable law. All rights and remedies of DISTRICT, whether under this AGREEMENT or other applicable law, shall be cumulative.

10. Independent Contractor; Payment of Taxes, and Other Expenses

- 10.1 CONSULTANT shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which CONSULTANT performs the Services required of CONSULTANT by the terms of this AGREEMENT. CONSULTANT shall be liable for the acts and omissions of its Subconsultants, its employees and its agents.
- 10.2 Nothing contained herein shall be construed as creating an employment, agency, or joint venture relationship between DISTRICT and CONSULTANT. CONSULTANT acknowledges that neither it nor any of its employees or agents shall, for any purpose whatsoever, be deemed to be DISTRICT employees, and shall not be entitled to receive any benefits conferred on DISTRICT employees, including without limitation workers' compensation,

pension, health, insurance, or other benefits.

- 10.3 CONSULTANT shall be solely responsible for payment of any required taxes, including California sales and use taxes, and United States income tax withholding and social security taxes, levied upon this AGREEMENT, the transaction, or the Services delivered pursuant hereto.
- 10.4 CONSULTANT shall be available as much as reasonably possible to DISTRICT staff during the DISTRICT's normal working hours or as otherwise requested by DISTRICT. Terms in this AGREEMENT referring to direction from DISTRICT shall be construed as providing for direction as to policy and the result of CONSULTANT's Services only and not as to the means by which such a result is obtained.
- 10.5 Nothing in this AGREEMENT shall operate to confer rights or benefits on persons or entities who are not parties to this AGREEMENT.

11. Insurance

- 11.1 Prior to execution of this Contract, CONSULTANT shall furnish to DISTRICT satisfactory proof that it maintains the insurance required by this Contract as set forth in Appendix "C," "Insurance," which is attached and made a part of this Contract. In the event CONSULTANT fails to maintain any required insurance, DISTRICT may (but is not obligated to) purchase such insurance and deduct or retain premium amounts from any sums due CONSULTANT under this Contract (or CONSULTANT shall promptly reimburse DISTRICT for such expense).

12. Suspension of Services

- 12.1 DISTRICT may, without cause, order CONSULTANT to suspend, delay, or interrupt ("suspend") Services pursuant to this AGREEMENT, in whole or in part, for such periods of time as DISTRICT may determine in its sole discretion. DISTRICT shall deliver to CONSULTANT written notice of the extent of the suspension at least seven (7) calendar days before the commencement thereof. Suspension shall be treated as an excusable delay and CONSULTANT shall be compensated for such delay to the extent provided under this AGREEMENT.
- 12.2 Notwithstanding anything to the contrary contained in this Section, no compensation shall be made to the extent that performance is, was or would have been so suspended, delayed or interrupted by a cause for which CONSULTANT is responsible.

13. Termination of Agreement for Cause

- 13.1 If at any time DISTRICT believes CONSULTANT may not be adequately performing its obligations under this AGREEMENT, DISTRICT believes that CONSULTANT may be failing to complete the Services as required by this AGREEMENT, or DISTRICT has provided written notice of observed deficiencies in CONSULTANT's performance, DISTRICT may request from CONSULTANT prompt written assurances of performance and a written plan to correct the observed deficiencies in CONSULTANT's performance. CONSULTANT shall provide such written assurances and written plan within ten calendar days of receipt of the written request. CONSULTANT acknowledges and agrees that any failure to provide written assurances and a written plan to correct observed deficiencies, in the required time, is a material breach under this AGREEMENT.
- 13.2 CONSULTANT shall be in default of this AGREEMENT and DISTRICT may, in addition to any other legal or equitable remedies available to DISTRICT, terminate CONSULTANT's right to proceed under the AGREEMENT, for cause:
 - 13.2.1 Should CONSULTANT make an assignment for the benefit of creditors, admit in writing its inability to pay its debts as they become due, file a voluntary petition in bankruptcy, be adjudged a bankrupt or insolvent, file a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law, or regulation, file any answer admitting or not contesting the material allegations of a petition filed against CONSULTANT in any such proceeding, or seek, consent to, or acquiesce in, the appointment of any trustee, receiver, custodian or liquidator of CONSULTANT or of all or any substantial part of the properties of CONSULTANT, or if CONSULTANT, its directors or shareholders, take action to dissolve or liquidate CONSULTANT; or
 - 13.2.2 Should CONSULTANT commit a material breach of this AGREEMENT and not cure such breach within ten (10) calendar days of the date of written notice from DISTRICT to CONSULTANT demanding such cure; or, if such failure is curable but not curable within such ten (10) day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for CONSULTANT to avail itself of this time period in excess of 10 calendar days, CONSULTANT must provide DISTRICT within the 10 day period a written plan acceptable to DISTRICT to cure said breach, and then diligently commence and continue

such cure according to the written plan); or

- 13.2.3 Should CONSULTANT violate or allow a violation of any valid law, statute, regulation, rule, ordinance, permit, license or order of any governmental agency in effect at the time of performance of the Services and applicable to the Project or Services and does not cure such violation within ten (10) days of the date of the notice from DISTRICT to CONSULTANT demanding such cure; or, if such failure is curable but not curable within such ten (10) day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for CONSULTANT to avail itself of this time period in excess of 10 calendar days, CONSULTANT must provide DISTRICT within the 10-day period a written plan to cure said violation acceptable to DISTRICT, and then diligently commence and continue performance of such cure according to the written plan.)

13.3 In the event of termination by County as provided herein for cause:

- 13.3.1 DISTRICT shall compensate CONSULTANT for the value of the Services delivered to DISTRICT upon termination as determined in accordance with the AGREEMENT, subject to all rights of offset and back charges, but DISTRICT shall not compensate CONSULTANT for its costs in terminating the Services or any cancellation charges owed to third parties;
 - 13.3.2 CONSULTANT shall deliver to DISTRICT possession of all tangible aspects of the Services in their then-existing condition, including but not limited to, all copies (electronic and hard copy) of designs, engineering, Project records, cost data of all types, drawings and specifications and contracts with vendors and Subconsultants, and all other documentation associated with the Project, and all supplies and aids dedicated to performing Services.
 - 13.3.3 CONSULTANT shall remain fully liable for the failure of any Services completed and drawings and specifications provided through the date of such termination to comply with the provisions of the AGREEMENT. The provisions of this Section shall not be interpreted to diminish any right which DISTRICT may have to claim and recover damages for any breach of this AGREEMENT, but rather, CONSULTANT shall compensate DISTRICT for all loss, cost, damage, expense, and/or liability suffered by DISTRICT as a result of such termination and failure to comply with the AGREEMENT.
- 13.4 In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience, and CONSULTANT shall have no greater rights than it would have had if a termination for convenience had been effected in the first instance. No other loss, cost, damage, expense, or liability may be claimed, requested, or recovered by CONSULTANT.

14. Termination of Agreement for Convenience

- 14.1 DISTRICT may terminate performance of the Services under the AGREEMENT in accordance with this Section in whole, or from time to time in part, whenever DISTRICT shall determine that termination is in the DISTRICT's best interests. Termination shall be effected by DISTRICT delivering to CONSULTANT, at least seven (7) calendar days prior to the effective date of the termination, a Notice of Termination specifying the extent to which performance of the Services under the AGREEMENT is terminated.
- 14.2 After receipt of a Notice of Termination, and except as otherwise directed by DISTRICT, CONSULTANT shall:
- 14.2.1 Stop Services under the AGREEMENT on the date and to the extent specified in the Notice of Termination;
 - 14.2.2 Place no further orders or subcontracts (including agreements with Subconsultants) for materials, Services, or facilities except as necessary to complete the portion of the Services under the AGREEMENT which is not terminated;
 - 14.2.3 Terminate all orders and subcontracts to the extent that they relate to performance of Services terminated by the Notice of Termination;
 - 14.2.4 Assign to DISTRICT in the manner, at times, and to the extent directed by DISTRICT, all right, title, and interest of CONSULTANT under orders and subcontracts so terminated. DISTRICT shall have the right, in its discretion, to settle or pay any or all claims arising out of termination of orders and subcontracts;
 - 14.2.5 Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with approval or ratification of DISTRICT to the extent DISTRICT may require. DISTRICT's approval or ratification shall be final for purposes of this clause;
 - 14.2.6 Transfer title and possession to DISTRICT, and execute all required documents and take all required actions to deliver in the manner, at times, and to the extent, if any, directed by DISTRICT, completed and uncompleted designs and specifications, Services in process, completed Services, supplies, and other material produced or fabricated as part of, or acquired in connection with performance of, Services

terminated by the Notice of Termination (including mockups and model(s)), completed or partially completed plans, drawings, information, in whatever form (i.e., hard-copy and electronic), all intellectual property rights (including without limitation, to the extent applicable, all licenses and copyright, trademark and patent rights) and all other property and property rights which, if the AGREEMENT had been completed, would have been required to be furnished to DISTRICT;

