



## **Request for Proposals**

**For**

### **GRANT ADMINISTRATION**

#### **PROPOSITION 1 ROUND 1 INTEGRATED REGIONAL WATER MANAGEMENT (IRWM) GRANT TO THE MONTEREY PENINSULA, CARMEL BAY, AND SOUTH MONTEREY BAY PLANNING REGION**

Proposal Submittal Deadline

2 p.m. PST, Wednesday, November 18, 2020

October 22, 2020

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## **1.0 INTENT**

1.1 The Monterey Peninsula Water Management District, hereinafter referred to as “District” or “MPWMD”, is soliciting proposals from qualified organizations, hereinafter referred to as “Consultant”, to assist the District with administering a \$2,275,614 Proposition 1 Implementation Grant from the Department of Water Resources Integrated Regional Water Management Program. Grant administration tasks are hereinafter referred to as “Project.”

1.2 This solicitation is intended for a single, exclusive Agreement.

## **2.0 SUMMARY**

2.1 The Regional Water Management Group for the Monterey Peninsula, Carmel Bay, and South Monterey Bay, hereinafter referred to as “Monterey Peninsula RWMG”, authorized MPWMD to act as the grant manager for the Proposition 1, Round 1 IRWM Implementation Grant (State Grant). A State Grant Agreement will be executed between MPWMD and the California Department of Water Resources (DWR). Three (3) Subgrantee Agreements will be executed between MPWMD and the three Local Project Sponsors (LPS); the City of Seaside, the City of Sand City, and Marina Coast Water District. MPWMD will administer these funds and respond to DWR reporting and compliance requirements associated with the grant administration.

MPWMD and its Consultant for the Project will act in a coordination role on the primary tasks for this project which include and are not limited to:

Task 1: Agreement Administration: disseminating grant compliance information to the three LPS managers and the Administrative staff responsible for implementing the projects contained in the State Grant Agreement, obtaining and retaining evidence of compliance (e.g., California Environmental Quality Act/National Environmental Policy Act documents, reports, monitoring compliance documents, labor requirements),

Task 2: Invoicing: coordinating all invoicing and payment of invoices,

Task 3: Progress Reports and Project Completion Reports: obtaining data for progress reports from individual project managers, assembling and submitting progress reports to the state

The Consultant will be the primary contact who will work with the Local Project Sponsors to compile quarterly invoices and documentation and review the materials for accuracy and compliance with both the Subgrantee Agreement with MPWMD and the requirements of the State Grant Agreement.

The budget for this Project may not exceed \$155,000 and is to be invoice on an hourly basis. The Project is expected to commence in the first quarter of 2021 and finish in the second quarter of 2023.

2.2 Supporting Documentation is available for download at <https://www.mpwmd.net/who-we-are/project-bids-rfps/> .

- Draft State Grant Agreement
- Draft Subgrantee Agreement
- RFP updates and answers to questions
- MPWMD Round 1 IRWM Implementation Grant Application Work Plans<sup>1</sup>

2.3 Grant Execution: MPWMD anticipates executing a grant agreement with the State in the 4<sup>th</sup> quarter of 2020. After execution of the State Grant Agreement, MPWMD expects to enter into individual Subgrantee Agreements with each of the Local Project Sponsors. Grant Administration work may begin prior to grant execution.

2.4 Incurred Costs: District is not liable for any cost incurred by Consultant in response to this solicitation.

### 3.0 CALENDAR OF EVENTS

3.1 Issue RFP	Monday, October 26, 2020
3.2 Pre-Bid Conference Call	10 a.m. PST, Wednesday, November 4, 2020
3.3 Last Day for Questions	November 11, 2020
3.4 Last Day for Addendum	November 13, 2020
3.5 Proposal Submittal Deadline	2 p.m. PST, Wednesday, November 18, 2020
3.6 Interviews (if any)	Thursday November 19 through Tuesday November 24, 2020
3.7 MPWMD Administrative Committee Review	December 8, 2020
3.8 MPWMD Board Consideration	December 14, 2020
3.9 Estimated Notification of Selection	December 16, 2020

*Note: RFP and Answers to Questions will be posted on the web at:*

<https://www.mpwmd.net/who-we-are/project-bids-rfps/>

Due to the use of public grant funds, it is desirable to solicit several proposals for this project; if necessary, MPWMD may extend the proposal due date to allow ample time for the maximum number of firms with interest in performing the described work an opportunity to submit a proposal.

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<sup>1</sup> References to the City of Monterey Ramona Avenue project should be ignored; that project is not moving forward under this grant.

## 4.0 POINTS OF CONTACT

4.1 Questions and correspondence regarding this solicitation shall be directed to:

Primary Contact: **MAUREEN HAMILTON**  
5 Harris Court, Bldg. G  
Monterey, CA 93940  
Phone: (831) 658-5622 (office)  
Email: mhamilton@mpwmd.net

4.2 All questions regarding this solicitation shall be submitted in writing (E-mail only). An email acknowledging receipt of the question will be sent. If the Prospective Consultant does not receive email acknowledgement it is the responsibility of the Prospective Consultant to email or call to ensure receipt of the question.

