



Request for Proposal No. PWG123-LANDD-4713

Bioassessment Surveys of the Santa Ana River Watershed

**San Bernardino County Flood Control District
Environmental Management Division
825 E. Third Street
San Bernardino, CA 92415-0835
Deadline Date: October 11, 2022**

I. INTRODUCTION

A. Purpose

The San Bernardino County Flood Control District (District) is seeking Proposals from interested and qualified Proposers to provide bioassessment surveys within the Santa Ana River Watershed as part of the Stormwater Monitoring Coalition (SMC).

B. RFP Contact

All correspondence, including Proposals and questions, must be submitted to the person identified below (RFP Contact):

San Bernardino County Flood Control District
Attn: Arlene Chun
825 East Third Street
San Bernardino, CA, 92415
(909) 387-8165 Phone
(909) 387-0305 Fax
Arlene.Chun@dpw.sbcounty.gov Email

Fax number and e-mail address may only be used to submit questions. Proposals will not be accepted by email or facsimile. Proposals must be submitted electronically through the County Electronic Procurement Network (ePro), and/or via hard copy with original signature submitted to the address indicated above. **All Proposers must register with the ePro system prior to the date and time to submit the proposal or they will be disqualified.**

C. Reserved

D. Contract Term

Services to be provided under this Request for Proposals (RFP) are outlined under Section V, Scope of Work. The Contract period will be for a maximum of 5 years beginning on January 1, 2023 and ending on June 30, 2026, with a possible two year extension.

E. Location of Services

Location(s) where Services are to be provided, completed and managed are along the Santa Ana River Watershed in San Bernardino County. Specific sampling locations are listed in Attachment 1- Bioassessment Survey of the SMC.

The Proposer must include in Proposal, Attachment E – Fee Proposal Sheet(s), all transportation, lodging, and per diem costs sufficient to pay its personnel and travel to the aforementioned locations.

F. Assistance to Proposers with a Disability

Proposers with a disability may request accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the RFP Contact no later than ten (10) days prior to the Deadline for Proposals.

G. Minimum Requirements

A. Have a minimum of three (3) continuous years of experience within the last five (5) years providing these type of Services, as defined herein.

II. PROPOSAL TIMELINE

Release of RFP	September 2022
Deadline for Submission of Questions	12:00 pm (noon) on September 29, 2022
Deadline for Proposals	12:00 pm (noon) on October 11, 2022
Date for Tentative Contract Award	November 2022

Questions regarding the contents of this RFP must be submitted in writing on or before the Deadline for Submission of Questions and directed to the RFP Contact. All questions will be answered and both the question and answer will be posted as an Addendum to the RFP in ePro.

III. DEFINITIONS:

Capitalized terms used in this RFP shall have the meanings given to them in the RFP and as defined below:

Board: The San Bernardino County Flood Control District Board of Supervisors.

Contract: The Contract between the District and the Proposer resulting from the award issued pursuant to this RFP to the successful Proposer.

Consultant: Any individual, company, firm, corporation, partnership or other organization to whom a contract award is made by the District.

Facilitator: A District Purchasing Department buyer or designated individual tasked with managing the processes of the evaluation panel.

Proposal: The offer to provide specific goods or services at specified prices and/or other conditions specified in the RFP.

Purchasing Agent: The Director of the District Purchasing Department.

Request For Proposal (RFP): The request for an offer from Proposers interested in providing the identified services sought to be procured by the District. The RFP specifies the evaluation factors to be used and contains or incorporates by reference contractual terms and conditions applicable to the procurement.

Services: The requested professional services described in this RFP.

Subcontractor: An individual, company, firm, corporation, partnership or other organization, not in the employment of or owned by Consultant who is performing services on behalf of Consultant under the Contract or under a separate contract with or on behalf of Consultant.

Stormwater Monitoring Coalition (SMC): consists of 16 stormwater management agencies from the regulated and regulatory sectors working to improve stormwater management practices across coastal southern California.

IV. PROPOSAL CONDITIONS**A. Authorized Signatures**

All proposals must be signed by an individual authorized to bind the Proposer to the provisions of the RFP.

B. Term of Offer

Proposals shall remain open, valid and subject to acceptance anytime within nine (9) months after the Proposal submission.

C. Required Review

Proposers should carefully review this RFP for defects and questionable or objectionable material. Comments from Proposers concerning defects and objectionable material in this RFP must be made in writing and received by the RFP contact prior to the deadline for submission of questions identified in Section II or at least ten (10) calendar days before the Deadline for Proposals (whichever occurs last). This will allow issuance of any necessary amendments or addendums to the RFP. It will also help prevent the opening of a defective RFP and exposure of Proposals upon which an award could not be made. Protests based on any omission or error, or on the content of this RFP, may be disallowed if not submitted in writing to the attention of the RFP Contact prior to the deadline for submission of questions identified in Section II or at least ten (10) calendar days before the Deadline for Proposals (whichever occurs last).

D. Incurred Costs

The District is not obligated to pay any costs incurred by Proposer in the preparation of a Proposal in response to this RFP. Proposers agree that all costs incurred in developing a Proposal are the Proposer's responsibility.

E. Amendments/Addendums to RFP

The District reserves the right to issue amendments or addendums to this RFP if the District considers that changes are necessary or additional information is needed.

Changes to a Proposal or withdrawal of a Proposal will only be allowed if a request is received prior to the Deadline for Proposals. No amendments or withdrawals will be accepted after the Deadline for Proposals.

F. Best Value Evaluation

As established in this RFP, the District realizes that criteria other than price are important and will award contract(s) based on the Proposal that best meets the needs of the District.

G. Right of Rejection

Offers must comply with all of the terms of the RFP, and all applicable local, state, and federal laws, codes, and regulations. The District may reject as non-responsive any Proposal that does not comply with all of the material and substantial terms, conditions, and performance requirements of the RFP. Further, the District may reject a Proposal from any entity that is a parent, affiliate, or subsidiary, or that is under common ownership, control, or management with any other entity submitting a Proposal in response to this RFP.

A Proposer may not qualify the Proposal nor restrict the rights of the District. If Proposer does so, the Proposal may be determined to be a non-responsive counter-offer and the Proposal may be rejected.

No Proposal shall be rejected, however, if it contains a minor irregularity, defect or variation. If the irregularity, defect or variation is considered by the District to be immaterial or inconsequential, the District may choose to accept the Proposal.

Minor irregularities may be waived by the Purchasing Agent when they are any of the following:

1. Do not affect responsiveness;
2. Are merely a matter of form or format;
3. Do not change the relative standing or otherwise prejudice other offers;
4. Do not change the meaning or scope of the RFP;
5. Are trivial, negligible, or immaterial in nature;
6. Do not reflect a material change in the work; or

7. Do not constitute a substantial reservation against a requirement or provision.

In such cases the Proposer will be notified of the deficiency in the Proposal and given an opportunity to correct the irregularity, defect or variation or the District may elect to waive the deficiency and accept the Proposal. The decision to provide a waiver shall in no way modify or compromise the overall purpose of the submittal, nor excuse the Proposer from compliance with all requirements if awarded a Contract.

This RFP does not commit the District to award a contract. The District reserves the right to reject any or all Proposals if it is in the best interest of the District to do so. The District also reserves the right to terminate this RFP process at any time.

H. Local Preference

The District has adopted a Local Preference Policy. A local preference of five percent (5%) shall be applied in the cost evaluation of proposals or bids for goods, services, equipment, or a minor public work project, unless an exemption applies. In a price-based bid, five percent (5%) will be deducted from the local vendor's proposed cost for the purpose of comparison when the local vendor's proposed cost is not the lowest. If the local vendor's bid is equal to or lower than the price of an otherwise successful non-local vendor after the 5% preference is applied, the local vendor will be given the opportunity to match the lowest quoted price. In a best value evaluation, five percent (5%) of the awardable points for cost will be added to the local vendor's score. If the local vendor's overall score is equal to or lower than that of an otherwise successful nonlocal vendor, the local vendor will be recommended for award.

"Due to the evaluation of qualitative elements along with cost in a best value evaluation, application of local preference for cost proposals may not result in award to a local vendor with the lowest cost after applying local preference."

Local Vendor - A local vendor is any vendor, contractor or consultant (hereafter "vendor") that meets all of the following requirements:

1. Vendor's main office (headquarters) or a major regional office is located within San Bernardino County (County);
2. Vendor employs a minimum of 25% of the vendor's full-time management employees and 25% of its full-time regular employees working from the County location(s);
3. Vendor employs one full-time or two part-time employees with primary residence in the County;
4. Vendor's "point of sale" for purposes of reporting sales tax to the State Board of Equalization is within the boundaries of the County. The payment of any local share of sales tax must go to the County or a city within the County. If the local business has more than one sales office in the State of California, the office located in the County shall be the point of sale for sales tax calculation;
5. Vendor is not delinquent in any taxes or other payments to the County;
6. Vendor possesses a valid and verifiable business license (if required);
7. Vendor has been open and established for at least six months prior to the issuance of the solicitation;
8. Vendor can demonstrate on-going business activity in the field of endeavor on which they are proposing from that office during the preceding six months;
9. Vendor has not within five years prior to the solicitation admitted guilt or been found guilty by any court or state or federal regulatory enforcement agency of violation of any criminal law or any law or regulation regarding fraud;
10. Vendor is not federally debarred; and
11. Vendor is not suspended or debarred from participation in doing business with the County, in the scope of work that is the subject of the solicitation.
12. Local Vendor Self-certification – Documentation provided

Local Vendor self-certification form is required for any bid or proposal when a local preference is

claimed affirming that it meets each of the above stated criteria, and signed by a vendor representative with the authority to obligate the company under penalty of perjury. (See Attachment 2)

I. Clarification of Offers

In order to determine if a Proposal is reasonably susceptible for award, communications by the Facilitator for the evaluation panel are permitted with a Proposer to clarify uncertainties or eliminate confusion concerning the contents of a Proposal. Clarifications may not result in a material or substantive change to the Proposal. The evaluation by the panel may be adjusted as a result of a clarification under this section.