- 14.2.7 Use its best efforts to assist DISTRICT in selling, in the manner, at times, to the extent, and at a price or prices that DISTRICT directs or authorizes, any property of the types referred to in Section 14.2.6, but CONSULTANT shall not be required to extend credit to any purchaser, and may acquire any such property under conditions prescribed and at a price or prices approved by DISTRICT. All proceeds from the foregoing shall be applied to reduce payments to be made by DISTRICT to CONSULTANT under this AGREEMENT, shall otherwise be credited to the price or cost of Services covered by this AGREEMENT or be paid in such other manner as DISTRICT may direct;
- 14.2.8 Complete performance of any part of the Services which were not terminated by the Notice of Termination; and
- 14.2.9 Take such action as may be necessary, or as DISTRICT may direct, for the protection and preservation of property related to this AGREEMENT which is in CONSULTANT's possession and in which DISTRICT has or may acquire an interest.
- 14.3 After receiving a Notice of Termination, CONSULTANT shall submit to DISTRICT a termination claim, in the form and with the certification DISTRICT prescribes. The claim shall be submitted promptly but in no event later than three (3) months from the effective date of the termination, unless one or more extensions in writing are granted by DISTRICT upon CONSULTANT's written request made within such three-month period or authorized extension. However, if DISTRICT determines that facts justify such action, it may receive and act upon any such termination claim at any time after such three-month period or extension. If CONSULTANT fails to submit the termination claim within the time allowed, DISTRICT may determine, on the basis of information available to it, the amount, if any, due to CONSULTANT because of the termination. DISTRICT shall then pay to CONSULTANT the amount so determined.
- 14.4 Subject to provisions of Section 14.3, CONSULTANT and DISTRICT may agree upon the whole or part of the amount or amounts to be paid to CONSULTANT because of any termination of Services under this Section. The amount or amounts may include a reasonable allowance for profit on Services done. However, such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total AGREEMENT price as reduced by the amount of payments otherwise made and as further reduced by the AGREEMENT price of Services terminated. The AGREEMENT may be amended accordingly, and CONSULTANT shall be paid the agreed amount.
- 14.5 If CONSULTANT and DISTRICT fail, under Section 14.4, to agree on the whole amount to be paid to CONSULTANT because of termination of Services under this Section, then CONSULTANT's entitlement to compensation for Services specified in the AGREEMENT which are performed before the effective date of Notice of Termination, shall be the total (without duplication of any items) of –
- 14.5.1 Reasonable value of CONSULTANT's Services performed prior to Notice of Termination, based on CONSULTANT's entitlement to compensation under Appendix "B," "Payments Terms to CONSULTANT." Such amount or amounts shall not exceed the total AGREEMENT price as reduced by the amount of payments otherwise made and as further reduced by the AGREEMENT value of Services terminated. Deductions against such amount or amounts shall be made for deficiently performed Services, rework caused by deficiently performed Services, cost of materials to be retained by CONSULTANT, amounts realized by sale of materials, and for other appropriate credits against cost of Services. Such amount or amounts may include profit, but not in excess of 10 percent of CONSULTANT's total costs of performing the Services.
- 14.5.2 When, in the opinion of DISTRICT, the cost of any item of Services is excessively high due to costs incurred to remedy or replace defective or rejected Services (including having to re-perform Services), reasonable cost to be allowed will be the estimated reasonable cost of performing Services in compliance with the requirements of AGREEMENT and excessive actual costs shall be disallowed.
- 14.5.3 Reasonable cost to CONSULTANT of handling material returned to vendors, delivered to DISTRICT or otherwise disposed of as directed by DISTRICT.
- 14.6 Except as provided in this AGREEMENT, in no event shall DISTRICT be liable for costs incurred by CONSULTANT (or Subconsultants) after receipt of a Notice of Termination. Such non-recoverable costs include, but are not limited to, anticipated profits on the AGREEMENT or subcontracts, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, costs of preparing and submitting claims or proposals, attorney's fees or other costs relating to prosecution of the claim

or a lawsuit, pre-judgment interest, or any other expense which is not reasonable or authorized under Section 14.5.

- 14.7 This section shall not prohibit CONSULTANT from recovering costs necessary to discontinue further Services under the AGREEMENT as provided for in Section 14.2 or costs authorized by DISTRICT to settle claims from Subconsultants.
- 14.8 In arriving at amount due CONSULTANT under this Section there shall be deducted:
- 14.8.1 All unliquidated advance or other payments on account theretofore made to CONSULTANT, applicable to the terminated portion of AGREEMENT,
 - 14.8.2 Any substantiated claim which DISTRICT may have against CONSULTANT in connection with this AGREEMENT, and
 - 14.8.3 The agreed price for, or proceeds of sale of, any materials, supplies, or other things kept by CONSULTANT or sold under the provisions of this Section, and not otherwise recovered by or credited to DISTRICT.
- 14.9 If the termination for convenience hereunder is partial, before settlement of the terminated portion of this AGREEMENT, CONSULTANT may file with DISTRICT a request in writing for equitable adjustment of price or prices specified in the AGREEMENT relating to the portion of this AGREEMENT which is not terminated. DISTRICT may, but shall not be required to, agree on any such equitable adjustment. Nothing contained herein shall limit the right of DISTRICT and CONSULTANT to agree upon amount or amounts to be paid to CONSULTANT for completing the continued portion of the AGREEMENT when the AGREEMENT does not contain an established price for the continued portion. Nothing contained herein shall limit DISTRICT's rights and remedies at law.

15. Conflicts of Interest/Other Agreements

- 15.1 CONSULTANT represents that it is familiar with Section 1090 and Section 87100 et seq. of the Government Code of the State of California, and that it does not know of any facts that constitute a violation of said sections.
- 15.2 CONSULTANT represents that it has completely disclosed to DISTRICT all facts bearing upon any possible interests, direct or indirect, which CONSULTANT believes any member of DISTRICT, or other officer, agent or employee of DISTRICT or any department presently has, or will have, in this AGREEMENT, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute ground for termination of this AGREEMENT by DISTRICT for cause. CONSULTANT agrees to comply with all conflict of interest codes adopted by the County of Alameda and their reporting requirements.
- 15.3 CONSULTANT covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of Services required under this AGREEMENT. Without limitation, CONSULTANT represents to and agrees with the DISTRICT that CONSULTANT has no present, and will have no future, conflict of interest between providing the DISTRICT the Services hereunder and any interest CONSULTANT may presently have, or will have in the future, with respect to any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the DISTRICT, as determined in the reasonable judgment of the DISTRICT. The provisions of this Section 15 shall remain fully effective indefinitely after termination of Services to the DISTRICT hereunder.