4.3 Questions submitted in writing will be researched and the answers will be posted to the MWPMD website for this RFP (<https://www.mpwmd.net/who-we-are/project-bids-rfps/>). It is the responsibility of the Prospective Consultant to check the website for addenda.

4.4 The deadline for submitting written questions regarding this solicitation is indicated in the **CALENDAR OF EVENTS herein**. Questions submitted after the deadline will not be answered.

4.5 Only answers to questions communicated by formal written addenda will be binding.

4.6 Prospective Consultant shall not contact MPWMD officers or employees with questions or suggestions regarding this solicitation except through the primary contact person listed above. **Any unauthorized contact may be considered undue pressure and cause for disqualification of the Consultant.**

## 5.0 SCOPE OF WORK

A firm with demonstrated experience with grant administration, preferably with the Department of Water Resources, will assist with the following tasks:

### **Task 1 - Agreement Administration**

Consultant will coordinate DWR's reporting and compliance requirements associated with the grant administration and with the LPS managers responsible for implementing the projects contained in the State Grant Agreement.

Consultant shall monitor all Subgrantee Agreements and subcontracts to ensure they are compliant with both the Subgrantee Agreement and the State Grant Agreement requirements, including requirements listed in Exhibit D of the State Grant Agreement. Consultant shall monitor all contracts to assure prevailing wage provisions of the Labor Code are being met as described in the State Grant Agreement (note that submission of prevailing wage statements is a requirement for

reimbursement in all Subgrantee Agreements with MPWMD).

Consultant shall ensure required documentation per the Protocols for Assembly Bill 1755 (AB 1755), the Open and Transparent Water Data Act available at this [hyperlink](#), is supplied by each LPS. However, the Consultant will not be responsible for determining if the plans submitted by each LPS comply with the requirements described in AB 1755.

Consultant shall ensure proper completion of documentation and proactively assist District and LPS staff in understanding and submitting deliverables in a timely manner. District staff will assist the Consultant to resolve responsiveness, should that become an issue.

If necessary, Consultant shall assist with changes to the State Grant Agreement including modifications of the Work Plan, Schedule, or Budget for any of the projects receiving grant funding. Such work shall be on a Time basis to be negotiated between the District and the Consultant should this work be required. Please include this work as an optional task and fee.

If necessary, Consultant shall assist with assembly of required audit documents described in the State Grant Agreement Exhibit H. Assembly may include electronic copies of audit documents, or references to the location of the required auditable document. Such work shall be on a Time and Materials basis to be negotiated between the District and the Consultant. Please include this work as an optional task and fee.

***DELIVERABLES:***

- Records of communications between Consultant and Local Project Sponsors, MPWMD, and DWR (e.g., emails, summary of teleconferences)
- Checklist of documentation requirements and verification

**Task 2 – Invoicing**

Consultant will be responsible for compiling quarterly invoices for submittal to DWR. This includes proactively collecting invoice documentation from each LPS, reviewing invoice documentation for accuracy and completeness, resolving documentation issues with the LPSs, and compiling the information into a DWR Invoice Packet in accordance with requirements described in the State Grant Agreement.

Consultant will forward the DWR Invoice Packet to MPWMD for approval. After approval by MPWMD, Consultant will submit the Invoice Packet to DWR. Consultant will prepare any responses due to DWR as a result of invoice review and forward such responses to MPWMD and the respective LPS for review and re-submittal to DWR.

District staff will assist with responsiveness issues, should they occur.

***DELIVERABLES:***

- Invoices and Associated Backup Documentation
- Records of communications between Consultant and Local Project Sponsors, MPWMD, and DWR (e.g., email, summary of teleconferences, summary of any field inspections)

### **Task 3 – Progress Reports and Project Completion Report(s)**

The Consultant will be responsible for proactively compiling progress reports for submittal to DWR. The Consultant will coordinate with LPS staff as needed to prepare and submit progress reports and final project completion reports for each project, as well as the grant completion report.

Reports will meet generally accepted professional standards for technical reporting and the terms of the State Grant Agreement as outlined in Exhibit F of the State Grant Agreement. For example, the Local Project Sponsor is expected to submit progress reports explaining the status of each project and include the following information: summary of the work completed for the project during the reporting period, activities and milestones achieved, and accomplishments and any problems encountered in the performance of work. Project completion reports will include documentation of actual work done, changes and amendments to each project, a schedule showing actual progress versus planned progress, and copies of final documents and reports generated during the project. The Consultant is expected to explain budget and schedule status in the reports.

The Consultant will be expected to prepare a standard format for quarterly reports and the final project completion reports that each LPS will use and submit for review. The Consultant will be expected to review quarterly reports and the final project completion reports for compliance with the State Grant Agreement and work with the LPS to revise reports as necessary. The Consultant will prepare the Final Grant Completion Report for approval by MPWMD.

#### ***DELIVERABLES:***

- Quarterly Progress Reports
- Final Project Completion Reports
- Final Grant Completion Report
- Records of communications

## **6.0 CONTRACT TERM AND BUDGET**

6.1 The term of the AGREEMENT will be for a period of approximately 2.5 years. The Project is expected to commence in the first quarter of 2021 and finish in the second quarter of 2023. Any modifications to the term can only be by written authorization from MPWMD based on potential future extenuating circumstances that may require an extension.