J. Public Records Act

All Proposals and other material submitted become the property of the District and are subject to release according to the California Public Records Act (Government Code § 6250 *et seq.*). All Proposal information, including cost information, will be held in confidence during the evaluation and negotiation process. Thereafter, Proposals are subject to becoming a non-exempt public record.

If a Proposer believes that any portion of its Proposal is exempt from public disclosure, it must indicate the specific portions believed to be confidential and not subject to disclosure on Attachment I - Public Records Act Exemptions. The Proposer also must include a brief description that sets out the reasons for exemption from disclosure. Each stated exemption must include a citation to supporting legal authority, including statutory authority or case law, to support exemption from the Public Records Act. Requested exemptions that do not meet the requirements of this section will not be considered.

The District will use reasonable means to ensure that such information is safeguarded, but will not be held liable for inadvertent disclosure of the information. Proposals marked "Confidential" in their entirety will not be honored, and the District might not deny public disclosure of any portion of Proposals so marked.

By submitting a Proposal with portions identified in Attachment I as "Confidential," Proposer represents that it has a good faith belief that such portions are exempt from disclosure under the Public Records Act. Proposer may be requested to obtain legal protection from disclosure should a Public Records Act request be received. In the event the District does not disclose the information marked "Confidential," Proposer agrees to reimburse the District and County for, and to indemnify, defend (with counsel approved by District) and hold harmless the District and County, their officers, employees, agents, and volunteers from and against any and all claims, damages, losses, liabilities, suits, judgments, fines, penalties, costs and expenses, including without limitation, attorneys' fees, expenses and court costs of any nature arising from or relating to the District's non-disclosure of any such designated portions of a Proposal.

K. Employment of Former County Officials

Information must be provided in Attachment G regarding former County Administrative Officials (as defined below) who are employed by or represent Proposer. The information provided must include a list of former County Administrative Officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of Proposer and should also include the employment and/or representative capacity and the dates these individuals began employment with or representation of Proposer. For purposes of this section, "County Administrative Official" is defined as a member of the Board of Supervisors or such member's staff, Chief Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

Failure to provide this information may result in the Proposal being deemed non-responsive.

L. Reserved

M. Disclosure of Criminal and Civil Proceedings

The District reserves the right to request the information described herein from the Proposer selected for Contract award. Failure to provide the information may result in a disqualification from the selection process and no award of Contract to the Proposer. The District also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The selected Proposer may also be requested to provide information to clarify initial responses. Negative information provided or discovered may result in disqualification from the selection process and no award of Contract.

The selected Proposer may be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Proposer will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the selected Proposer may also be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Proposer will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the District. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

N. Debarment and Suspension; California Secretary of State Business Entity Registration

Proposer certifies in Attachment D that neither it nor its principals or subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See Attachment D and the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). Proposer also certifies in Attachment D that if it or any of the subcontractors listed in the Proposal are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

O. Unsatisfactory Performance

Proposer affirms that it has no record of unsatisfactory performance with the County in the twenty-four (24) month period immediately preceding the date of issuance of this RFP.

P. Final Authority

The final authority to award a contract(s) as a result of this RFP rests solely with the Board of Supervisors, or as delegated by the Board of Supervisors.

Q. Department of Industrial Relations Registration

Proposer must be registered with the Department of Industrial Relations as required by Senate Bill 854 (Chapter 28, Statutes of 2014) and Senate Bill 96 (Chapter 28, Statutes of 2017) to work on public works contracts as defined under the Labor Code.

V. SCOPE OF WORK**A. BACKGROUND INFORMATION**

On January 29, 2010, the California Regional Water Quality Control Board – Santa Ana Region (SARWQCB) adopted the National Pollution Discharge Elimination System Municipal Separate Storm Sewer System Permit (MS4 Permit) for urban stormwater discharges from the San Bernardino County Flood Control District (District), the County of San Bernardino (County), and the Cities of Big Bear Lake, Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland and Yucaipa (Permittees). The District, County and Permittees, collectively, developed the Area Wide Urban Stormwater Program (Program), to cooperatively implement the requirements set forth in the MS4 Permit.

The MS4 Permit requires regional watershed monitoring. The Program prepared, and the SARWQCB approved, an Integrated Watershed Monitoring Program (IWMP) documenting monitoring that complies with MS4 Permit requirements and provides the foundation for the preparation of additional plans and/or studies necessary to comply with the MS4 Permit. The Program anticipates the continuation of regional permit requirements in the future MS4 permit, currently available as a staff working proposal. The MS4 Permit's bioassessment requirement is the basis of this RFP.

B. PROJECT DESCRIPTION

1. As part of a special effort lead by the Stormwater Monitoring Coalition (SMC), monitoring of stream conditions are to be conducted with the purpose of collecting valuable data about the conditions of Southern California coastal streams. Initially, the SMC began monitoring stream conditions in 2009. This initial survey served as a starting point or baseline for monitoring regional trends. This special survey was continued in 2015 with another new five-year program, which was built on the initial survey to focus on trend detection. Finally, in 2021, a third five-year survey was initiated to expand assessment area coverage, and to better understand the different types of streams currently present in the Southern California region. As part of the SMC, San Bernardino County Flood Control District, will participate in this special survey by monitoring streams in the Santa Ana Watershed region, more specifically, the Middle of Santa Ana, and Upper Santa Ana areas. (Attachment 1) goes into further details for project specifics. Bioassessment work is targeted to start in Spring 2023, in conjunction with SMC regional bioassessment monitoring.
2. The District, acting on behalf of the Program as the Principal Permittee, is requesting proposals to secure the services specified within (Attachment 1).
3. All work requested from (Attachment 1) should be completed by Proposer and all sub-consultants accordingly. If possible, the Program requests that the Proposer use existing lab contracts for water quality testing.

C. ADDITIONAL REQUIREMENTS

Personnel performing bioassessment monitoring per the SMC Workplan must possess all necessary biological sampling permits, certifications, etc. required to perform the work.

VI. PROPOSAL SUBMISSION**A. General**

1. All interested and qualified Proposers are invited to submit a Proposal for consideration. Submission of a Proposal indicates that the Proposer has read and understands the entire RFP, including all appendixes, attachments, exhibits, schedules, and addenda (as applicable) and that all concerns regarding the RFP have been resolved.
2. Proposals must be received by the designated date and time. **All proposers must register with the ePro system prior to the date and time to receive the proposal or they will be disqualified. Late or incomplete proposals will not be accepted.** System-related issues in ePro shall be directed to the Purchasing Department at (909) 387-2060. For procurement questions involving ePro, please contact the RFP Contact identified in Section I, Paragraph A - Purpose.
3. The Proposer acknowledges that its electronic signature is legally binding. Submittals in ePro will be opened from the system's encrypted lock box after the deadline and evaluated as stated in this RFP.
4. Paper responses may be submitted in lieu of/must be submitted in addition to electronic submission, by mail or in person to the RFP Contact and will be time/date stamped when received. Proposals can be withdrawn at any time prior to the scheduled Deadline for Proposals.
5. Hand carried Proposals may be delivered to the RFP Contact between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays observed by the District. Proposers are responsible for informing any commercial delivery service, if used, of all delivery requirements, and for ensuring that the address information appears on the outer wrapper or envelope used by such service.
6. Proposer, choosing to submit paper responses, shall submit the following hard copies to District: one (1) original and three (3) copies, and one (1) copy to be provided as a PDF file (excluding financial information) in an electronic format (i.e. Flash drive), for a total of four (4) printed copies (excluding Attachment E, Fee Proposal Sheet(s)).
7. **If the Proposal is submitted through ePro only, the Proposer shall not include Attachment E, "Fee Proposal Sheet(s)", as part of Proposer's ePro submittal, but instead shall mail or submit in person Attachment E, in a separate sealed envelope labeled "Fee Proposal Sheet" with the RFP Number and Title and the name of the Proposer clearly marked on the outside, to the address stated in Section 1, Paragraph B. The Proposal and Attachment E must be received (in separate envelopes) on or before the Deadline for Proposals. Failure to comply with this requirement shall disqualify the Proposer.**
8. **Paper Proposals are required at the location identified in the RFP and can be withdrawn at any time prior to the scheduled deadline for submission of the Proposal.**
9. Proposals must be submitted in the format described below. Proposals are to be prepared in such a way as to provide a straightforward, concise description of capabilities to satisfy the requirements of this RFP.
10. Proposals must be completed in all respects as required in this section. A Proposal may not be considered if it is conditional or incomplete.

B. Proposal Format

Responses to this RFP must be in the form of a Proposal package, which must be submitted in the following format:

1. Presentation

Submit all hard copies of the Proposal on 8 ½ x 11 paper. Each page, including attachments, must be clearly and consecutively numbered.

2. Cover Page

Use Attachment A as the cover page. This form must be fully completed and signed by an authorized officer of the Proposer.

3. Table of Contents

All pages of the Proposal, including the enclosures, must be clearly and consecutively numbered and correspond to the Table of Contents.