16. Proprietary or Confidential Information of District; Publicity

- 16.1 CONSULTANT acknowledges and agrees that, in the performance of the Services under this AGREEMENT or in the contemplation thereof, CONSULTANT may have access to private or confidential information which may be owned or controlled by DISTRICT and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to DISTRICT. CONSULTANT agrees that all information disclosed by DISTRICT to or discovered by CONSULTANT shall be held in strict confidence and used only in performance of the AGREEMENT. CONSULTANT shall exercise the same standard of care to protect such information as a reasonably prudent CONSULTANT would use to protect its own proprietary data, and shall not accept employment adverse to the DISTRICT's interests where such confidential information could be used adversely to the DISTRICT's interests. CONSULTANT agrees to notify the DISTRICT immediately in writing if it is requested to disclose any information made known to or discovered by CONSULTANT during the performance of or in connection with this AGREEMENT.
- 16.2 Any publicity or press releases with respect to the Project or Services shall be under the DISTRICT's sole discretion and control. CONSULTANT shall not discuss the Services or Project, or matters pertaining thereto, with the public press, representatives of the public media, public bodies, or representatives of public bodies, without DISTRICT's prior written consent. CONSULTANT shall have the right, however, without DISTRICT's further consent, to include representations of Services among CONSULTANT's promotional and professional material, and to communicate with persons or public bodies where necessary to perform under this AGREEMENT.

16.3 The provisions of this Section 16 shall remain fully effective indefinitely after termination of Services to the DISTRICT hereunder.

17. Notice to the Parties

17.1 Notices. All notices (including requests, demands, approvals, or other communications) under this AGREEMENT shall be in writing.

17.1.1 Method of Delivery. Notice shall be sufficiently given for all purposes as follows:

- (a) When personally delivered to the recipient, notice is effective on delivery.
- (b) When mailed first class to the last address of the recipient known to the party giving notice, notice is effective on delivery.
- (c) When mailed by certified mail with return receipt requested, notice is effective on receipt if delivery is confirmed by a return receipt.
- (d) When delivered by overnight delivery service, including Federal Express, Airborne, and United Parcel Service, with charges prepaid or charged to the sender's account, notice is effective on delivery if delivery is confirmed by the delivery service.
- (e) When sent by fax to the last fax number of the recipient known to the party giving notice, notice is effective on receipt as long as (1) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery or (2) the receiving party delivers a written confirmation of receipt. Any notice given by fax shall be considered to have been received on the next business day if it is received after 5 p.m. (recipient's time) or on a nonbusiness day.

17.1.2 Refused, Unclaimed or Undeliverable Notices. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight delivery service.

17.1.3 Addresses. Addresses for the purpose of giving notice are set forth below. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this paragraph 17.

To DISTRICT:

To

CONSULTANT:

Alameda County Flood Control and
Water Conservation District
Moses Tsang, Deputy Director
399 Elmhurst Street
Hayward, CA 94544

Consultant Name
Name, Title
Address 1
Address 2

17.1.4 Change of Recipient or Address. Either party may, by written notice given at any time or from time to time, require subsequent notices to be given to another individual person, whether a party or an officer or a representative, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

18. Ownership of Results/Work for Hire

18.1 Any interest (including, but not limited to, property interests and copyright interests) of CONSULTANT or its Subconsultants, in drawings, plans, specifications, studies, reports, memoranda, computational sheets or other documents (including but not limited to, electronic media) prepared by CONSULTANT or its Subconsultants in connection with Services to be performed under this AGREEMENT shall become the property of and will be transmitted to DISTRICT at the conclusion of this AGREEMENT. CONSULTANT may, however, retain one copy for its files. Notwithstanding the foregoing, in the normal course of the CONSULTANT's activities, CONSULTANT shall have an unrestricted right to reuse its standard construction drawings, details, specifications and other related documents, including the right to retain electronic data or other reproducible copies thereof, and the right to reuse portions or the information contained in them which is incidental to the overall design of the Project. DISTRICT shall indemnify, hold harmless, and defend CONSULTANT against any and all claims, liabilities, losses and costs arising from DISTRICT's use of CONSULTANT's documents on work for which CONSULTANT is not retained.

18.2 Any and all artworks, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any original works of authorship created by CONSULTANT or its Subconsultants in connection with Services performed under this AGREEMENT shall be Works for Hire as defined under Title 17 of the United States Code, and all copyrights in such works are 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 all copyrights to such works to DISTRICT. With the prior written approval of the DISTRICT, CONSULTANT may retain and use copies of such works for reference and as documentation of its experience and capabilities.

19. Audit and Inspection Records

19.1 CONSULTANT shall maintain all drawings, specifications, calculations, cost estimates, quantity takeoffs, statements of construction costs and completion dates, schedules and all correspondence, internal memoranda, papers, writings, electronic media and documents of any sort prepared by or furnished to CONSULTANT during the course of performing the Services and providing services with respect to the Project, for a period of at least five years following final completion and acceptance of the Project. All such records (except for materials subject to the attorney client privilege, if any) shall be available to DISTRICT, and DISTRICT's authorized agents, officers, and employees, upon request at reasonable times and places. Monthly records of CONSULTANT's personnel costs, CONSULTANT costs, and reimbursable expenses shall be kept on a generally recognized accounting basis, and shall be available to DISTRICT, and DISTRICT's authorized agents, officers, and employees, upon request at reasonable times and places. CONSULTANT shall not destroy any Project records until after advising DISTRICT and allowing DISTRICT to accept and store the records.

19.2 CONSULTANT agrees to maintain full and adequate records in accordance with DISTRICT requirements to show actual costs incurred by CONSULTANT in its performance of this AGREEMENT, and to make available to DISTRICT during business hours accurate ledgers, books of accounts, invoices, vouchers, cancelled checks, and accounting and other books, records and documents evidencing or relating to all expenditures and disbursements charged to DISTRICT or relative to CONSULTANT's activities under this AGREEMENT. CONSULTANT will furnish to DISTRICT, its authorized agents, officers and employees such other evidence or information as DISTRICT may request with regard to any such expenditure or disbursement charged by CONSULTANT. CONSULTANT will permit DISTRICT, and DISTRICT's authorized agents, officers, and employees, to audit, examine and make copies, excerpts and transcripts from such items, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this AGREEMENT, whether funded in whole or in part under this AGREEMENT.

19.3 CONSULTANT shall maintain all items described in Sections 19.1 and 19.2 above in an accessible location and condition for a period of not less than five years after final completion and acceptance of the Project or until after final audit has been resolved, whichever is later. If such items are not kept and maintained by CONSULTANT within a radius of fifty (50) miles from DISTRICT's offices at 399 Elmhurst Street, Hayward, California, CONSULTANT shall, upon DISTRICT's request and at CONSULTANT's sole cost and expense, make such items available to DISTRICT, and DISTRICT's authorized agents, officers, and employees, for inspection at a location within said fifty (50) mile radius, or CONSULTANT shall pay DISTRICT its reasonable and necessary costs incurred in inspecting CONSULTANT's books and records, including, but not limited to, travel, lodging and subsistence costs. The State of California or any federal agency having an interest in the subject of this AGREEMENT shall have the same rights conferred upon DISTRICT by this Section.

19.4 The rights and obligations established pursuant to this Section shall be specifically enforceable and survive termination of this AGREEMENT.

20. Subcontracting/Assignment/ District Employees

20.1 CONSULTANT and DISTRICT agree that CONSULTANT's unique talents, knowledge, and experience form a basis for this AGREEMENT and that the services to be performed by CONSULTANT under this AGREEMENT are personal in character. Therefore, CONSULTANT shall not subcontract, assign or delegate any portion of this AGREEMENT or any duties or obligations hereunder unless approved by DISTRICT in a written instrument executed and approved by the DISTRICT in writing. Neither party shall, on the basis of this AGREEMENT, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.

20.2 CONSULTANT shall use the Subconsultants for the scopes of work listed in Appendix A attached hereto, and shall not substitute Subconsultants unless approved by written instrument executed and approved by the DISTRICT in writing.

20.3 To the extent CONSULTANT is permitted by DISTRICT in writing to subcontract, assign or delegate any portion of this

AGREEMENT or any duties or obligations hereunder, CONSULTANT shall comply with all applicable prompt payment laws and regulations, including, without limitation, California Civil Code Section §3321. CONSULTANT shall remain fully liable and responsible for all acts and omissions of its Subconsultants in connection with the Services or the Project, as if it engaged in the acts and omissions directly.