6.2 The AGREEMENT shall contain a clause that provides that the District reserves the right to cancel this AGREEMENT, or any extension of this AGREEMENT, without cause, with a thirty day (30) written notice, or immediately with cause. See Sample Agreement, Section IX for additional details on typical final payment terms, which includes payment for services up to the issuance of a written Notice of Cancellation.

6.3 The budget for this Project may not exceed \$155,000 and will be on a Time and Material basis.

## 7.0 PROPOSAL/QUALIFICATIONS PACKAGE REQUIREMENTS

### 7.1 CONTENT AND LAYOUT:

7.1.1 Consultant should provide the information as requested and as applicable to the proposed goods and services simply and economically, and avoid elaborate promotional material. The cost for developing the proposal is solely the responsibility of the Prospective Consultant. The proposal or qualifications package shall be organized as per the table below; headings and section numbering utilized in the proposal or qualification package shall be the same as those identified in the table.

<b>Section</b>	<b>Contents</b>
Section 1	COVER LETTER (including contact information)
	SIGNATURE PAGE
	RECEIPT OF SIGNED ADDENDA (if any)
	TABLE OF CONTENTS
Section 2	PROJECT EXPERIENCE AND REFERENCES
Section 3	KEY STAFF PERSONS
Section 4	LITIGATION HISTORY (if any)
Section 5	PROJECT UNDERSTANDING AND METHODOLOGY
Section 6	PRICING AND SCHEDULE
Section 7	EXCEPTIONS
Section 8	APPENDIX

#### **Section 1 Requirements:**

**Cover Letter:** All proposals must be accompanied by a cover letter not exceeding two pages and should provide organization information and Contact information as follows:

**Contact Info:** The name, address, telephone number, e-mail of Consultant's primary contact person during the solicitation process through to potential contract award.

**Organization Info:** Description of the type of organization (e.g. corporation, partnership, including joint venture teams and subconsultants) and how many years it's been in existence.

**Signed Signature Page and Signed Addenda** (if any addenda were released for this solicitation) Proposal packages submitted without this page will be deemed non-responsive. Proposals signed with electronic signatures will be deemed the same as a wet signed original.

**Table of Contents – include a table of contents in the Proposal.**

#### **Section 2, Project Experience & References:**

**Experience & References:** The Consultant shall provide concise descriptions of experience on 3 to 5 comparable projects, either in progress or completed within the last five (5) years, for which



your organization provided similar services. Include the following information for each project listed:

- Project name, location, size and date completed
- Project owner's name. Also list the contact information (name, phone number and email address if possible) as the District may conduct reference checks using this information.
- Description of services performed by your organization.

The descriptions should describe and demonstrate your organization's experience in the following areas:

**Grant administration.** Include specifics with types and details of contract administration your firm/team has. For example, list agencies involved, budget size, duration of the contract, and your firm's responsibilities in administering contracts. Describe any experience with negotiating changes to the Work Plan, Budget, and Schedule in grant funding agreements.

**Audits.** Describe any experience providing assistance with audits.

**Section 3 Key Staff Persons:**

Consultant shall identify key staff, their role in the project, and their qualifications and experience for the proposed role in the project.

**Section 4, Litigation History (if any):**

Provide specific information on your organization's (and that of all organizations included in the project team) litigation history in the last five (5) years, termination for default, litigation by or against your organization, and judgments entered for or against your organization. If there is no litigation history in the past five (5) years, please so state.

**Section 5, Project Understanding and Methodology:**

Provide an implementation plan that describes the methods and controls your firm uses to conduct work of similar scope. In particular, describe the methodology for soliciting documentation from Local Project Sponsors, reviews, and other project management or implementation techniques that may be employed in carrying out the work.

Consultant shall provide a written and signed statement in this section which confirms that their proposal is inclusive of all elements necessary to complete the described work within the period of the execution of the Agreement.

RFP Scope: The information contained within this RFP is a general outline of the scope of work to be provided by the selected Consultant. It is intended as a guide only, and the specific scope of work to be provided by the Consultant must be included within the proposal. All potential respondents to this RFP are advised to include any information and/or procedures that are pertinent and critical for the success of this project.

**Section 6, Pricing and Schedule:**

The proposal shall include a budget, work schedule, and timeline to complete the tasks and project deliverables to meet the District’s needs as indicated in this RFP. Consultant shall provide a written and signed statement confirming their proposal is inclusive of all elements necessary to complete all goals, tasks, and project deliverables within of the period for execution of the Agreement.

Consultant hourly rates and estimated hours per key staff person shall be provided for each task. All other costs required to conduct the work shall also be included in the hourly rate. The total cost may not exceed \$155,000.00. Optional tasks discussed in Section 5 Scope of Work do not need to be counted in the budget total. If optional tasks are required, adjustments to scope may be necessary to meet the maximum allowable budget. The Consultant and MPWMD will negotiate any required scope adjustments.