4. Statement of Certification

Include the following on Attachment B:

- a. A statement that the offer made in the Proposal is firm and binding for nine (9) months from the Deadline for Proposals.
- b. A statement that all aspects of the Proposal, including cost, have been determined independently, without consultation with any other Proposer (competitor) for the purpose of restricting competition.
- c. A statement that all declarations in the Proposal and attachments are true and that this shall constitute a warranty, the falsity of which will entitle the District to pursue any remedy by law.
- d. A statement that the Proposer agrees that all aspects of the RFP and the Proposal submitted shall be binding if the Proposal is selected and a Contract awarded.
- e. A statement that the Proposer agrees to provide the District with any other information the District determines is necessary for an accurate determination of the Proposer's ability to perform the Services as proposed.
- f. A statement that the Proposer, if selected will comply with all applicable rules, laws and regulations.
- g. A statement that the Proposer has reviewed the RFP and General Contract Terms in their entirety and have no exceptions to any requirements, terms or conditions, except as noted in Attachment H.

5. Statement of Experience and Qualifications

Include the following in this section of the Proposal:

- a. Business name of the Proposer and type of legal entity such as corporation, partnership, etc. If Proposer is a business entity that must be registered with the California Secretary of State, Proposer shall provide the District the entity number assigned to it by the Secretary of State.
- b. Number of years the Proposer has been in business under the present business name, as well as related prior business names.
- c. Statement that the Proposer does not have any commitments or potential commitments that may impact the Proposer's ability to perform the Contract, if awarded.

6. Licenses, Permits, and/or Certifications

Provide copies of all licenses, permits and/or certifications in Attachment C as required under Section X. TERMS AND CONDITIONS Paragraph A, 21. [Personnel performing bioassessment monitoring per the SMC Workplan must possess all necessary biological sampling permits, certifications, etc. required to perform the work.

7. Reserved

8. Project Team Organization Chart

Provide an organization chart illustrating the project team, and clearly show the organization of the team and the hierarchy of the members. It must include:

- a. Organizational framework for the proposed project team.
- b. Company name and staff name for each role identified in the chart.
- c. Resumes of key personnel, including qualifications, education and project experience

9. Proposal Description

The Proposal should include the following:

- a. A brief synopsis of the Proposer's understanding of the District's needs and how the Proposer plans to meet them.
- b. A detailed statement of the proposed Services.
- c. An explanation of any assumptions or constraints.

10. Work Plan and Schedule

Include the following:

- a. Summary of management/work plan for this Project.
- b. Project schedule

11. Certification Regarding Debarment or Suspension

Complete Attachment D.

12. Cost

Complete proposed pricing on Attachment E and enclose it in a separately sealed and labeled envelope to be submitted as part of the Proposal.

13. References

Provide three (3) references from other entities, preferably public agencies, of same or similar size as the District, with whom you have established a contract on a project of this nature. Provide Contact Name, Address, Phone Number, Email Address, and dates Services were provided on Attachment F.

14. Former County Officials

Complete Attachment G

15. Exceptions to RFP

Complete Attachment H.

16. Public Records Act Exemptions

Complete Attachment I – Public Records Act Exemptions if applicable.

17. Indemnification and Insurance Requirements Affidavit

Submit evidence of ability to insure as stated in Section X, Paragraph B – Indemnification and Insurance Requirements. Proposer must complete and submit Attachment J – Indemnification and Insurance Requirements Affidavit, and ensure the form is complete, including the signature from Proposer's insurance broker/agent.

18. Conflict of Interest

See Attachment K – Conflict of Interest and Political Reform Act Obligations.

VII. PROPOSAL EVALUATION AND SELECTION

Proposals will be subject to an Initial Review (Pass /Fail) to confirm responsiveness, by determining whether each Proposal includes the stipulated content, required certifications or licensing, etc., and is presented in the required format, in order for the Proposal to advance for evaluation. Any reasonable person reviewing for responsiveness must be able to ascertain that the Proposal meets these requirements.

The evaluation process includes the following categories, and may include additional specific criteria. Likewise, the listed considerations are possible considerations, and may not be the only factors involved in the evaluation.

Criteria	Points
Responsiveness to RFP/ (Attachment 1)	20
Experience with similar types of work	25
Qualifications of staff/ sub-consultants	20
Knowledge of material and methods	25
References/previous work	10
Total	100

The District may, at its sole discretion, create a shortlist of Proposals for further evaluation; require an oral interview, presentation, or demonstration; and utilize outside experts to assist in the evaluation process.

The District will establish an evaluation panel with responsibility for reviewing all Proposals and conducting the qualifications evaluation. A Facilitator will manage the integrity of the qualifications evaluation process and will not be a voting member of the evaluation panel. An initial meeting will be scheduled and held with the evaluation panel members, wherein the Facilitator will distribute all relevant documents to the evaluators including the RFP, evaluation worksheets for each Proposal, and written evaluation instructions.

After the initial meeting, evaluators will independently review and score the Proposals. The evaluation panel will then convene again to discuss the individual scores to resolve questions and to discuss the basis for individual scores, but not for the evaluators to agree upon scoring. At the end of this discussion, each evaluator will be given an option to revise his/her scores.

Evaluators will make independent determinations for scores, including review and understanding of any additional information obtained by the group discussion. In the event a score is revised, the evaluator will strike out the original score, document the new score, and provide comments to support the revision.

If clarifying information is needed at any point, the Facilitator will contact Proposer(s) to obtain the necessary information. The Facilitator will then provide the information to the evaluation panel electronically or verbally, as appropriate.

If the qualifications evaluation process includes components such as oral interviews, product demonstration, and/or site visits, the Facilitator will coordinate those with evaluators. Individual scoring and any subsequent evaluation panel meetings with respect to such components must be conducted.

Once all scorings are finalized and documented, the Facilitator will collect individual evaluation worksheets to create a final qualifications evaluation scoring worksheet and rank the proposals first, second, third, etc.

Following the qualifications evaluation and ranking of the proposals, the Facilitator will open all fee proposals. The ranking of the proposals will not be altered once the fee proposals have been opened. However, the fee proposals will be used during negotiations with the selected Proposer(s).

VIII. NEGOTIATIONS AND NOTICE OF INTENT TO AWARD

The District may require the potential Proposer(s) selected to participate in negotiations. This may include cost, technical, or other clarifications needed to make a decision.

A. Contract Negotiation

After selection, negotiations may be conducted with the Proposer(s) of the highest-ranked Proposal(s). Negotiations, if held, shall be within the scope of work in the request for Proposals.

If the contract negotiations take place in San Bernardino County, California, the Proposer will be responsible for its travel and per diem expenses of its personnel.

B. Failure to Negotiate

If the selected Proposer:

1. Fails to provide the information required to begin negotiations in a timely manner; or
2. Fails to negotiate in good faith; or
3. Indicates it cannot perform the Contract within the budgeted funds available for the services; or
4. If the Proposer and the District, after a good faith effort, simply cannot come to terms;

Then the District may terminate negotiations with the Proposer initially selected and commence negotiations with the next highest ranked Proposer.

C. Notice of Intent to Award (NOIA) – Proposer Notification of Selection

After the completion of Contract negotiations a written or electronic Notice of Intent to Award (NOIA) and denial letters (or a copy of the NOIA) will be issued to all Proposers. The issuance date of the NOIA is the date the NOIA was delivered by email or into the care of the United States Postal Service for delivery to the Proposer.

D. Reserved**E. Award**

A Contract will be awarded based on a competitive selection of Proposals received. The contents of the Proposal of the successful Proposer will become contractual obligations and failure to accept these obligations in a Contract may result in cancellation of the award.

IX. APPEAL AND AWARD

In the event a dispute arises concerning the Proposal process prior to the award of the Contract, the Proposer raising the dispute shall submit a request for resolution in writing to the Purchasing Agent. Proposer may appeal the recommended award or denial of award (Protest), provided the Protest:

1. Is submitted in writing.
2. Is submitted within ten (10) calendar days of the issuance date of the NOIA.

A Protest can only be brought on the following grounds:

1. Failure of the District to follow the selection procedures and adhere to requirements specified in the RFP or any addenda or amendments.
2. Violation of conflict of interest as provided by California Government Code Section 87100 et seq.

3. Violation of State or Federal law.

Protests will not be accepted for any other reasons than those stated above. All Protests must be sent to:

Pete Mendoza, Interim Director
San Bernardino County
Purchasing Department
777 E. Rialto Avenue
San Bernardino, CA 92415-0760

Upon receipt of the formal Protest, the Purchasing Agent, or his/her designee, will attempt to resolve the Protest. A Protest shall be disallowed when, in the judgment of the Purchasing Agent it has been submitted: (1) as a delay tactic; (2) for the purpose of posturing the Proposer advantageously for future procurement; (3) in a form that deviates from the one prescribed; (4) without adequate factual basis or merit; or (5) in an untimely manner.

The Purchasing Agent shall make a decision concerning the appeal, and notify the Proposer submitting the Protest, within a reasonable timeframe prior to the tentatively scheduled date for awarding the Contract. The decision of the Purchasing Agent shall be deemed final.

Alternatively, at the Purchasing Agent's discretion, an Appeal Panel consisting of five (5) members appointed by the Purchasing Agent shall hear the Protest. The Proposer will be provided reasonable notice of the time, date and location of the hearing. In the event that a protesting Proposer does not appear at the Protest hearing as scheduled, the Protest will be disallowed.

The hearing is informal, in that it is not subject to the strict rules of evidence or procedure, and live witnesses, if any, will not be sworn. All relevant evidence is admissible, including hearsay. It will be up to the Appeal Panel members to consider the credibility of the evidence and the weight to give it.

The Panel will determine by at least three (3) affirmative votes: 1) whether the Protest was submitted timely; 2) whether the Protest is based on at least one of the three designated grounds identified above; and 3) whether the grounds on which the Protest are based have been substantiated.