21. SMALL, LOCAL AND EMERGING BUSINESS (SLEB) PARTICIPATION:

If Prime Consultant is not an Alameda County certified SLEB, the following applies:

SMALL LOCAL AND EMERGING BUSINESS (SLEB) PARTICIPATION: Contractor shall subcontract with Consultant Name (Address; Title, Name), Consultant Name (Address; Title, Name), Consultant Name (Address; Title, Name), for services to be provided under this Agreement in a minimum amount equal to twenty percent (20%) of the contract value of this Agreement in accordance with County's Small and Emerging Local Business provision, which includes but is not limited to:

- a. SLEB subcontractor(s) is independently owned and operated (i.e., is not owned or operated in any way by Prime), nor do any employees of either entity work for the other.
- b. As is applicable, Contractor shall ensure that the certification status of participating SLEB subcontractors is maintained in compliance with the SLEB Program for the term of this contract.
- c. Contractor shall not substitute or add any small and/or emerging local business(s) listed in this agreement without prior written approval from the County. Said requests to substitute or add a small and/or emerging local business shall be submitted in writing to the County contract representative identified under Item #17 above. Contractor will not be able to substitute the subcontractor without prior written approval from the Alameda County Auditor-Controller Agency, Office of Contract Compliance (OCC).
- d. All SLEB participation, except for SLEB prime contractor, must be tracked and monitored utilizing the Elation compliance System. Contractor and Contractor's small and/or emerging local businesses participating as subcontractors on the awarded contract are required to use the Elation web-based compliance system as described in Appendix D (Small Local Emerging Business (SLEB) Partnering Information Sheet) to report and validate payments made by Prime Contractors to the certified small and/or emerging local businesses. It is the Contractor's responsibility to ensure that they and their subcontractors are registered and trained as required to utilize the Elation compliance system. SLEB prime contractor with SLEB subcontractors must enter payments made to subcontractors in the Elation System and ensure that SLEB subcontractors confirm payments received.

District will be under no obligation to pay contractor for the percent committed to a SLEB subcontractor if the work is not performed by the listed small and/or emerging local business.

For further information regarding the Small Local Emerging Business participation requirements and utilization of the Alameda County Contract Compliance System contact OCC via e-mail at ACSLEBcompliance@acgov.org.

If Prime Consultant is an Alameda County certified SLEB, the following applies:

Consultant has been certified by the County as a small or emerging local business. As a result, there is no requirement to subcontract with another business in order to satisfy the County's Small and Emerging Locally owned Business provision. If during the term of this contract, Consultant's certification status changes, Consultant shall notify the District within three business days.

Should Consultant's status as a certified small or emerging local business change at any time during the term of this Agreement, Consultant shall negotiate with County to be in compliance with the County's Small and Emerging Local Business provision, including but not limited to:

- a. Consultant must subcontract a minimum 20% of the remaining contract value with a certified small or emerging local business(es).
- b. SLEB subconsultant (s) is independently owned and operated (i.e., is not owned or operated in any way by Prime), nor do any employees of either entity work for the other.
- c. As is applicable, Consultant shall ensure that their certification status is maintained in compliance with the SLEB Program for the term of this contract.
- d. For any subconsultants retained to comply with this provision, Consultant shall not substitute any such small and/or emerging local business(s) subconsultant without prior written approval from the County. Said requests to substitute shall be submitted in writing to the District's contract representative identified under Item #17 above. Consultant will not be able to substitute the subconsultant without prior written approval from the Alameda County

Auditor Controller Agency, Office of Contract Compliance (OCC). Further approval from the Board of Supervisors may also be required.

- e. If subconsultants are added to the contract, all SLEB participation, except for prime Consultant, must be tracked and monitored utilizing the Elation compliance System (see Appendix E). SLEB prime Consultant with SLEB subconsultants must enter payments made to subconsultants in the Elation System and ensure that SLEB subconsultants confirm payments received.

Consultant shall meet the requirements above within 15 business days of the County notifying Contractor that it is no longer in compliance with the program. District will be under no obligation to pay Consultant for the percent committed to a SLEB subconsultant if the work is not performed by the listed small and/or emerging local business.

For further information regarding the Small Local Emerging Business participation requirements and utilization of the Alameda County Contract Compliance System contact the County Auditor- Controller's Office of Contract Compliance (OCC) via e-mail at ACSLEBcompliance@acgov.org.

22. First Source Program

- 22.1 For contracts over \$100,000, Consultant shall provide District ten (10) working days to refer to Consultant, potential candidates to be considered by Consultant to fill any new or vacant positions that are necessary to fulfill their contractual obligations to the District that Consultant has available during the contract term before advertising to the general public.

23. Non-Discrimination, Equal Employment Opportunity and Business Practices

- 23.1 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 (as defined below) or veteran's status. To the extent applicable, Consultant shall comply with all federal, state and local laws (including, without limitation, County ordinances, rules and regulations) regarding non-discrimination, equal employment opportunity, affirmative action, and occupational-safety-health concerns, shall comply with all applicable rules and regulations thereunder, and shall comply with same as each may be amended from time to time.

24. Drug-Free Workplace Policy

- 24.1 CONSULTANT acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on a County facility or work site. CONSULTANT agrees that any violation of this prohibition by CONSULTANT, its employees, agents, or assigns shall be deemed a material breach of this AGREEMENT.
- 24.2 If CONSULTANT or any employee of CONSULTANT is convicted of a criminal drug statute violation occurring at a County facility or work site, the CONSULTANT within five days thereafter shall notify the head of the DISTRICT department/agency for which the contract services are performed.

25. Compliance with Americans with Disabilities Act

- 25.1 CONSULTANT acknowledges that, pursuant to the Americans with Disabilities Act ("ADA"), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. CONSULTANT shall provide the Services specified in this AGREEMENT in a manner that complies with the standard of care established under this AGREEMENT regarding the ADA and any and all other applicable federal, state, and local disability rights legislation. CONSULTANT agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this AGREEMENT, and further agrees that any violation of this prohibition on the part of CONSULTANT, its employees, agents or assigns shall constitute a material breach of this AGREEMENT.

26. Debarment and Suspension Certification (Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).

- 26.1 (a) By signing this AGREEMENT and Appendix D, Debarment and Suspension Certification, CONSULTANT/Grantee agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35, and Executive Order 12549.
- (b) By signing this AGREEMENT, CONSULTANT certifies to the best of its knowledge and belief, that it and

its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
- (2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.

27. Disputes

- 27.1 CONSULTANT acknowledges that, pursuant to the Americans with Disabilities Act (“ADA”), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. CONSULTANT shall provide the Services specified in this AGREEMENT in a manner that complies with the standard of care established under this AGREEMENT regarding the ADA and any and all other applicable federal, state, and local disability rights legislation. CONSULTANT agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this AGREEMENT, and agrees that any violation of this prohibition on the part of CONSULTANT, its employees, agents or assigns shall constitute a material breach of this AGREEMENT.
- 27.2 Provided that DISTRICT continues to compensate CONSULTANT in accordance with this AGREEMENT, CONSULTANT shall continue its Services throughout the course of any and all disputes. Nothing in this AGREEMENT shall allow CONSULTANT to discontinue Services during the course of any dispute and CONSULTANT’s failure to continue Services during any and all disputes shall be considered a material breach of this AGREEMENT. CONSULTANT agrees that the existence or continued existence of a dispute does not excuse performance under any provision of this AGREEMENT, including but not limited to, the time to complete the Services. CONSULTANT also agrees that should CONSULTANT discontinue Services due to a dispute or disputes, DISTRICT may terminate this AGREEMENT for cause as provided herein.
- 27.3 In the event of claims exceeding \$50,000, as a precondition to litigation, the parties shall first participate in non-binding mediation pursuant to the construction mediation procedures of the American Arbitration Association (“AAA”), in Oakland, before a mediator mutually agreeable to the parties, and in the event the parties are unable to agree, selected by a judge of the Alameda County Superior Court from an approved list of AAA qualified construction mediators. The parties may agree to engage in discovery prior to mediation, but if they do, they shall follow the procedures prescribed in the California Code of Civil Procedure, Section 2019, et. seq. and discovery so conducted shall apply in any subsequent litigation as if conducted in that litigation.