If the Consultant is proposing to change hourly rates for Calendar Year 2021, please provide a proposed fee schedule.

**Section 7, Exceptions:**

Submit any and all exceptions to this solicitation on separate pages, and clearly identify the top of each page with “EXCEPTION TO MPWMD SOLICITATION FOR GRANT ADMINISTRATION PROPOSITION 1 ROUND 1 IRWM GRANT”. Each Exception shall reference the page number and section number, as appropriate. Consultant should note that the submittal of an Exception does not obligate the District to revise the terms of the RFP or AGREEMENT.

**Section 8, Appendix (optional)**

This section may include any supporting documentation.

**8.0 SUBMITTAL INSTRUCTIONS**

8.1 To be considered “responsive,” submitted proposals or qualifications packages shall adhere to the following:

8.1.1 Submission: The proposal package shall be submitted electronically to the MPWMD Project Manager. E-mail file size can be accepted up to 50 Mb. The proposal shall be submitted in PDF file format. It is the responsibility of the Consultant to successfully contact the MPWMD Project Manager to confirm receipt of the proposal.

8.1.2 District Seal Reproduction: Reproductions of the seal for the MPWMD or the Department of Water Resources shall not be used in any documents submitted in response to this solicitation.

8.1.3 Signature: To validate your proposal package, **submit the SIGNATURE PAGE** (contained herein) **with your proposal**. Proposal packages submitted without that page will be deemed non-responsive.

8.1.4 Confidential Information: Any page of the proposal package that is deemed by Consultant to be a trade secret by the Consultant shall be clearly marked “CONFIDENTIAL INFORMATION” or “PROPRIETARY INFORMATION” at the top of the page.

8.1.5 Due Date: Proposal packages must be received by the District ON OR BEFORE the time and date specified, at the location and to the person specified on as the Point of Contact of this solicitation. It is the sole responsibility of the Consultant to ensure that the proposal package is received at or before the specified time. Postmarks and facsimiles are not acceptable. Proposals received after the deadline shall be rejected and returned unopened.

8.1.6 Acceptance: Proposals are subject to acceptance at any time within 90 days after opening. The District reserves the right to reject any and all proposal packages, or part of any proposal package, to postpone the scheduled deadline date(s), to make an award in its own best interest, and to waive any informalities or technicalities that do not significantly affect or alter the substance of an otherwise responsible proposal package and that would not affect a Consultant’s ability to perform the work adequately as specified.

8.1.7 Ownership: All submittals in response to this solicitation become the property of the District.

8.1.8 Scoring: Proposal packages that do not follow the format, content and submittal requirements as described herein, or fail to provide the required documentation, may receive lower evaluation scores or be deemed non-responsive.

8.1.9 OSHA: The items proposed shall conform to all applicable requirements of the California Occupational Safety and Health Administration Act of 1973 (CAL-OSHA).

## **9.0 SELECTION CRITERIA**

9.1 The selection of Consultant and subsequent contract award will be based on the criteria contained in this Solicitation, as demonstrated in the submitted proposal. Consultant should submit information sufficient for the District to easily evaluate proposals with respect to the selection criteria. The absence of required information may cause the Proposal to be deemed non-responsive and may be cause for rejection.

9.2 The selection criteria include, but are not limited to, the following:

- Experience and references (50 points);
- Understanding of project goals (25 points);
- Proposed methodology to fulfill the intent of this RFP (25 points);
- Ability and capacity to fulfill the intent of this RFP (50 points);
- Reasonable budget, work schedule, and timeline (50 points);
- Interviews if deemed necessary by the District (100 points if conducting interviews).

9.3 Agreement award may not be based on cost alone.

9.4 Interview: The District reserves the right to interview selected Consultants before a contract is awarded. The costs of attending any interview are the Consultants' responsibility.

9.5 The District will pursue contract negotiations with the Consultant who submits the best Proposal or is deemed the most qualified in the opinion of the District, and which is in accordance with the criteria as described within this solicitation. If the contract negotiations are unsuccessful, in the opinion of the District, District may pursue contract negotiations with the entity that submitted a Proposal which District deems to be the next best qualified to provide the services, or District may issue a new solicitation or take any other action which it deems to be in its best interest.

## **10.0 CONTRACT AWARDS**

10.1 Multiple Award(s): It is the intent of the District to award a single contract for this work.

10.2 Board of Directors: The award made from this solicitation is subject to approval by the MPWMD Board of Directors. It is the right of the Board of Directors to reject all proposals.

10.3 Notification: Unsuccessful Consultants who have submitted a Proposal or Qualifications Package will be notified of the final decision as soon as it has been determined.

10.4 In District's Best Interest: The award resulting from this solicitation will be made to the Consultant that submits a response that, in the opinion of the District, best serves to complete the tasks described in this RFP.

10.5 No Guaranteed Value: District does not guarantee a minimum or maximum dollar value for any AGREEMENT or AGREEMENTS resulting from this solicitation.

10.6 Contract retentions: 10% of the contract price will be retained until completion of all work associated with this RFP. See Section II. B in the Sample Agreement.