If any of the grounds are determined to be valid, the Panel will also decide if the valid portion of the Protest has so tainted the RFP process that it is unfair to the Proposer or whether the valid grounds for the Protest are in the nature of harmless error and that the RFP process was fair to the Proposer. The Panel will not re-evaluate the Proposals.

The Purchasing Agent shall notify the Proposer making the Protest of the decision, within a reasonable timeframe prior to the tentatively scheduled date for awarding the Contract. The decision of the Appeal Panel shall be deemed final. If the Contract must be approved by the Board, after receiving a decision from the Purchasing Agent or Appeal Panel, the Proposer may then present its Protest to the Clerk of the Board of Supervisors for the Board's review and decision. The Proposer must file its written Protest with the Clerk of the Board or provide a verbal Protest (typically limited to three minutes) prior to the Board making a decision on the Contract. Any decision of the Board shall be deemed final.

A Proposer protesting the results of any of the processes described herein must follow the procedures set forth. By submitting a "Letter of Intent to Protest", the Proposer has agreed that the protest procedures herein shall precede any action in a judicial or quasi-judicial tribunal regarding this Proposal. Protests that do not follow these procedures shall not be considered. The protest procedures constitute the sole administrative remedy available to the Proposer under this RFP. Upon exhaustion of this remedy no additional recourse is available.

X. TERMS AND CONDITIONS

The selected Proposer will be required to enter into a formal Contract with the District. This RFP sets forth some of the general provisions which will be included in the final Contract. In submitting a response to this RFP, Proposer will be deemed to have agreed to each clause unless the Proposal identifies an objection and District agrees to a change of language in writing. All objections to any Terms and Conditions must be listed on Attachment H – Exceptions to RFP, or any exception thereto shall be waived.

A. General**1. Contract Amendments**

Consultant agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Consultant and District.

2. Consultant Contract Exclusivity

This is not an exclusive Contract. The District reserves the right to enter into a Contract with other Contractors for the same or similar Services. The District does not guarantee or represent that the Consultant will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Contract.

3. Attorney Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under the Indemnification and Insurance Requirements.

4. Background Checks for Consultant Personnel

Consultant shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (b) do not use legal or illegal substances in any manner which will impact their ability to provide services to the District; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the District and not in violation of applicable law, Consultant shall conduct a background check, at Consultant's sole expense, on all its personnel providing Services. If requested by the District, Contractor shall provide the results of the background check of each individual to the District. Such background check shall be in the form generally used by Consultant in its initial hiring of employees or contracting for contractors or, as applicable, during the employment-screening process but must, at a minimum, have been performed within the preceding 12-month period. Consultant personnel who do not meet the District's hiring criteria, in District's sole discretion, shall not be assigned to work on District property or Services, and District shall have the right, at its sole option, to refuse access to any Contract personnel to any District facility.

5. Change of Address

Consultant shall notify the District in writing of any change in mailing address within ten (10) business days of the change.

6. Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

7. Compliance with District Policy

In performing the Services and while at any District facilities, Consultant personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the District regarding health and safety, and personal, professional and

ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the District; and (d) abide by all laws applicable to the District facilities and the provision of the Services, and all additions and modifications to each of subsections (b),(c), and (d) (collectively, "District Policies"). District Policies, and additions or modifications thereto, may be communicated orally or in writing to Consultant or Consultant personnel or may be made available to Consultant or Consultant personnel by conspicuous posting at a District facility, electronic posting, or other means generally used by District to disseminate such information to its employees or contractors. Consultant shall be responsible for the promulgation and distribution of District Policies to Consultant personnel to the extent necessary and appropriate.

District shall have the right to require Consultant's employees, agents, representatives and subcontractors to exhibit identification credentials issued by District in order to exercise any right of access under this Contract.

8. **RESERVED**

9. **Primary Point of Contact**

The Consultant will designate an individual to serve as the primary point of contact for the Contract. Consultant or designee must respond to District inquiries within two (2) business days. Consultant shall not change the primary contact without written acknowledgement to the District. Consultant will also designate a back-up point of contact in the event the primary contact is not available.

10. **District Representative**

The Director, Chief Flood Control Engineer, Assistant Director, or his/her designee shall represent the District in all matters pertaining to the Services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Consultant. If this contract was initially approved by the Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract.

11. **Damage to District Property**

Consultant shall repair, or cause to be repaired, at its own cost, all damage to District vehicles, facilities, buildings or grounds caused by the willful or negligent acts of Consultant or employees or agents of the Consultant. Such repairs shall be made immediately after Consultant becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Consultant fails to make timely repairs, the District may make any necessary repairs. For such repairs, the Consultant, shall repay all costs incurred by the District, by cash payment upon demand or District may deduct such costs from any amounts due to the Consultant from the District, as determined at District's sole discretion.

12. **Debarment and Suspension**

The Consultant certifies that neither it nor its principals or subcontracts is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). Consultant further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

13. **Drug and Alcohol-Free Workplace**

In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this Contract, Consultant agrees that the Consultant and the Consultant's employees, while performing service for the District, on District property, or while using District equipment:

- a. Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
- b. Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
- c. Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Consultant or Consultant's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

Consultant shall inform all employees that are performing service for the District on District property, or using District equipment, of the District's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the District.

The District may terminate for default or breach of this Contract and any other Contract the Consultant has with the District, if the Consultant or Consultant's employees are determined by the District not to be in compliance with above.

14. Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

15. Employment Discrimination

During the term of the Contract, Consultant shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Consultant shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

16. Environmental Requirements

In accordance with County Policy 11-08, the District prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The District requires Consultant to use recycled paper for any printed or photocopied material created as a result of this Contract. Consultant is also required to use both sides of paper sheets for reports submitted to the District whenever practicable.

To assist the District in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Consultant must be able to annually report the District's environmentally preferable purchases. Contractors must also be able to report on environmentally preferable goods used in the provision of Services to the District, utilizing a District approved form.

17. Improper Influence

Consultant shall make all reasonable efforts to ensure that no District officer or employee, whose position in the District enables him/her to influence any award of this contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of this Contract or shall have any relationship to the Consultant or officer or employee of the Consultant.

18. Improper Consideration

Consultant shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the District in an attempt to secure favorable treatment regarding this Contract.

The District, by written notice, may immediately terminate any Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the District with respect to the Proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a Contract has been awarded.

Consultant shall immediately report any attempt by a District officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Consultant. The report shall be made to the supervisor or manager charged with supervision of the employee or to the District Administrative Office. In the event of a termination under this provision, the District is entitled to pursue any available legal remedies.

19. Informal Dispute Resolution

In the event the District determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

20. Legality and Severability

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

21. Licenses, Permits, and/or Certifications

Consultant shall ensure that it has all necessary licenses, permits and/or certifications required by Federal, State, County, and municipal laws, ordinances, rules and regulations. The Consultant shall maintain these licenses, permits, and/or certifications in effect for the duration of this Contract. Consultant will notify District immediately of loss or suspension of any such licenses, permits, and/or certifications. Failure to maintain required licenses, permits, and certifications may result in immediate termination of this Contract.

Personnel performing bioassessment monitoring per the SMC Workplan must possess all necessary biological sampling permits, certifications, etc. required to perform the work. This requirement includes in participating in SCCWRP-led method/data calibration exercises.

22. Material Misstatement/Misrepresentation

If during the course of the administration of this Contract, the District determines that Consultant has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the District, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the District is entitled to pursue any available legal remedies.

23. Mutual Covenants

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

24. Nondisclosure

Consultant shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the District to Consultant or an agent of Consultant or otherwise made available to Consultant or Consultant's agent in connection with this Contract; or, (2) acquired, obtained, or learned by Consultant or an agent of Consultant in the performance of this Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

25. Notice of Delays

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

26. Ownership of Documents

All documents, data, products, graphics, computer programs and reports prepared by Consultant pursuant to the Contract shall be considered property of the District upon payment for services (and product, if applicable). All such items shall be delivered to District at the completion of work under the Contract. Unless otherwise directed by District, Consultant may retain copies of such items.

27. Participation Clause

The District desires that Municipalities, School Districts, and other Tax Districts within San Bernardino County requiring the same services provided herein may at their option and through the District Purchasing agent, avail themselves of this Contract. Upon notice, in writing, the Consultant agrees to the extension of the terms of a resultant contract with such governmental bodies as though they have been expressly identified in this bid, with the provisions that:

- a. Such governmental body does not have and will not have in force any other contract for like purchases.
- b. Such governmental body does not have under consideration for award any other bids or quotations for like purchases.

Such governmental body shall make purchases directly through and to the Consultant. The District will not be liable for any such purchase made between the Consultant and another governmental body who avails themselves of this contract.

28. Air, Water Pollution Control, Safety and Health

Consultant shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Contract.

29. Relationship of the Parties

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto. In the performance of this Contract, Consultant, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the San Bernardino County. Any provision of

this Contract that may appear to give the District any right to direct the Consultant concerning the details of performing the services/Scope of Work, or to exercise any control over such performance, shall mean only that the Consultant shall follow the direction of the District concerning the end results of the performance.

30. Release of Information

No news releases, advertisements, public announcements or photographs arising out of this the Contract or Consultant's relationship with District may be made or used without prior written approval of the District.

31. Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

32. Subcontracting

Consultant agrees not to enter into any subcontracting Contracts for work contemplated under the Contract without first obtaining written approval from the District. Any subcontractor shall be subject to the same terms and conditions as Consultant. Consultant shall be fully responsible for the performance and payments of any subcontractor's contract.