28. Agreement Made in California; Venue

- 28.1 This AGREEMENT shall be deemed to have been executed in the City of Oakland, County of Alameda. The formation, interpretation, and performance of this AGREEMENT shall be governed by the laws of the State of California, excluding its conflict of laws rules. Venue for all litigation relative to the formation, interpretation and performance of this AGREEMENT shall be in the County of Alameda. CONSULTANT waives CCP §394.
- 28.2 The parties shall execute one original and three copies of this AGREEMENT.

29. Compliance with Laws

- 29.1 CONSULTANT represents that it will comply with all applicable laws in the performance of the Services, regardless of whether such laws are specifically stated in this AGREEMENT and regardless of whether such laws are in effect on the date hereof. CONSULTANT shall comply with all security requirements imposed by authorities with jurisdiction over the Project, and will provide all information, work histories, and/or verifications as requested by such authorities for security clearances or compliance.
- 29.2 CONSULTANT further represents that all plans, drawings, specifications, designs and any other product of the Services will comply with all applicable laws, codes and regulations, consistent with the standard of care in this AGREEMENT.

30. Construction

- 30.1 All section and paragraph captions are for reference only and shall not be considered in construing this AGREEMENT. Each signatory to this AGREEMENT for CONSULTANT shall have joint and several responsibility and liability to perform the terms of this AGREEMENT.

31. Miscellaneous

- 31.1 As between the parties to this AGREEMENT: as to all acts or failures to act by either party to this AGREEMENT, any applicable statute of limitations shall commence to run on the date of issuance by DISTRICT of the final Certificate for Payment, or termination of this AGREEMENT, whichever is earlier. This section shall not apply to latent defects as defined by California law or negligence claims, as to which the statute of limitations shall be as defined by law. However, the applicable statutes of repose, California Code of Civil Procedure Sections §§337.1 and 337.15 shall continue to apply.
- 31.2 Any provisions or portion thereof of this AGREEMENT, which is prohibited by, unlawful or unenforceable under any applicable law of any jurisdiction, shall as to such jurisdiction be ineffective without affecting other provisions of this AGREEMENT. If the provisions of such applicable law may be waived, they are hereby waived to the end that this AGREEMENT may be deemed to be a valid and binding agreement enforceable in accordance with its terms. If any provisions or portion thereof of this AGREEMENT are prohibited by, unlawful, or unenforceable under any applicable law and are therefore stricken or deemed waived, the remainder of such provisions and this AGREEMENT shall be interpreted to achieve the goals or intent of the stricken or waived provisions or portions thereof to the extent such interpretation is consistent with applicable law.
- 31.3 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 performance of any of the terms, covenants, conditions or other provisions of this AGREEMENT, including the timing of any such performance, 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 term, covenant, condition or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding.
- 31.4 If a death, serious personal injury or substantial property damage occurs in connection with CONSULTANT's performance of this AGREEMENT, CONSULTANT shall immediately notify the Alameda County Risk Manager's Office by telephone. CONSULTANT shall promptly submit to DISTRICT a written report, in such form as may be required by DISTRICT of all accidents which occur in connection with this AGREEMENT. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of CONSULTANT's sub-consultant; if any; (3) name and address of CONSULTANT's liability insurance carrier; and (4) a detailed description of the accident and whether any of DISTRICT's equipment, tools, material, or staff were involved.
- 31.5 CONSULTANT further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the DISTRICT the opportunity to review and inspect such evidence, including the scene of the accident.

32. Entire Agreement; Modifications of Agreement

- 32.1 The AGREEMENT, and any written modification to the AGREEMENT, shall represent the entire and integrated AGREEMENT between the parties hereto regarding the subject matter of this AGREEMENT and shall constitute the exclusive statement of the terms of the parties' AGREEMENT. The AGREEMENT, and any written modification to the AGREEMENT, shall supersede any and all prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this AGREEMENT or written modification, and the parties represent and agree that they are entering into this AGREEMENT and any subsequent written modification in sole reliance upon the information set forth in the AGREEMENT or written modification and the parties are not and will not rely on any other information. All prior negotiations, representations, or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this AGREEMENT, shall not be admissible or referred to hereafter in the interpretation or enforcement of this AGREEMENT.
- 32.2 CONSULTANT, in any price proposals for changes in the Services that increase the AGREEMENT amount, or for any additional Services, shall break out and list its costs and use percentage markups. CONSULTANT shall require its subconsultants (if any) to do the same, and the subconsultants' price proposals shall accompany CONSULTANT's price proposals.
- 32.3 CONSULTANT and its subconsultants shall, upon request by DISTRICT, permit inspection of all original unaltered AGREEMENT bid estimates, subcontract AGREEMENTs, purchase orders relating to any change, and documents substantiating all costs associated with all cost proposals.
- 32.4 Changes in the Services made pursuant to this Section and extensions of the AGREEMENT time necessary by reason thereof shall not in any way release CONSULTANT's representations and agreements pursuant to this AGREEMENT.
- 32.5 This AGREEMENT may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by a fully authorized representative of both DISTRICT and CONSULTANT expressing such an intention in the case of a modification or by the party waiving in the case of a waiver.

32.6 Whenever the words “as directed”, “as required”, “as permitted”, or words of like effect are used, it shall be understood as the direction, requirement, or permission of DISTRICT. The words “approval”, “acceptable”, “satisfactory”, or words of like import, shall mean approved by, or acceptable to, or satisfactory to DISTRICT, unless otherwise indicated by the context.

33. Labor Code Requirements

- 33.1 The CONSULTANT shall adhere to all appropriate provisions of the California Labor Code in particular with Division 2, Part 7, Chapter 1, Articles 1-3. Any approvals, by the County, will not relieve the CONSULTANT from the observation and/or adherence to the provisions of the California Labor Code.
- 33.2 The CONSULTANT and any subcontractor shall be currently registered to perform public work. CONSULTANT and any subcontractor shall pay not less than the specified general prevailing rates of wages to all workers employed in the execution of the contract. General Prevailing rates of per diem wages shall be those general wage determinations made by the Director of the Department of Industrial Relations, State of California, for each craft, classification or type of worker required in the execution of the contract.
- 33.3 Copies of the prevailing rate of per diem wages are on file with the Contract Compliance Officer, County of Alameda, 951 Turner Court, Room 100, Hayward, CA 94545.
- 33.4 The CONSULTANT shall post, on the job site, a copy of the prevailing rates of per diem wages as determined by the Director of the Department of Industrial Relations, State of California, for each craft, classification or type of worker needed to execute the contract.
- 33.5 Premium pay for Saturdays, Sundays, holidays and overtime shall be as determined by the Director of the Department of Industrial Relations, State of California for each craft, classification or type of worker required in the execution of the contract. Holidays for which the general prevailing hourly wage rate for holiday work shall be paid, shall be all holidays recognized in the collective bargaining agreement on file with the Director of the Department of Industrial Relations, State of California, applicable to the particular craft, classification, or type of worker employed on the project.
- 33.6 Health and welfare, pension, vacation/holiday, apprenticeship or other training programs and any other employer payments required in the execution of the contract shall be as determined by the Director of the Department of Industrial Relations, State of California, for each craft, classification or type of worker required in the execution of the contract.
- 33.7 Hours of work per day or week shall be as determined by the director of the Department of Industrial Relations, State of California, for each craft, classification or type of worker required in the execution of the contract. Eight hours of labor constitutes a legal day's work.
- 33.8 Pursuant to Section 1773.8 of the Labor Code, travel and subsistence payments shall be made to each worker needed to execute the work, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed with the Director of the Department of Industrial Relations, State of California.
- 33.9 The CONSULTANT, or any subcontractor, shall comply with all provisions of Section 1777.5 of the Labor Code pertaining to the employment of apprentices on public works projects. The responsibility for compliance with all the provisions of said Section 1777.5 for apprenticeable occupations is vested with the CONSULTANT. In the event the CONSULTANT willfully fails to comply with Section 1777.5, said CONSULTANT shall be denied the right to bid on any public works contract for a period of up to one year for the first violation and up to three years for the second or subsequent violation with the period running from the date the determination of non-compliance is made. The interpretation and enforcement of Section 1777.5 shall be in accordance with rules and procedures prescribed by the California Apprenticeship Council.
- 33.10 The CONSULTANT shall comply with the Labor Code Sections 1774 and 1775. In accordance with said Section 1775, the CONSULTANT shall forfeit, as a penalty, not more than two hundred dollars (\$200.00) for each calendar day or portion thereof, for each worker paid less than the prevailing wage rates as determined by the Director of Industrial Relations, State of California, for such work or craft in which such worker is employed for any work done under the contract by the CONSULTANT, or by any subcontractor, in violation of the provisions of the Labor Code, and, in particular, Labor Code Sections 1770 to 1780 inclusive. In addition to said penalty, and pursuant to said Section 1775, the difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the stipulated prevailing wage rate, shall be paid to each worker by the CONSULTANT.
- 33.11 Eight hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty, Twenty-Five