## **11.0 AGREEMENT TO TERMS AND CONDITIONS**

Consultant selected through the solicitation process will be expected to execute a formal AGREEMENT with District for the provision of the requested service. The AGREEMENT shall be written by District in a standard format approved by District Counsel, similar to the "**SAMPLE AGREEMENT**" section herein. Submission of a signed bid/proposal and the **SIGNATURE PAGE** will be interpreted to mean Consultant HAS AGREED TO ALL THE TERMS AND CONDITIONS set forth in the pages of this solicitation and **SAMPLE AGREEMENT** herein, except as noted in the EXCEPTIONS section of Consultant's proposal. District may, but is not required to, consider including language proposed by the Consultant as revisions to the

AGREEMENT, and any such proposed revisions to the AGREEMENT shall be included in the EXCEPTIONS section of Consultant's proposal.

## **12.0 RIGHTS TO PERTINENT MATERIALS**

All responses, inquiries, and correspondence related to this solicitation and all reports, charts, displays, schedules, exhibits, and other documentation produced by the Consultant that are submitted as part of the submittal will become the property of the District when received by the District and may be considered public information under applicable law. Any proprietary information in the submittal must be identified as such and marked "CONFIDENTIAL INFORMATION" or "PROPRIETARY INFORMATION". The District will not disclose proprietary information to the public, unless required by law; however, the District cannot guarantee that such information will be held confidential.

**SIGNATURE PAGE**

ISSUE DATE: October 26, 2020  
RFP EXTENSION DATE: \_\_\_\_\_

RFP: GRANT ADMINISTRATION PROPOSITION 1 ROUND 1 IRWM GRANT TO THE MONTEREY PENINSULA REGION

**PROPOSALS ARE DUE IN THE DISTRICT OFFICE BY 2:00 P.M., LOCAL TIME, ON: November 17, 2020**

**MAILING ADDRESS:**  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, CA 93940

QUESTIONS ABOUT THIS RFP #10340 SHOULD BE DIRECTED TO Maureen Hamilton, mhailton@mpwmd.net, (831) 658-5622 or (831) 242-0191

Consultant MUST INCLUDE THE FOLLOWING IN EACH PROPOSAL:

ALL REQUIRED CONTENT AS DEFINED PER SECTION 7.1 HEREIN

This Signature Page must be included with your submittal in order to validate your proposal.  
**Proposals submitted without this page will be deemed non-responsive.**

CHECK HERE IF YOU HAVE ANY EXCEPTIONS TO THIS SOLICITATION.

Consultant MUST COMPLETE THE FOLLOWING TO VALIDATE PROPOSAL

I hereby agree to furnish the articles and/or services stipulated in my proposal at the price quoted, subject to the instructions and conditions in the Request for Proposal package and the identified exceptions. I further attest that I am an official officer representing my organization and authorized with signatory authority to present this proposal package.

Company Name: \_\_\_\_\_ Date \_\_\_\_\_

Signature: \_\_\_\_\_ Printed Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_ Email: \_\_\_\_\_

*SAMPLE AGREEMENT*

**AGREEMENT BETWEEN THE**

**MONTEREY PENINSULA WATER MANAGEMENT DISTRICT AND**

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**FOR PROFESSIONAL SERVICES TO PROVIDE ASSISTANCE WITH  
<NAME OF PROJECT>**

THIS AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_ 2020, by and between \_\_\_\_\_, hereinafter called "Consultant," and the Monterey Peninsula Water Management District, hereinafter called "MPWMD".

**SECTION I  
SCOPE OF SERVICES**

MPWMD hereby engages Consultant for services as set forth in **Exhibit A**, Scope of Work.

**SECTION II  
COMPENSATION**

**A. FEE SCHEDULE**

Fees payable to Consultant for services specified herein shall be in accordance with the Budget in **Exhibit B**.

**B. METHOD OF PAYMENT**

Payment of fees shall be based on work completed, as documented in monthly billings submitted by Consultant. Work reports shall be rendered in accordance with the schedule shown in **Exhibit C**, Work Schedule. Payments are due and payable within thirty (30) days after receipt of each invoice subject to a finding by MPWMD that work performed has been satisfactory and that payment is for the work specified in **Exhibit A**, Scope of Work. Where MPWMD finds the work to be unsatisfactory, MPWMD shall describe deficiencies in writing to Consultant within ten (10) days.

Invoices shall normally be paid in full within 30 days up to the final ten percent (10%) of the maximum payment, which shall be retained until all work described in **Exhibit A, Scope of Work** is completed to the satisfaction of MPWMD. The final invoice for work performed shall be submitted not later than sixty (60) days following notification by MPWMD of completion of such work. The final invoice shall be paid not later than 30 days after receipt of the final invoice.

C. MAXIMUM PAYMENT

Payments to Consultant for services rendered and expenses incurred under this Agreement shall not exceed \$ \_\_\_\_\_.

D. LATE PERFORMANCE PENALTY

Time is of the essence to this Agreement. In the event Consultant is unable to perform satisfactory work within thirty (30) days of the date such work is due pursuant to **Exhibit C**, Work Schedule, MPWMD may, in its discretion, withhold an additional ten percent (10%) of the fees which would otherwise be payable pursuant to the fee schedule set forth in **Exhibit B**.