Consultant shall obtain District's written consent, which District may withhold in its sole discretion, before entering into Contracts with or otherwise engaging any subcontractors who may supply any part of the Services to District. At District's request, Consultant shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the District, resumes of proposed subcontractor personnel. Consultant shall remain directly responsible to District for its subcontractors and shall indemnify District and County for the actions or omissions of its subcontractors under the terms and conditions specified in Paragraph B of this Section X. All approved subcontractors shall be subject to the provision of this Contract applicable to Consultant Personnel, including removal pursuant to subsection A.5 of this Section X.

For any subcontractor, Consultant shall:

- 34.1 Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions; and
- 34.2 Ensure that the subcontractor follows District's reporting formats and procedures as specified by District.
- 34.3 Include in the subcontractor's subcontract substantially similar terms as are provided in Articles B. Consultant Responsibilities and C. General Contract Requirements .

Upon expiration or termination of this Contract for any reason, District will have the right to enter into direct Contracts with any of the Subcontractors. Consultant agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct Contracts with District.

33. Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Contract is served upon Consultant or District, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Consultant and District further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom

the legal process is directed, except as otherwise provided herein in connection with defense obligations by Consultant for District.

34. Termination for Convenience

The District and the Consultant each reserve the right to terminate the Contract, for any reason, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to the Consultant for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Consultant shall promptly discontinue services unless the notice directs otherwise. Consultant shall deliver promptly to District and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

35. Time of the Essence

Time is of the essence in performance of this Contract and of each of its provisions.

36. Venue

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

37. Successors and Assigns

This Contract shall be binding upon District and Consultant and their respective successors and assigns.

Neither the performance of this Contract, nor any part thereof, nor any monies due or to become due thereunder may be assigned by Consultant without the prior written consent and approval of District.

Death or Incapacity: If the Consultant transacts business as an individual, his/her death or incapacity shall automatically terminate this Contract as of the date of such event, and neither he/she nor his/her estate shall have any further right to perform hereunder, and District shall pay him/her or his/her estate the compensation payable under Article F, Fiscal Provisions, for any services rendered prior to such termination not heretofore paid, reduced by the amount of additional costs which will be incurred by District by reason of such termination. If there be more than one Consultant and any one of them die or become incapacitated and the others continue to render the services covered herein, District will make payment to those continuing as though there had been no such death or incapacity and District will not be obliged to take any account of the person who died or became incapacitated or to make any payments to such person or his estate. The provision shall apply in the event of progressive or simultaneous occasions of death or incapacity among any group of persons named as Consultant herein, and if death or incapacity befalls the last one of such group before this Contract is fully performed, then the rights shall be as if there had been only one Consultant.

38. Copyright

District shall have a royalty-free, non-exclusive and irrevocable license to publish, disclose, copy, translate, and otherwise use, copyright or patent, now and hereafter, all reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other materials or properties developed under this Contract including those covered by copyright, and reserves the right to authorize others to use or reproduce such material. All such materials developed under the terms of this Contract shall acknowledge the District as the funding agency and Consultant as the creator of

the publication. No such materials or properties produced in whole or in part under this Contract shall be subject to private use, copyright or patent right by Consultant in the United States or in any other country without the express written consent of District. Copies of all educational and training materials, curricula, audio/visual aids, printed material, and periodicals, assembled pursuant to this Contract must be filed with the District prior to publication.

39. Artwork, Proofs and Negatives

All artwork, proofs and/or negatives in either print or digital format for this product are the property of the District. These items must be returned to the District within ten (10) calendar days, upon written notification to the Consultant. In the event Consultant fails to return the documents, the District is entitled to pursue any available legal remedies. In addition, the Consultant will be barred from all future solicitations, for a period of at least six (6) months.

40. Fiscal Provisions

- a. The maximum amount of reimbursement/payment under this Contract shall be subject to availability of funds to the District. The consideration to be paid to Consultant, as provided herein, shall be in full payment for all Consultant's Services and expenses incurred in the performance hereof, including travel and per diem.
- b. Consultant shall provide District itemized monthly invoices, in arrears, and in a format acceptable to the District for Services performed under this Contract within twenty (20) days of the end of the previous month. The District shall make payment to Consultant within sixty (60) working days after receipt of invoice or the resolution of any billing dispute.
- c. Consultant shall accept all payments from District via electronic fund transfer (EFT) directly deposited into the Consultant's designated checking or other bank account. Consultant shall promptly comply with directions and accurately complete forms provided by District required to process EFT payments.
- d. District is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Consultant or on any taxes levied on employee wages. The District shall only pay for any State or local sales or use taxes on the Services rendered or equipment and/or parts supplied to the District pursuant to the Contract.
- e. Costs for Services under the terms of this Contract shall be incurred during the Contract period except as approved by District. Consultant shall not use current year funds to pay prior or future year obligations.

41. Prevailing Wage Laws

By its execution of this Contract, Consultant certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Section 1720 of the California Labor Code states in part: "For purposes of this paragraph, 'construction' includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work." If the Services/Scope of Work are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant will also adhere to any other applicable requirements, including but not limited to, those regarding the employment of apprentices, travel and subsistence pay, retention and inspection of payroll records, workers compensation and forfeiture of penalties prescribed in the Labor Code for violations. Consultant shall defend, indemnify and hold the District and County, their elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with

Prevailing Wage Laws. See Exhibits A and B, which are attached and incorporated by reference, for additional information regarding Prevailing Wage Laws. Consultant shall comply with all applicable terms and conditions in Exhibit A and the applicable general prevailing wage determinations in Exhibit B.

42. Errors, Omissions and/or Conflicts

Consultant shall be responsible for the integrity of all design and research studies prepared or approved by the Consultant and should District suffer damages due to errors, omissions, and/or conflicts within the such documents, the Consultant shall be responsible to County for costs of all such damages.

43. Conflict of Interest

Consultant shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the District. Consultant shall make a reasonable effort to prevent officers, employees, subcontractors, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the District determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the District and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Consultant's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

Consultant understands per the attached Conflict of Interest and Political Reform Act Obligations (Attachment K) that the Department Director has determined Consultant meets Disclosure Determination number 1 and that disclosure is not required.

B. Indemnification and Insurance Requirements

For the purposes of this subsection B, the terms "County" and "District" shall be deemed to refer to both the District and County.

1. Indemnification

Consultant agrees to indemnify, defend (with counsel reasonably approved by District) and hold harmless the District and County and their authorized officers, employees, agents and volunteers (Indemnitees) from any and all claims, actions, losses, damages and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the District on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. The Consultant indemnification obligation applies to the District's "active" as well as "passive" negligence but does not apply to the District's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

Additional Insured

All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of Services hereunder. The additional insured endorsements shall not limit the scope of coverage for

the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

Waiver of Subrogation Rights

The Consultant shall require the carriers of the required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, Contractors, and Subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Consultant and Consultant's employees or agents from waiving the right of subrogation prior to a loss or claim. The Consultant hereby waives all rights of subrogation against the County.

Policies Primary and Non-Contributory

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

Severability of Interests

Consultant agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Consultant and County or between the County and any other insured or additional insured under the policy.

Proof of Coverage

Consultant shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of Services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Consultant shall maintain such insurance from the time Consultant commences performance of Services hereunder until the completion of such Services. Within fifteen (15) days of the commencement of this Contract, Consultant shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

Acceptability of Insurance Carrier

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-VII".

Deductibles and Self-Insured Retention

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

Failure to Procure Coverage

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the Contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Consultant or County payments to the Consultant(s)/Applicant(s) will be reduced to pay for County purchased insurance.

Insurance Review

Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not

available, is unreasonably priced, or is not needed to protect the interest of the County. In addition, if Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change these insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Contract. Consultant agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

2. **Insurance Specifications**

Consultant agrees to provide insurance set forth in accordance with the requirements herein. If Consultant uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Consultant agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Consultant shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

Workers' Compensation/Employers Liability

A program of Workers' Compensation insurance or a State-approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with two hundred and fifty thousand dollar (\$250,000) limits, covering all persons, including volunteers, providing services on behalf of the Consultant and all risks to such persons under this Contract.

If Consultant has no employees, it may certify or warrant to County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

Commercial/General Liability Insurance

Consultant shall carry General Liability Insurance covering all operations performed by or on behalf of Consultant providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- a. Premises operations and mobile equipment.
- b. Products and completed operations.
- c. Broad form property damage (including completed operations)
- d. Explosion, collapse and underground hazards.
- e. Personal Injury
- f. Contractual liability
- g. \$2,000,000 general aggregate limit

Automobile Liability Insurance

Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If Consultant is transporting one or more non-employee passengers in performance of Services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If Consultant owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

Umbrella Liability Insurance

An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

Professional Services Requirements

Professional Liability – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim or occurrence and two million (\$2,000,000) aggregate limits

or

Errors and Omissions Liability Insurance with limits of not less than one million (\$1,000,000) and two million (\$2,000,000) aggregate limits

or

Directors and Officers Insurance coverage with limits of not less than one million (\$1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the start of the Contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of five (5) years after Contract completion.

C. Right to Monitor and Audit**1. Right to Monitor**

The County, State and Federal governments shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have the absolute right to monitor the performance of Consultant in the delivery of Services provided under this Contract. Consultant shall give full cooperation, in any auditing or monitoring conducted. Consultant shall cooperate with the District in the implementation, monitoring and evaluation of this Contract and comply with any and all reporting requirements established by the District. Consultant shall repay to District within thirty (30) days of receipt of audit findings any reimbursements made by District to Consultant that are determined by subsequent audit to be unallowable pursuant to the terms of this Contract or by law.

2. Records

Consultant shall maintain all records and books pertaining to the delivery of Services under this Contract and demonstrate accountability for Contract performance. All records shall be complete and

current and comply with all Contract requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of Contract.