Dollars (\$25.00) for each worker employed in the execution of the contract by the CONSULTANT or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of the Labor Code and, in particular, Sections 1810 to 1814 thereof, inclusive, except that work performed by employees of the CONSULTANT in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of 8 hours per day at not less than one-and-one-half (1-1/2) times the basic rate of pay, as provided in Section 1815 of the Labor Code.

33.12 In accordance with Section 1776 of the Labor Code:

33.12.1 The CONSULTANT and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, ethnic code, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by said CONSULTANT or subcontractor in connection with the work.

33.12.2 The payroll records enumerated in Section 33.12.1 shall be certified, and shall be available for inspection at all reasonable hours at the principal office of the CONSULTANT on the following basis:

33.12.2.1 A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.

33.12.2.2 A certified copy of all payroll records enumerated in Section 33.12.1 shall be forwarded weekly to the Contract Compliance Officer via the Inspector at 951 Turner Court, Hayward, CA 94545, and shall be made available for inspection or furnished upon request to a representative of the DISTRICT, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations, State of California.

33.12.2.3 A certified copy of all payroll records enumerated in Section 33.12.1 shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the DISTRICT, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal office of the CONSULTANT.

33.12.2.4 This provision applies to all classifications, including truckers.

If the Prime Consultant is not a County Certified SLEB, the consultant shall be required to utilize the Elation compliance system for submittal of certified payrolls to the Department of Industrial Relations.

33.12.3 The CONSULTANT shall file a certified copy of the records enumerated in Section 33.12.1 with the entity that requested such records within ten (10) days after receipt of a written request.

33.12.4 Any copy of records made available for inspection as copies and furnished upon request to the public or to any public agency by the DISTRICT, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, shall be marked or obliterated in such a manner so as to prevent disclosure of an individual's name, address and social security number. The name and address of the CONSULTANT awarded the contract or performing the contract shall not be marked or obliterated.

33.12.5 The CONSULTANT shall inform the DISTRICT of the location of the records enumerated under Section 33.12.1 including the street address, city and county, and shall, within five (5) working days, provide a notice of any change of location and/or address.

33.12.6 In the event of noncompliance with the requirements of said Section 1776 of the Labor Code, the CONSULTANT shall have ten (10) calendar days in which to comply subsequent to receipt of written notice specifying in what respects such CONSULTANT must comply with said Section. Should noncompliance still be evident after such ten-day period, the CONSULTANT shall, as a penalty, forfeit one hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due.

33.12.7 The responsibility for compliance with Section 1776 of the Labor Code shall be a responsibility of the CONSULTANT.

33.13 Requests for information relating to labor compliance records, including certified payroll records enumerated in Section 33.12, shall be made through the Contract Compliance Officer at 951 Turner Court, Room 100, Hayward, CA 94545.

33.14 Failure to file certified copies of the records enumerated in Section 33.12.1 with DISTRICT representatives may result in conditioning amounts of any progress payment due.

- 33.15 The CONSULTANT assures that he/she/it will comply with the Americans with Disabilities Act (ADA) and Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this contract.
- 33.15.1 The CONSULTANT shall, in all solicitations or advertisements for applicants for employment placed as a result of this contract, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
- 33.15.2 CONSULTANT shall, if requested to so do by the DISTRICT, certify that it has not, in the performance of this contract, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
- 33.15.3 If requested to do so by the DISTRICT, CONSULTANT shall provide the DISTRICT with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
- 33.15.4 CONSULTANT shall recruit vigorously and encourage minority- and women-owned businesses to bid its subcontracts.
- 33.15.5 Nothing contained in this contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- 33.15.6 The CONSULTANT shall include the provisions set forth in Sections 33.15.1 through 33.15.5 in each of its subcontracts.
- 33.15.7 EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS POLICY FORM: The CONSULTANT must post the Equal Employment Opportunity Practices Provisions Policy in a conspicuous place at each construction site. A sample form shall be provided.
- 33.16 Non-compliance with the provisions of the Equal Employment Opportunity Practices policy is subject to the provisions outlined below.
- 33.16.1 If DISTRICT finds that the CONSULTANT has violated the Equal Employment Opportunity Practices Provisions policy, the Director of Public Works (or designee) shall hold a meeting with the CONSULTANT for the purpose of determining whether the CONSULTANT is out of compliance. If after the meeting the CONSULTANT is found to be still out of compliance, the CONSULTANT will be notified of a public hearing. The public hearing will be held before the Board of Supervisors with a minimum five calendar-day notice to the CONSULTANT. If the Board of Supervisors finds that there has been a violation, the DISTRICT will notify the CONSULTANT in writing of the sanctions to be imposed.
- 33.16.2 In addition, the DISTRICT shall deem a finding by the Fair Employment Practice Commission that there was willful violation of the California Fair Employment Act also to be a violation by the CONSULTANT of the Equal Employment Opportunity Practices Provisions requirements of the contract, and such violation shall be subject to the sanctions provided herein
- 33.17 A finding at the public hearing that there has been violation of the Equal Employment Opportunity Practices Provisions requirements of the contract shall be cause for the Board of Supervisors to impose any or all of the following sanctions:
- 33.17.1 Withhold an additional ten percent (10%) of all further contract progress payments until the CONSULTANT provides evidence satisfactory to the Board of Supervisors that the condition of non-compliance has been corrected.
- 33.17.2 Suspend the contract until such time as the CONSULTANT provides evidence satisfactory to the Board of Supervisors that the condition of non-compliance has been corrected.
- 33.17.3 Terminate the contract and collect appropriate damages from the CONSULTANT.
- 33.17.4 Declare that the CONSULTANT is a non-responsible bidder and is ineligible to make bids on future DISTRICT contracts for a stated period of time or until the CONSULTANT can demonstrate to the satisfaction of the Board of Supervisors that the violation has been corrected.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates shown below their respective authorized signatures.

“DISTRICT”

**Alameda County Flood Control and
Water Conservation District**

By: _____
NATE MILEY, PRESIDENT
BOARD OF SUPERVISORS

Date: _____

“CONSULTANT”

Consultant Name

By: _____
NAME
TITLE

Date: _____

Approved as to form:
Donna R. Ziegler, County Counsel

Name, Deputy County Counsel

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

*** END OF STANDARD AGREEMENT ***

APPENDIX A

SERVICES TO BE PROVIDED BY CONSULTANT

1. This is an appendix attached to, and made a part of the Agreement dated ____ of _____, 2024, between the Alameda County Flood Control and Water Conservation District (“DISTRICT”) and **Consultant Name** (“CONSULTANT”), providing for On-call Strategic Professional and Technical Support Services.