In the event Consultant is unable to perform satisfactory work within sixty (60) days of the date such work is due pursuant to **Exhibit C**, Work Schedule, MPWMD SHALL withhold twenty percent (20%) of the fees which would otherwise be payable pursuant to the Fee Schedule set forth in **Exhibit B**, and SHALL reduce the maximum payment stated in Section II, Paragraph C of this Agreement by twenty percent (20%). Said reductions shall be deemed liquidated damages for the untimely performance of work required by this Agreement, and the Consultant shall be deemed to have waived any claim for such fees by reason of his/her failure to perform in a timely fashion.

SECTION III  
INSPECTION OF WORK

The books, papers, records and accounts of Consultant or any subconsultants retained by Consultant insofar as they relate to charges for services, or are in any way connected with the work herein contemplated, shall be open at all reasonable times to inspection and audit by the agents and authorized representatives of MPWMD and the State of California. Said records shall be retained for a minimum of three (3) years after final payment for services.

SECTION IV  
OWNERSHIP OF PROJECT REPORT AND EQUIPMENT PURCHASED

All original documents, explanations of methods, maps, tables, computer programs, reports and other documents prepared under this Agreement and equipment purchased specifically for the project shall become the exclusive property of MPWMD. Digital data used to generate tables, figures, diagrams, images, Geographical Information System (GIS) or Computer Aided Design (CAD) layers shall be considered separate deliverables and shall be provided to MPWMD after acceptance by MPWMD of the final work product(s).

Global Positioning System (GPS) data deliverables shall include the following:

- Original rover files, unless otherwise specified by MPWMD
- Base station correction files, unless otherwise specified by MPWMD
- Differentially corrected GPS files, if requested by MPWMD



- Copies of field data collection notes
- Completed documentation sheet for each collection event
- Almanac files are optional

GIS deliverables shall include the following:

- Geospatial dataset [generated from GPS data] in Environmental Systems Research Institute, Inc.'s (ESRI) shapefile format, including a projection file. In this regard, point features shall be generated as point shapefiles, linear features shall be generated as line shapefiles, and area features shall be generated as polygon shapefiles.
- Each geospatial dataset shall be accompanied by documentation sufficient to meet the Content Standard for Digital Geospatial Metadata (CSDGM), Vers. 2 (FGDC-STD-001-1998), dated June 1998.
- Any geospatial dataset derived from new or existing geospatial data in shapefile format, along with an explanation of the methodology used to generate the derived geospatial data.

Consultant may retain copies for his/her own use.

## SECTION V TIME OF PERFORMANCE

Consultant shall begin work upon the effective date of this Agreement and shall complete all tasks described herein according to the schedule shown in **Exhibit C**, Work Schedule. Time is of the essence to this Agreement, and late performance shall result in a waiver of a part of the fees payable pursuant to the terms of this Agreement.

## SECTION VI RESPONSIBILITIES

- A. Consultant represents that he/she has or will secure at his/her own expense all personnel, materials, and related services required to perform the services under this Agreement. Consultant shall act as an independent consultant and not as an agent or employee of MPWMD. Consultant shall have exclusive and complete control over his/her employees and subconsultants, and shall determine the method of performing the services hereunder.
- B. Upon request, MPWMD shall provide Consultant with all relevant data in its possession without charge. Consultant represents that he/she is familiar with such materials provided by MPWMD and that they are sufficient to discharge MPWMD's obligation hereunder.
- C. MPWMD shall coordinate and arrange for all meetings required to be held with other agencies or persons hereunder, unless otherwise specified in **Exhibit A**, Scope of Services.
- D. Consultant shall be responsible for the reproduction of work produced by Consultant hereunder.

- E. The officers, agents, and employees of MPWMD shall cooperate with Consultant in the performance of services under this agreement without charge to Consultant. Consultant agrees to use such services insofar as feasible in order to effectively discharge his/her obligations hereunder and further agrees to cooperate with MPWMD's officers, agents and employees.
- F. The Consultant agrees to indemnify, defend and save harmless MPWMD and the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all consultants, subconsultants, material men, laborers and any other person, firm or corporation who may be injured or damaged by the negligent acts, errors, and/or omissions of the Consultant, Consultant's employees, or Consultant's subconsultants or subconsultants in the performance of this Agreement.
- G. The Consultant acknowledges that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the District under this Agreement, shall be paid by the District to the State, to the extent that they are properly allocable to costs for which the District has been reimbursed by the State under this Agreement.

## SECTION VII INSURANCE

- A. Consultant shall obtain and keep insurance policies in full force and effect for forms of coverage as shown in **Exhibit D**, Insurance Requirements.