All records relating to the Consultant's personnel, Contractors, Subcontractors, Service/Scope of Work and expenses pertaining to this Contract shall be kept in generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars which state the administrative requirements, cost principles and other standards for accountancy.

All records pertaining to Services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by District representatives for a period of three years after final payment under the Agreement or until all pending County, State and Federal audits are completed, whichever is later.

D. Correction of Performance Deficiencies

1. In the event of a problem or potential problem that could impact the quality or quantity of work, Services, or the level of performance under this Contract, Consultant shall notify the District within one (1) working day, in writing and by telephone.
2. Failure by Consultant to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.
3. Consultant's Primary Contact and District Representative shall attempt in good faith to promptly resolve any dispute, controversy or claim arising out of this Contract. If these representatives are unable to resolve a dispute, controversy or claim with ten (10) days after the initial request for a meeting, then the dispute shall be submitted to an executive-level performance review.

If the Primary Contact and District Representative are not successful in resolving the dispute, negotiations shall be conducted by the Chief Executive Officer, or designee, and the highest level executive for Consultant. If these representatives are unable to resolve the dispute within ten (10) days after the representatives have commenced negotiations, or 20 days have passed since the initial request for negotiations at this level, the Parties may agree in writing to submit the dispute to mediation.

4. In the event of a non-cured breach, District may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract.
 - a. Afford Consultant thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of District;
 - b. Withhold funds pending duration of the breach;
 - c. Discontinue reimbursement to Consultant for and during the period in which Consultant is in breach, which reimbursement shall not be entitled to later recovery;
 - d. Offset against any monies billed by Consultant but yet unpaid by the District;
 - e. Terminate this Contract immediately and be relieved of the payment of any consideration to Consultant. In the event of such termination, the District may proceed with the work in any manner deemed proper by the District. The cost to the District shall be deducted from any sum due to the Consultant under this Contract and the balance, if any, shall be paid by the Consultant upon demand.
5. Unless a remedy is specifically designated as exclusive, no remedy conferred by any of the specific provision of the Contract is intended to be exclusive of any other remedy, and each and every remedy

shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either Party shall not constitute a waiver of the right to pursue other available remedies.

ATTACHMENT A – COVER PAGE

Use this checklist to ensure that all items requested have been included.

Items Completed		Page (s)
1.	Attachment A – Cover Page	
2.	Attachment B – Statement of Certification	
3.	Attachment C – Licenses, Permits, and/or Certifications	
4.	Attachment D – Certification Regarding Debarment or Suspension; California Secretary of State Business Entity Registration	
5.	Attachment E – Fee Proposal Sheet	
6.	Attachment F – References	
7.	Attachment G – Employment of Former County Officials	
8.	Attachment H – Exceptions to RFP	
9.	Attachment I – Public Records Act Exemptions	
10.	Attachment J – Indemnification and Insurance Requirements Affidavit	
11.	Attachment K – Conflict of Interest and Political Reform Act Obligations	
12.	Attachment 1 - Bioassessment Survey of the SMC	
13.	Attachment 2 – Local Preference Self-Certification	

Proposer Name: _____

Address: _____

Telephone No.: () _____ FAX No.: () _____

Email Address: _____

Federal Tax ID: _____

RFP Contact: _____

Name of Authorized Representative: _____

Title of Authorized Representative: _____

By signing below, the individual acknowledges that he/she has the authority to bind the Proposer to the terms of the Proposal. The individual further acknowledges that he/she has read and understands the RFP, the contents of the Proposal and the Attachments, and attests to the accuracy of the information submitted therein.

Signature of Authorized Representative: _____

Date: _____

**ATTACHMENT B
STATEMENT OF CERTIFICATION**

The following statements are incorporated in our response to San Bernardino County Flood Control District.

	Statement	Agree (initial)	Agree with qualification (initial and attach explanation)
1.	The offer made in the Proposal is firm and binding for nine (9) months from the date the Proposal is opened.		
2.	All aspects of the Proposal, including cost, have been determined independently, without consultation with any other Proposer or competitor for the purpose of restricting competition.		
3.	All declarations in the Proposal and attachments are true and that this shall constitute a warranty, the falsity of which will entitle the District to pursue any remedy by law.		
4.	Proposer agrees that all aspects of the RFP and the Proposal submitted shall be binding if the Proposal is selected and a Contract awarded.		
5.	Proposer agrees to provide the District with any other information the District determines is necessary for an accurate determination of the Proposer's ability to perform the services as proposed.		
6.	Proposer, if selected will comply with all applicable rules, laws and regulations.		
7.	The RFP has been reviewed in its entirety and Proposer has no exceptions to any requirements, terms, or conditions, except as noted in Attachment H.		

ATTACHMENT D**CERTIFICATION REGARDING DEBARMENT OR SUSPENSION; CALIFORNIA SECRETARY OF STATE BUSINESS ENTITY REGISTRATION**

In compliance with contracts and grants Contracts applicable under the U.S. Federal Awards Program, the following certification is required by all Proposers submitting a response to this RFP:

1. The Proposer certifies, to the best of its knowledge and belief, that neither the Proposer nor its Principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts from the United States federal government procurement or nonprocurement programs, or are individually or collectively listed as such in the United States General Services Administration's System for Award Management (SAM) website (www.sam.gov).
2. The Proposer certifies, to the best of its knowledge and belief, that neither any subcontractor listed in its Proposal, nor subcontractor's Principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts from the United States federal government procurement or nonprocurement programs, or are individually or collectively listed as such in the United States General Services Administration's System for Award Management (SAM) website (www.sam.gov).
3. "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).
4. The Proposer shall provide immediate written notice to the Purchasing Agent if, at any time prior to award, the Proposer learns that this certification was erroneous when submitted or has become erroneous by reason of changes in circumstances.
5. This certification is a material representation of fact upon which reliance will be placed when making the award. If it is later determined that the Proposer rendered an erroneous certification, in addition to other remedies available to the District, the District may terminate the Contract resulting from this RFP for default.
6. Proposer affirms that neither it, nor any subcontractor listed in the Proposal, has any record of recent unsatisfactory performance with the District during the past twenty-four (24) months at a minimum.
7. Proposer also certifies that if it or any of the subcontractors listed in the Proposal are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

ATTACHMENT E – FEE PROPOSAL SHEET(S)**Bioassessment Surveys- Santa Ana River Watershed**

At a minimum the FEE PROPOSAL **must** include:

- 1) Schedule of ALL hourly rates for ALL disciplines and employees that will be working on a County and/or District Contract.
- 2) Any and all anticipated direct or indirect charges such as:

Mileage*, Reproductions, Travel, etc. (Per assignment)

- 3) Listing of anticipated reimbursable expenses (if any)
- 4) Specific costs for specific services (i.e. Program Manager Cost per hour)
- 5) Flat fees (if any), Daily rate usage, etc.
- 6) Mark-up percentage on any out-sourced or other services
- 7) Other Direct Costs (ODC) items should be based on actual costs and supported by historical data and other documentation.
- 8) ODC items that would be considered “tools of the trade” are not reimbursable.

*Proposer shall include detailed cost breakdown in confidential separate submittal.

Current Rate Schedule for Meals and Travel**Charge Rates**

For purposes of mileage calculation, the building located at 825 E. Third Street, San Bernardino, CA, will be considered as the “home base”. The PROPOSER will only be reimbursed for mileage between the “home base” and the project site. Additional mileage, as appropriate in conjunction with the specific work assignment, may be reimbursable, provided such mileage has been approved by the District at the time a work order for such assignment is issued.

1. Per Diem Meals and Lodging Rates.

a) Meal and lodging expenses shall not be allowed without prior approval of the District as necessary for the purpose of conducting District business. Meal and lodging selections should represent a reasonable cost to the District and be generally consistent with the rates established by the General Services Administration (GSA). Excess charges for meals and lodging greater than the amounts listed below in paragraphs (b) and (c) may be authorized under special conditions, such as if District business requires lodging and meals in an area of unusually high cost (i.e., Non-Standard Areas as established by the GSA). Consultant may be reimbursed for expenses in high cost areas for the actual cost incurred, but generally not to exceed the per diem amounts established by the GSA for that area and month. Receipts are mandatory to obtain reimbursement for all lodging expenses, and except as provided below for all meal expenses claimed.

b) Consultant may be reimbursed for lodging expenses at actual cost, generally not to exceed the standard lodging per diem rate as established by the GSA, except as otherwise provided in Section 7, paragraph (a) of this Article.

c) Except as otherwise provided in Section 7, paragraph (a) of this Article, reimbursements for meal expenses for up to three (3) separate meals per day may be provided as follows:

(1) **With receipts**, Consultant may be reimbursed for meal expenses at actual cost, not to exceed eleven dollars (\$11.00) for breakfast, fifteen dollars (\$15.00) for lunch, and twenty-four dollars (\$24.00) for dinner, plus tax and up to 15% gratuity.

(2) **Option Without receipts**, Consultant may be reimbursed for meal expenses at per diem rates not to exceed six dollars (\$6.00) for breakfast, nine dollars (\$9.00) for lunch, and nineteen dollars (\$19.00) for dinner, plus tax and up to 15% gratuity.

ATTACHMENT E – FEE PROPOSAL SHEET(S) (continued)

2. Travel Time. If not lodging overnight, travel time and mileage to and from home base to project site and per diem meals (Breakfast and Lunch only) will be paid as stated above. Actual miles driven within project site will also be paid.

3. Travel Time. If lodging overnight, travel time and mileage to and from home base to project site will be paid, but only for the day of travel to project site and for the day of travel to return to business location. Actual miles driven within project site will also be paid. Per Diem meals will be paid as stated above.