1.1 This Appendix A has been drafted to include the requirements contained in the Request for Proposal/Quotation (RFP/Q) No. FLO20240####, including the proposal response of CONSULTANT (Response), and additional services that the DISTRICT obtained through negotiations, if any. In the event of any conflict (direct or indirect) among any of the exhibits, the RFP/Q and the Response, the more stringent requirements providing the DISTRICT with the broader scope of services shall have precedence, such that this Appendix A including all attachments, the scope of work described in the RFP/Q and the scope of work described in CONSULTANT’s proposal shall be performed to the greatest extent feasible.

All work and materials shall meet the standards and requirements of all applicable Federal, State, and local government laws and the regulations and guidelines and shall also comply with the prevailing standards and practices of the profession. Specific work requirements, time frames for completion, and approximate total cost or “not to exceed” cost shall be mutually agreed upon by CONSULTANT and DISTRICT in writing prior to commencement of each task. Payment shall be in accordance with Appendix B.

1.2 Approved Consultant Team - Key Personnel & Subconsultants:

Consultant Name (Prime)

Name, Title

Name, Title

Name, Title

Name, Title

...

...

Consultant Name (Sub-consultant)

Name, Title

...

...

Consultant Name (Sub-consultant)

Name, Title

...

...
Consultant Name (Sub-consultant)
Name, Title
...
...

1.3 Scope of Project

Refer to Appendix A-1 attached hereto.

1.4 Consultant's Milestone Schedule and Deliverables

The Milestone Schedule shall be in accordance with Appendix A-1 attached hereto. The deliverables shall be as specified in Appendix A-1 attached hereto.

1.5 Personnel and Subconsultants

Consultant shall use only the personnel and subconsultants identified herein.

2. General Requirements

2.1 General Criteria Governing Consultant's Service

2.1.1 The Project shall be developed and performed to meet all applicable and the most current codes, laws, regulations, and professional standards. Certain exceptions are possible, but only when the District grants a written exemption to a specific standard or regulation.

2.1.2 Consultant shall review existing District data, reports, and other information regarding the site, and perform field investigations as necessary to become familiar with the site. Consultant shall make an independent assessment of the accuracy of the information provided by the District concerning existing conditions (including, but not limited to, existing utilities and structures) and conduct such further investigations of existing conditions as are necessary for Consultant to perform the Services. Consultant shall rely on the results of its own independent investigations and not on information provided by District. Consultant shall review supplied design information and advise District of its adequacy for Consultant's work and advise District of any further design or other services necessary to complete the Project.

2.1.3 Unless otherwise permitted in writing by District, Consultant shall not specify or recommend unique, innovative, proprietary or sole source equipment, systems or materials. In the event Consultant requests to specify or recommend 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.

2.2 General Scope of Consultant's Services

- 2.2.1 Consultant's services shall include all professional services within the scope of Consultant's professional discipline (including Consultant's team's professional disciplines) necessary to accomplish the tasks defined throughout this Appendix. These services will include, but are not limited to, the services outlined in Consultant's proposed scope of services annexed to this Appendix as its Appendix A-1. Consultant shall have adequate personnel, facilities, equipment and supplies to complete Consultant's Services.
- 2.2.2 Performance of Services will require Consultant to work with, meet with, and attend meetings with District staff, and with such other consultants as Consultant determines necessary, to the extent necessary for performance of Consultant's duties under this Agreement (including, but not limited to, Consultant's express duties of coordination with other consultants).
- 2.2.3 Consultant shall engage all appropriate specialty subconsultants as are necessary for proper completion of Consultant's Services in accordance with the scope of work specified herein and utilizing the consultants as specified herein, at the sole expense of Consultant. Consultant's contracts with its subconsultants (and their contracts with their subconsultants) shall incorporate this Agreement by reference to the extent not inconsistent with the subconsultant's scope of work. Consultant shall secure District's approval for any subconsultants not listed herein. Consultant shall require each of its subconsultants to execute agreements containing standard of care and indemnity provisions coextensive with those in this Agreement and which will indemnify and hold District harmless from any negligent errors or omissions of the Subconsultants.
- 2.2.4 Consultant shall provide District with written evaluations, when applicable, of the effect of any and all governmental and private regulations, licenses, patents, permits, and any other type of applicable restriction and associated requirements on the Services and its incorporation into the Project, including but not limited to, all requirements imposed by the Regional Water Quality Control Board, California Uniform Building Code and California Regulations (including, but not limited to, Title 24). Consultant may incorporate these written evaluations into its deliverables as expository of the report and design solutions provided.

2.3 Coordination of Services with the Project, District's Consultant Team, and District Staff

- 2.3.1 Consultant shall fully coordinate its services with the services of all disciplines and subconsultants involved in completing the Project. Consultant shall immediately advise District in writing if any District staff or consultant fails in any manner to coordinate its work with Consultant, and the nature of the non-coordination.

2.3.2 Consultant shall provide appropriate training for Consultant's personnel. Consultant shall review and train Consultant's personnel in appropriate procedures for work. Consultant shall require all personnel under Consultant's direction to wear safety equipment such as orange vests and appropriate shoes, ear, and eye protection whenever these precautions are required by OSHA safety standards. Consultant shall provide all safety equipment for Consultant's personnel.

2.4 Deliverables and Completion Dates Required Under this Agreement

Required deliverables are discussed in Consultant's proposed scope of work annexed as Appendix A-1. Each deliverable shall be reviewed with representatives of the District. The District shall make a reasonable determination of the acceptability of the deliverables. Consultant shall promptly correct deficiencies that District reasonably identifies in the deliverables and shall promptly make modifications to conform with Project requirements and modifications to achieve acceptability of deliverables to District, and the cost thereof is included in the fee. (If Consultant should disagree with District's determination, Consultant shall make the changes requested by District under a reservation of rights to request additional compensation and shall submit separate supporting documentation for the additional charge).

2.5 Monthly Progress Update

With each request for payment, Consultant shall provide District with a written Monthly Progress Update. The Monthly Progress Update shall cover the Consultant's percent complete for each phase of the work as outlined in the "Monthly Billing Breakdown" in accordance with Appendix B, Item 2. If applicable, the Monthly Progress Update shall identify any actions and approvals needed, and any problems in performing the Services (whether by Consultant, District, or any third party) of which Consultant becomes aware.

END OF APPENDIX A

Appendix A-1

1. Scope of Work

.....

Task 1. Project management

Task 1.1

-

Task 1.2

-

Task 2.

Task 2.1

-

Task 2.2

-

Task 3.

Task 4.

Task 5.

Sample

APPENDIX B

PAYMENTS TERMS

This is an appendix attached to, and made a part of the Agreement dated _____, 2024, between the Alameda County Flood Control and Water Conservation District (“District”) and **Consultant Name** (“Consultant”), providing for professional services.

1. Amount of Compensation for Services of Consultant

- 1.1 The amount of compensation to be paid to Consultant for all services under this Agreement shall not exceed _____ Dollars (\$#,###,###) referred to hereafter as the Not To Exceed Amount (“NTE”). Total compensation due Consultant shall be the actual amount invoiced based upon the Consultant’s hourly billing, which may be less than the NTE amount. Reimbursable Expenses are included in the NTE. The NTE also includes within its scope the scope of all subconsultants and their reimbursables, and shall constitute full compensation for the Services.
- 1.2 “Reimbursable Expenses” means job related expenses directly incurred by Consultant in the performance of services provided under the Agreement. Reimbursable expenses include mail and overnight delivery services, reproduction of reports, drawings, specifications, photographs, and similar. Out-of-State travel in connection with the project shall be approved in advance by District.

2. Monthly Billing Breakdown

- 2.1 District shall make monthly payments to Consultant in accordance with approved Monthly Billing Breakdown, which shall be submitted by Consultant for District’s approval prior to the first monthly invoice. The “Monthly Billing Breakdown” shall itemize separate categories for each consultant, each phase of work, along with the billing period defining the time line and cost for each category.