## SECTION VIII CHANGES AND CHANGED CONDITIONS

- A. If, during the course of the work herein contemplated, the need to change the Scope of Work or the Work Schedule should arise, for whatever reasons, whichever party first identifies such need to change shall notify the other party in writing. The representatives of the parties shall meet within seven (7) working days of the date of such notice to discuss the need for change so identified and to set the proposed action to be taken by the parties. A change in the Scope of Work may also result in a change in the compensation amount. Compensation changes shall be based upon the Consultant Fee Schedule (**Exhibit B**) attached hereto. Any changes agreed to shall be documented by duly executed amendments to this Agreement.
- B. MPWMD reserves the right to specify individual employees, subconsultants or agents of Consultant who shall be assigned to perform the tasks specified in **Exhibit A**, Scope of Services. If, during the course of the work herein contemplated, there is a change such that the specified individual employees, subconsultants or agents are no longer assigned to the work described in this contract and/or are no longer affiliated with Consultant, Consultant

shall immediately notify MPWMD in writing. Consultant shall assign the rights to this contract to another entity, if requested by MPWMD, as part of termination proceedings pursuant to Section IX, Termination.

## SECTION IX TERMINATION

- A. MPWMD may terminate Consultant's services at any time by written notice to Consultant at least thirty (30) days prior to such termination. Upon receipt of written notice from MPWMD that this Agreement is terminated, Consultant shall submit an invoice for an amount that represents the value of services actually performed to the date of said notice for which he/she has not previously been compensated. Upon approval of this invoice by MPWMD, Consultant shall be paid from the sum found due after having applied the provisions of Section II, Paragraph (D) of this Agreement, "Late Performance Penalty," where applicable, and MPWMD shall have no further obligation to Consultant, monetarily or otherwise.
- B. Upon receipt of written notice of termination, the Consultant shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to MPWMD, copies, including magnetic media, of data, design calculations, drawings, specifications, reports, estimates, summaries and other such information and materials as may have been accumulated by the Consultant in performing the services under this Agreement.

## SECTION X SUB-CONTRACTING AND ASSIGNABILITY

Consultant shall not sub-contract any portion of the work required by this Agreement nor otherwise assign or transfer any interest in it without prior written approval of MPWMD. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

## SECTION XI DISCRIMINATION AND FAIR EMPLOYMENT

Attention is directed to Section 1735 of the California Labor Code, which reads as follows:

“No discrimination shall be made in the employment of persons upon public works because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons, except as provided in Section 12940 of the government code and every Consultant for public works violating this section is subject to all penalties imposed by a violation of this chapter.”

During the performance of this Agreement, Consultant and its Consultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Consultant and its Consultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and its Consultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

## SECTION XII INTEREST OF CONSULTANT

Consultant covenants that he/she presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

## SECTION XIII CONTINGENT FEES

Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company, or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gifts, or other consideration, contingent upon or resulting from the award or making of this Agreement. For breach of violation of this warranty, MPWMD shall have the right to annul this Agreement without liability or at its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage, gift or contingent fee.

## SECTION XIV DISPUTES

In the event of a dispute arising out of the performance of this Agreement either party shall, as soon as a conflict is identified, submit a written statement of the conflict to the other party. Within five (5) working days of receipt of such a statement of conflict, the second party will respond and a meeting will be arranged not more than five (5) working days thereafter to arrive at a negotiated settlement or procedure for settlement. If, within twenty (20) working days from the initial filing of a statement of conflict an agreement cannot be reached, it is agreed that the dispute may be resolved in a court of law competent to hear this matter. This Agreement shall be construed in accord with California law and it is agreed that venue shall be in the County of Monterey. The

prevailing party shall be awarded costs of suit, and attorneys' fees.

#### SECTION XV NOTICES

All communications to either party by the other shall be deemed given when made in writing and delivered or mailed to such party at its respective address, as follows:

MPWMD:                David J. Stoldt, General Manager  
                             Monterey Peninsula Water Management District  
                             5 Harris Court, Building G  
                             Monterey CA 93940  
                             or  
                             P. O. Box 85  
                             Monterey, CA 93942-0085

CONSULTANT:

#### SECTION XVI AMENDMENTS

This Agreement together with **Exhibits A, B, C, D, and E** sets forth the entire understanding of the parties with respect to the subject matter herein. There are no other agreements expressed or implied, oral or written, except as set forth herein. This Agreement may not be amended except upon written amendment, executed by both parties hereto.

#### SECTION XVII ATTACHMENTS

The following exhibits attached hereto and referred to in the preceding sections are, by reference, incorporated herein and made an integral part of this Agreement:

- Exhibit A.** Scope of Work
- Exhibit B.** Budget
- Exhibit C.** Work Schedule
- Exhibit D.** Insurance Requirements
- Exhibit E.** Drug-Free Workplace Certification

**IN WITNESS WHEREOF, the parties hereto have entered into this Agreement effective as of the day and year first above written.**