4. Mileage Rate. The current District rate for mileage is \$0.625 per mile. This may be adjusted whenever the IRS rate is adjusted.

Signature & Title

(Firm Name)

Proposer must provide signature and submit with complete fee proposal.

Mail or submit in person Attachment E, in a separate sealed envelope labeled “Fee Proposal Sheet” with the RFP Number and Title and the name of the Proposer clearly marked on the outside, to the address stated in Section 1, Paragraph B.

ATTACHMENT F - REFERENCES

Name of Agency	Contact Name/Address	Phone Number Email Address	Dates services provided (from/through*)

Provide a minimum of three (3) customer references Proposer has contracted with, providing the same service as requested in this RFP.

*Enter **“Present”** if still providing the services (Example: 10/08/13 - present).

ATTACHMENT H – EXCEPTIONS TO RFP

CONSULTANT NAME _____

ADDRESS _____

TELEPHONE# () _____ FAX # () _____

I have reviewed the RFP in its entirety and have the following exceptions: (Please identify and list your exceptions by indicating RFP, the Section or Paragraph number, and Page number, as applicable. Be specific about your objections to content, language, or omissions. Add as many pages as required.)

ATTACHMENT I – PUBLIC RECORDS ACT EXEMPTIONS

PROPOSER NAME _____

ADDRESS _____

TELEPHONE# () _____ FAX # () _____

Proposer requests that specific portions of the contents of this Proposal be held confidential and not subject to public disclosure pursuant to the Public Records Act. The specific portions are detailed below: (Please identify and list your exemptions by indicating the Section or Paragraph number, and Page number, of the Proposal where the content is contained.) **Each stated exemption must include a citation to supporting legal authority, including statutory authority or case law, to support exemption from the Public Records Act. Requested exemptions that does not meet the requirements of this section will not be considered.**

ATTACHMENT J - INDEMNIFICATION AND INSURANCE REQUIREMENTS AFFIDAVIT

**THE PROPOSER’S INSURANCE COMPANY(S) OR INSURANCE AGENT MUST COMPLETE THIS FORM
AND
THE PROPOSER MUST SUBMIT THIS COMPLETED AFFIDAVIT WITH THE PROPOSAL.**

I, the undersigned (Please check one box) underwriter agent/broker, certify that I and the Proposer listed below have jointly reviewed the “Insurance Requirements” in this Request for Proposal (RFP). If the San Bernardino County Flood Control District (“District”) awards the Proposer the Contract for this project, I will be able—within fourteen (14) calendar days after the Proposer is notified of the Contract’s award—to furnish the District with all the required, insurance certificate(s) and endorsement(s) as specified in Section X, Paragraph B. Indemnification and Insurance Requirements.

Insurance Broker / Agency Name _____
Date

Insurance Broker’s / Agent’s Name (Printed) _____
Insurance Broker’s / Agent’s Name (signature)

Address City State Zip Code

Telephone Number FAX Number Email Address

Proposer’s Name _____
District RFP Name and Number

Below State the Name of Insurance Company Providing Coverage:
DO NOT write “Will Provide,” “To Be Determined,” “When required,” or similar phrases.

Commercial General Liability _____
Automobile Liability

Workers’ Compensation Liability _____
Professional Liability

Pollution Liability _____
Cyber Liability

Sexual Abuse Liability

[NOTE TO PROPOSER: See Section X, Paragraph B. Indemnification and Insurance Requirements, for details on the basic requirements and types of insurance for this agreement.]

NOTE TO THE UNDERWRITER / AGENT-BROKER: If the insurance forms that the Proposer submits to the District do not fully comply with the Insurance Requirements, and/or if the Proposer fails to submit the forms within the 14-day time limit, the District may: (1) declare the Proposer’s Proposal non-responsive, and (2) award the Contract to the next highest ranked Proposer.
If you have any questions about the Insurance Requirements, please contact Mr. Rafael Viteri, San Bernardino County - Risk Management Department, at (909) 386-8730 or via e-mail rviteri@rm.sbcounty.gov (Please provide name of RFP with your email question(s)).

ATTACHMENT K**CONFLICT OF INTEREST AND POLITICAL REFORM ACT OBLIGATIONS**

Consultant shall make all reasonable efforts to ensure that no District officer or employee, whose position in the District enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Consultant or officer or employee of the Consultant.

During the term of this Contract Consultant shall not act a Consultant or perform services of any kind for any person or entity whose interests conflict in any way with those of the District. Consultant shall at all times comply with the terms of the Political Reform Act and the local conflict of interest code. Consultant shall immediately disqualify itself and shall not use its official position to influence in any way, any matter coming before the District in which the Consultant has a financial interest as defined in Government Code section 87103. Consultant represents that it has no knowledge of any financial interests which would require it to disqualify itself from any matter on which it might perform services for the District.

“Consultant” means an individual who, pursuant to a contract with a state or local agency:

(A) Makes a governmental decision whether to:

1. Approve a rate, rule or regulation;
2. Adopt or enforce a law;
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
4. Authorize the District to enter into, modify, or renew a contract provided it is the type of contract that requires District approval;
5. Grant District approval to a contract that requires District approval and to which the District is a party, or to the specifications for such a contract;
6. Grant District approval to a plan, design, report, study, or similar item;
7. Adopt, or grant District approval of, policies, standards, or guidelines for the District, or for any subdivision thereof; or

(B) Serves in a staff capacity with the District and in that capacity participates in making a governmental decision as defined in Regulation 18702.2 or performs the same or substantially all the same duties for the District that would otherwise be performed by an individual holding a position specified in the District’s Conflict of Interest Code.

DISCLOSURE DETERMINATION: [mark appropriate box below]

1. Consultant will not be “making a government decision” or “serving in a staff capacity” as defined in Sections A and B above. No disclosure required.
2. Consultant will be “making a government decision” or “serving in a staff capacity” as defined in either Section A or B above. As a result, Consultant shall be required to file a Statement of Economic Interest with the Clerk of the Board of Supervisors in a timely manner as required by law.

EXHIBIT A**PREVAILING WAGE REQUIREMENTS****A. All or a portion of the Scope of Work in the Contract requires the payment of prevailing wages and compliance with the following requirements:****1. Determination of Prevailing Rates:**

Pursuant to Labor Code sections 1770, et seq., the District has obtained from the Director of the Department of Industrial Relations (DIR) pursuant to the California Labor Code, the general prevailing rates of per diem wages and the prevailing rates for holiday and overtime work in the locality in which the Scope of Work is to be performed. Copies of said rates are on file with the District, will be made available for inspection during regular business hours, may be included elsewhere in the specifications for the Scope of Work, and are also available online at www.dir.ca.gov. The wage rate for any classification not listed, but which may be required to execute the Scope of Work, shall be commensurate and in accord with specified rates for similar or comparable classifications for those performing similar or comparable duties. In accordance with Labor Code section 1773.2, the Consultant shall post, at appropriate and conspicuous locations on the job site, a schedule showing all applicable prevailing wage rates and shall comply with the requirements of Labor Code sections 1773, et seq.

2. Payment of Prevailing Rates

Each worker of the Consultant, or any subcontractor, engaged in the Scope of Work, shall be paid not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Consultant or any subcontractor, and such worker.

3. Prevailing Rate Penalty

The Consultant shall, as a penalty, forfeit two hundred dollars (\$200.00) to the District for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of the DIR for such work or craft in which such worker is employed by the Consultant or by any subcontractor in connection with the Scope of Work. Pursuant to California Labor Code section 1775, the difference between such 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 prevailing wage rate, shall be paid to each worker by the Consultant.

4. Ineligible Contractors:

Pursuant to the provisions of Labor Code section 1777.1, the Labor Commissioner publishes and distributes a list of contractors ineligible to perform work as a Consultant or subcontractor on a public works project. This list of debarred contractors is available from the DIR website at <http://www.dir.ca.gov/Public-Works/PublicWorks.html>. Any contract entered into between a Consultant and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a Consultant on the project shall be returned to the District. The Consultant shall be responsible for the payment of wages to workers as a debarred subcontractor who has been allowed to work on the Scope of Work.

5. Payroll Records:

a. Pursuant to California Labor Code section 1776, the Consultant and each subcontractor, shall keep accurate certified payroll records, showing the name, address, social security number, work classification, 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 them in connection with the Scope of Work. The payroll records enumerated herein shall be verified by a written declaration made under penalty of perjury that the information contained in the payroll record is true and correct and that the Consultant or subcontractor has complied with the requirements of the California Labor Code sections 1771, 1811, and 1815 for any Scope of Work performed by his or her employees. The payroll records shall be available for inspection at all reasonable hours at the principal office of the Consultant on the following basis:

- i. A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request;
- ii. A certified copy of all payroll records shall be made available for inspection or furnished upon request to the District, the Division of Labor Standards Enforcement of the DIR;

- iii. A certified copy of payroll records 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 or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided to the District or the Division of Labor Standards Enforcement, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Consultant, subcontractor and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Consultant;
 - iv. The Consultant shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; and
 - v. Copies provided to the public, by the District or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Consultant or any subcontractor, performing a part of the Scope of Work shall not be marked or obliterated. The Consultant shall inform the District of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address.
- b. The Consultant shall have ten (10) days from receipt of the written notice specifying in what respects the Consultant must comply with the above requirements. In the event Consultant does not comply with the requirements of this section within the ten (10) day period, the Consultant shall, as a penalty to the District, 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 Labor Standards Enforcement, such penalty shall be withheld from any portion of the payments then due or to become due to the Consultant.