3. Methods of Payment to Consultant

- 3.1 For Services on the Project. Consultant shall submit monthly invoices in accordance with the approved “Monthly Billing Breakdown” specifying the percentage complete for each billing category and itemized reimbursable expenses supported by invoices and appropriate backup documentation. Each invoice shall report on Consultant’s total billings.
- 3.2 For Services. The District shall pay Consultant for Services, as defined below, as follows:
 - 3.2.1 General. For Services of Consultant’s professional staff engaged directly on the Project, on the basis of a lump sum amount negotiated between the parties, or, at District’s option, based on hourly rates per Consultant’s billing schedule with an agreed Not-to-Exceed amount.
 - 3.2.2 Subconsultants. For Services of Subconsultants employed by Consultant to render Services, the amount billed to Consultant therefor.

3.2.3 For services on an hourly basis, Consultant agrees that all Subconsultants billing will be limited to a not-to-exceed amount upon prior written approval of the District.

4. Definitions

4.1 “Services” shall mean as defined within the “Scope of Services” defined in this agreement.

5. The Billing Rates used as a basis for payment apply to all of Consultant’s and Subconsultants’ principals, professional personnel and others engaged directly on the Project, and are set forth in the Appendix B-1. The 2024 Fee Schedule Rates (Appendix B-1) shall remain constant through December 31, 2025, and shall not be adjusted for inflation, salary adjustments, cost changes, or any other reason. After December 31, 2025, the consultant may propose fee adjustments during subsequent year(s) of the Agreement period due to normal salary increases but the amount the rates are adjusted in any given year shall not exceed three percent (3%). Upon review of the request of fee adjustments and acceptance by the District, it shall become a part of this Agreement and remain in full force and effect.
6. The markup cost for material and services required for the Project shall not exceed ten percent of the original cost (10%).
7. This Appendix supersedes any contrary language in the attached Fee Schedule Rates (Appendix B-1).

END OF APPENDIX B

APPENDIX C

MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following minimum insurance coverage, limits and endorsements. The District reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. If the contractor maintains broader coverage and/or higher limits than the minimums shown below, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District.

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
A	Commercial General Liability Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability	\$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
B	Commercial or Business Automobile Liability All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability when extended to cover your business is acceptable for individual contractors with no transportation or hauling related activities	\$1,000,000 per occurrence (CSL) Any Auto or Hired and Non-Owned Autos Bodily Injury and Property Damage
C	Workers' Compensation (WC) and Employers Liability (EL) As required by State of California	WC: Statutory Limits EL: No less than \$1,000,000 per accident for bodily injury or disease
D	Professional Liability/Errors & Omissions Includes endorsements of contractual liability and defense and indemnification of the District	\$1,000,000 per occurrence \$2,000,000 project aggregate

E **Endorsements and Conditions:**

1. **ADDITIONAL INSURED:** Alameda County Flood Control & Water Conservation District, the County of Alameda, their Boards of Supervisors, the individual members thereof, and all officers, agents, employees, volunteers, and representatives are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor 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 Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used). Auto policy shall contain or be endorsed to contain additional insured coverage for the District.
2. **DURATION OF COVERAGE:** All required insurance shall be maintained during the entire term of the Agreement. In addition, Insurance policies and coverage(s) written on a claims-made basis shall be maintained and evidence of insurance must be provided during the entire term of the Agreement and for at least five (5) years following the later of termination of the Agreement and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement. If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.
3. **REDUCTION OR LIMIT OF OBLIGATION:** All insurance policies, including excess and umbrella insurance policies, shall be primary and non-contributory coverage at least as broad as ISO CG 20 10 04 13 as respects the District, the County, their officers, officials, employees, or volunteers. Any insurance or self-insurance maintained by the District, the County, their officers, officials, employees, or volunteers shall be excess of the Contractor' insurance and shall not contribute with it. Pursuant to the provisions of this Agreement insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties.
4. **INSURER FINANCIAL RATING:** Insurance shall be maintained through an insurer with an A.M. Best Rating of no less than A: VII or equivalent, shall be admitted to the State of California unless otherwise acceptable by Risk Management, and with deductible amounts acceptable to the District. Acceptance of Contractor's insurance by District shall not relieve or decrease the liability of Contractor hereunder. Self-insured retentions must be declared and approved. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. 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.
5. **SUBCONTRACTORS:** Contractor shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this Exhibit.
6. **JOINT VENTURES:** If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods:
 - Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured" (covered party), or at minimum named as an "Additional Insured" on the other's policies. Coverage shall be at least as broad as in the ISO Forms named above.
 - Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured".
7. **CANCELLATION OF INSURANCE:** Each insurance policy required above shall provide that coverage shall not be cancelled, except with notice of cancellation provided to the District in accordance with policy terms and conditions.
8. **CERTIFICATE OF INSURANCE:** Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of insurance and applicable insurance endorsements as set forth in the provisions of this Agreement and this Exhibit C, in forms satisfactory to District, evidencing that all required insurance coverage is in effect. However, failure to obtain the required documents prior to the work beginning shall not waive the Contactor's obligation to provide them. The District reserves the right to require the Contractor to provide complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Appendix D

COUNTY OF ALAMEDA DEBARMENT AND SUSPENSION CERTIFICATION For Procurements Over \$25,000

The Consultant, under penalty of perjury, certifies that, except as noted below, Consultant, its Principals, and any named and unnamed subconsultants/subcontractors:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

If there are any exceptions to this certification, insert the exceptions in the following space. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action. Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Professional Services Agreement. Signing this Professional Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONSULTANT: Consultant Name

PRINCIPAL: Name TITLE:

SIGNATURE: _____ DATE: _____

END OF APPENDIX D

APPENDIX E

COUNTY OF ALAMEDA CONTRACT COMPLIANCE REPORTING REQUIREMENTS

The County of Alameda utilizes Elation Systems, a third-party compliance system to monitor subcontractor utilization requirements.

County project managers will provide a special access code to contractors and subcontractors participating in this contract to allow them to register to use Elation Systems (at <https://www.elationsys.com/APP/>) free of charge.

Upon receipt of signed contract documents, the prime contractor shall immediately enter subcontractors (contributing towards utilization requirements) in the System, confirm payments received from the County within five business days in the System, immediately enter payments made to subcontractors, and ensure that subcontractors confirm they received payments within five business days in the System. Subcontractors shall confirm their payments received from the prime contractor within five business days in the System.

Elation Systems support, resources, and assistance are available online to registered contractors awarded a contract as a result of this bid process for this project and participating registered subcontractors.

It is the Contractor's responsibility to ensure that they and their subcontractors are registered and able to utilize Elation Systems as required.

END OF APPENDIX E

Appendix F

IRAN CONTRACTING ACT COMPLIANCE CERTIFICATE (for contracts of \$1,000,000 or more)

COUNTY OF ALAMEDA

The Iran Contracting Act (ICA) of 2010

The California Legislature adopted the Iran Contracting Act (ICA) to respond to policies of Iran in a uniform fashion (PCC § 2201(q)). The ICA prohibits persons engaged in investment activities in Iran from bidding on, submitting proposals for, or entering into or renewing contracts with public entities for goods and services of one million dollars (\$1,000,000) or more (PCC § 2203(a)). A person who “engages in investment activities in Iran” is defined in either of two ways:

1. The person provides goods or services of twenty million dollars (\$20,000,000) or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
2. The person is a financial institution (as that term is defined in 50 U.S.C. § 1701) that extends twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created by the California Department of General Services (DGS) pursuant to PCC § 2201(b) as a person engaging in the investment activities described in paragraph 1 above.

By signing below, I hereby certify that as of the time of bidding or proposing for a new contract or renewal of an existing contract, neither I nor the company I own or work for are identified on the DGS list of ineligible persons and neither I nor the company I own or work for are engaged in investment activities in Iran in violation of the Iran Contracting Act of 2010.

If either I or the company I own or work for are ineligible to bid or submit a proposal or to renew a contract, but I believe I or it qualifies for an exception listed in PCC § 2202(c), I have described in detail the nature of the exception:

FIRM NAME: Consultant Name

PRINCIPAL: Name TITLE:

SIGNATURE: _____ DATE: _____