**MONTEREY PENINSULA WATER MANAGEMENT DISTRICT**

\_\_\_\_\_  
**BY: David J. Stoldt, General Manager**

**CONSULTANT**

\_\_\_\_\_  
**BY:**

**FEDERAL TAX IDENTIFICATION NUMBER: \_\_\_\_\_**

**INSURANCE REQUIREMENTS**

- I. Consultant shall provide evidence of valid and collectible insurance carried for those exposures indicated by an "X".
- A.  X  Professional Liability Errors & Omissions
  - B.  X  Workers Compensation and Employers Liability
  - C.  X  Automobile Liability - "Any Auto - Symbol 1"
  - D.  X  Comprehensive General Liability, including Bodily Injury, Property Damage and Personal Injury
  - E.  X  Owners & Consultants Protective
  - F.       Protection & Indemnity (Marine/Aviation)
- II. The minimum limit of protection provided by insurance policies for each of the coverages listed above shall be not less than \$1,000,000, except for coverage "D", which shall not be less than \$2,000,000. The procurement and maintenance by the Consultant of the policies required to be obtained and maintained by Consultant under this Agreement shall not relieve or satisfy Consultant's obligation to indemnify, defend and save harmless the District.
- III. Evidence of insurance carried shall be Certificates of Insurance for the current policies. The District shall be listed as a certificate holder on the Consultant's Comprehensive General Liability insurance policy and the policy must be endorsed to provide a 60-day prior written notice of cancellation.
- IV. The District requires that the Consultant carry a commercial liability policy written on a broad comprehensive general liability form.
- A. Such protection is to include coverage for the following hazards, indicated by an "X":
    - 1.  X  Premises and Operations
    - 2.  X  Products and Completed Operations
    - 3.       Explosion Collapse and Underground
    - 4.  X  Broad Form Blanket Contractual
    - 5.  X  Broad Form Property Damage
    - 6.  X  Personal Injury, A, B & C
    - 7.  X  Employees named as Persons Insured
    - 8.  X  Protective and/or Contingent Liability (O&CP)
  - B. The "Persons Insured" provision on each comprehensive general liability policy shall include as an insured the "Monterey Peninsula Water Management District, its officers, directors, agents and employees" and "the State, its officers, agents and

employees”.

- C. This policy shall contain a severability of interest clause or similar language to the following:
- "The insurance afforded applies separately to each insured against whom claim is made or suit is brought including claims made or suits brought by any persons included within the persons insured provision of the insurance against any other such person or organization."
- D. All policies shall contain a provision that the insurance company shall give the District at least thirty (30) days prior written notice mailed to the address shown below prior to any cancellation, lapse or non-renewal. The 30-day written notice must be shown on all certificates of insurance.
- E. Certificates of Insurance for the current policies shall be delivered by the Consultant to the Risk Manager for the District as verification that terms A, B, C and D have been met.
- V. All insurance correspondence, certificates, binders, etc., shall be mailed to:
- Monterey Peninsula Water Management District  
Attn: Administrative Services Manager  
5 Harris Court, Building G  
P.O. Box 85  
Monterey, CA 93942-0085
- VI. All policies carried by the Consultant shall be primary coverage to any and all other policies that may be in force. The District shall not be responsible for payment of premiums due as a result of compliance with the terms and conditions of the insurance requirements.
- VII. All such policies of insurance shall be issued by domestic United States insurance companies with general policy holders' rating of not less than "B" and admitted to do business in the State of California. The policies of insurance so carried shall be carried and maintained throughout the term of this Agreement.



**DRUG-FREE WORKPLACE CERTIFICATION**

The District is committed to maintaining a work environment free from the influence of alcohol and drugs in keeping with the spirit and intent of the Drug-Free Workplace Acts of 1988 and 1990. Illegal drugs in the workplace are a danger to all of us. They impair health, promote crime, lower productivity and quality, and undermine public confidence in the work we do. The use of any controlled substances is inconsistent with the behavior expected of our employees, contractors, and subcontractors. It subjects all employees, contractors, and subcontractors, as well as visitors to our facilities and work site, to unacceptable safety risks and undermines the District's ability to operate effectively and efficiently. In this connection, any location at which Monterey Peninsula Water Management District business is conducted, whether on District property or at any other site, is declared to be a drug-free workplace. This means that:

1. All employees, contractors, and subcontractors are absolutely prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, sale, or use of a controlled substance in the workplace or while engaged in District business off our premises. Violation of this policy by contractors or subcontractors could result in termination of the contract for their services.
2. Employees, contractors, and subcontractors have the right to know the dangers of drug abuse in the workplace, the Monterey Peninsula Water Management District's policy about it, and what help is available to combat drug problems.
3. Any employee, contractor, or subcontractor convicted of violating a criminal drug statute in this agency's workplace must inform the District of such conviction (including pleas of guilty and nolo contendere) within five (5) days of its occurrence. Failure to do so by a contractor or subcontractor could result in termination of the contract for their services. By law, the District will notify the federal contracting officer within ten (10) days of receiving any notice of such a conviction.

**ALL CONTRACTORS AND SUBCONTRACTORS ARE ASKED TO ACKNOWLEDGE THAT THEY HAVE READ THE ABOVE POLICY AND AGREE TO ABIDE BY IT IN ALL RESPECTS. BY LAW, THIS ACKNOWLEDGEMENT AND AGREEMENT ARE REQUIRED OF YOU AS A CONDITION OF ENTERING INTO THIS AGREEMENT.**

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Signature of responsible party

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Name and title of responsible party

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Date signed

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