6. Limits on Hours of Work:

Pursuant to California Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code section 1811, the time of service of any worker employed at any time by the Consultant or by a subcontractor, upon the Scope of Work or upon any part of the Scope of Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as provided for under Labor Code section 1815. Notwithstanding the foregoing provisions, work performed by employees of Consultant or any subcontractor, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

7. Penalty for Excess Hours:

The Consultant shall pay to the District a penalty of twenty-five dollars (\$25.00) for each worker employed on the Scope of Work by the Consultant or any subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the California Labor Code, unless compensation to the worker so employed by the Consultant is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

8. Senate Bill 854 (Chapter 28, Statutes of 2014) and Senate Bill 96 (Chapter 28, Statutes of 2017) Requirements:

- a. Consultant shall comply with Senate Bill 854 and Senate Bill 96. The requirements include, but are not limited to, the following:
 - i. No Consultant or subcontractor may be listed on a bid proposal (submitted on or after March 1, 2015) for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirements for bid purposes only as allowed under Labor Code section 1771.1(a).
 - ii. No Consultant or subcontractor may be awarded a contract for public work or perform work on a public works project (awarded on or after April 1, 2015) unless registered with the DIR pursuant to Labor Code section 1725.5.
 - iii. This project is subject to compliance monitoring and enforcement by the DIR.
 - iv. As required by the DIR, Consultant is required to post job site notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.

-
- v. Contractors and all subcontractors must submit certified payroll records online to the Labor Commissioner for all new public works projects issued on or after April 1, 2015, and for all public works projects, new or ongoing, on or after January 1, 2016.
- 1) The certified payroll must be submitted at least monthly to the Labor Commissioner.
 - 2) The District reserves the right to require Consultant and all subcontractors to submit certified payroll records more frequently than monthly to the Labor Commissioner.
 - 3) The certified payroll records must be in a format prescribed by the Labor Commissioner.
- vi. Registration with the DIR and the submission of certified payroll records to the Labor Commissioner are not required if the public works project is \$25,000 or less when the project is for construction, alteration, demolition, installation or repair work, or if the public works project is \$15,000 or less when the project is for maintenance work.
- b. Labor Code section 1725.5 states the following:
- “A Consultant shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, “Consultant” includes a subcontractor as defined by Section 1722.1.
- (a) To qualify for registration under this section, a Consultant shall do all of the following:
- (1) (A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars (\$400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.
 - (B) Beginning June 1, 2019, a Consultant may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.
 - (2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:
 - (A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the Consultant employs to perform work that is subject to prevailing wage requirements other than a Consultant who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.
 - (B) If applicable, the Consultant is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.
 - (C) The Consultant does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the Consultant shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the Consultant has secured the payment of any amount eventually found due through a bond or other appropriate means.
 - (D) The Consultant is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.
 - (E) The Consultant has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a Consultant is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:
 - (i) The Consultant has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.

(ii) The Consultant pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).

(b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(c) A Consultant who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the Consultant may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(d) If, after a body awarding a contract accepts the Consultant's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:

(1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.

(2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the Consultant and any subcontractors are registered under this section or are replaced by a Consultant or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.

(f) This section does not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.”

c. Labor Code section 1771.1 states the following:

“(a) A Consultant or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered Consultant to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the Consultant is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted nor any contract or subcontract entered into without proof of the Consultant or subcontractor's current registration to perform public work pursuant to Section 1725.5.

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the Consultant, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any Consultant or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, Consultant, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

(g) If the Labor Commissioner or his or her designee determines that a Consultant or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the Consultant or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(h)(1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works Consultant or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars (\$100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(3) A higher tiered public works Consultant or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.

(4) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works Consultant or subcontractor pursuant to paragraph (1). A higher tiered public works Consultant or subcontractor may not require a lower tiered subcontractor to indemnify or otherwise be liable for any penalties pursuant to paragraph (1).

(i) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.

(j)(1) Where a Consultant or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered Consultant or the unregistered subcontractor on all public works until the unregistered Consultant or unregistered subcontractor is registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work.

(2) A stop order may be personally served upon the Consultant or subcontractor by either of the following methods:

(A) Manual delivery of the order to the Consultant or subcontractor personally.

(B) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the Consultant or subcontractor at the address on file with either of the following:

(i) The Contractors' State License Board.

(ii) The Secretary of State.

(3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered Consultant or subcontractor, by the unregistered Consultant or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be

governed by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.

(k) Failure of a Consultant or subcontractor, owner, director, officer, or managing agent of the Consultant or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(l) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. This section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.

(m) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.”

d. Labor Code section 1771.4 states the following:

“a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

(2) The awarding body shall post or require the prime Consultant to post job site notices, as prescribed by regulation.

(3) Each Consultant and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(A) At least monthly or more frequently if specified in the contract with the awarding body.

(B) In a format prescribed by the Labor Commissioner.

(4) If the Consultant or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered Consultant or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.

(5) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.

(b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) if either of the following occurs:

(1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.

(2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.

(d) The requirements of paragraph (3) of subdivision (a) shall apply to all contracts for public work, whether new or ongoing, on or after January 1, 2016.”

B. STATE PUBLIC WORKS APPRENTICESHIP REQUIREMENTS

1. State Public Works Apprenticeship Requirements:

- a. The Consultant is responsible for compliance with Labor Code section 1777.5 and the California Code of Regulations, title 8, sections 230 – 230.2 for all apprenticeable occupations (denoted with “#” symbol next to craft name in DIR Prevailing Wage Determination), whether employed by the Consultant, subcontractor, vendor or consultant. Included in these requirements is (1) the Consultant’s requirement to provide notification (i.e. DAS-140) to the appropriate apprenticeship committees; (2) pay training fund contributions for each apprenticeable hour employed on the Contract; and (3) utilize apprentices in a minimum ratio of not less than one apprentice hour for each five journeyman hours by completion of Contract work (unless an exception is granted in accordance with Labor Code section 1777.5) or request for the dispatch of apprentices.
 - b. Any apprentices employed to perform any of the Scope of Work shall be paid the standard wage to apprentices under the regulations of the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Only apprentices, as defined in California Labor Code section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under California Labor Code sections 3070 et seq. are eligible to be employed for the Scope of Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training.
- 2. Compliance with California Labor Code section 1777.5 requires all public works contractors to:**
- a. Submit Contract Award Information (DAS-140):
 - i. Although there are a few exemptions (identified below), all Contractors, regardless of union affiliation, must submit contract award information when performing on a California public works project.
 - ii. The DAS-140 is a notification “announcement” of the Consultant’s participation on a public works project—*it is not a request for the dispatch of an apprentice.*
 - iii. Contractors shall submit the contract award information (you may use form DAS 140) within 10 days of the execution of the prime contract or subcontract, but in no event later than the first day in which the Consultant has workers employed on the public work.
 - iv. Contractors who are already approved to train apprentices (i.e. check “Box 1” on the DAS-140) shall only be required to submit the form to their approved program.
 - v. Contractors who are NOT approved to train apprentices (i.e. those that check either “Box 2” or “Box 3” on the DAS-140) shall submit the DAS-140 TO EACH of the apprenticeship program sponsors in the area of your public works project. For a listing of apprenticeship programs see <http://www.dir.ca.gov/Databases/das/pwaddrstart.asp>.
 - b. Employ Registered Apprentices
 - i. Labor Code section 1777.5 requires that a Consultant performing work in an “apprenticeable” craft must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman. This ratio shall be met prior to the Consultant’s completion of work on the project. “Apprenticeable” crafts are denoted with a pound symbol “#” in front of the craft name on the prevailing wage determination.
 - ii. All Contractors who do not fall within an exemption category (see below) must request for dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required.
 - iii. Contractors may use the “DAS-142” form for making a request for the dispatch of an apprentice.
 - iv. Contractors who are participating in an approved apprenticeship training program and who did not receive sufficient number of apprentices from their initial request must request dispatch of apprentices from ALL OTHER apprenticeship committees in the project area in order to fulfill this requirement.
 - v. Consultant should maintain and submit proof (when requested) of its DAS-142 submittal to the apprenticeship committees (e.g. fax transmittal confirmation). A Consultant has met its requirement to employ apprentices only after it has successfully made a dispatch request to all apprenticeship programs in the project area.

- vi. Only “registered” apprentices may be paid the prevailing apprentice rates and must, at all times work under the supervision of a Journeyman (Cal. Code Regs., tit 8, § 230.1).
- c. Make Training Fund Contributions
 - i. Contractors performing in apprenticeable crafts on public works projects, must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices.
 - ii. Contractors may use the “CAC-2” form for submittal of their training fund contributions.
 - iii. Contractors who do not submit their training fund contributions to an approved apprenticeship training program must submit their contributions to the California Apprenticeship Council (CAC), PO Box 420603, San Francisco, CA 94142-0603.
 - iv. Training fund contributions to the CAC are due and payable on the 15th day of the month for work performed during the preceding month.
 - v. The “training” contribution amount identified on the prevailing wage determination shall not be paid to the worker, unless the worker falls within one of the exemption categories listed below.

3. Exemptions to Apprenticeship Requirements:

- a. The following are exempt from having to comply with California apprenticeship requirements. These types of contractors do not need to submit a DAS-140, DAS-142, make training fund contributions, or utilize apprentices:
 - i. When the Consultant holds a sole proprietor license (“Owner-Operator”) and no workers were employed by the Consultant. In other words, the Consultant performed the entire work from start to finish and worked alone.
 - ii. Contractors performing in non-apprenticeable crafts. “Apprenticeable” crafts are denoted with a pound symbol “#” in front of the craft name on the prevailing wage determination.
 - iii. When the Consultant has a direct contract with the Public Agency that is under \$30,000.
 - iv. When the project is 100% federally-funded and the funding of the project does not contain any city, county, and/or state monies (unless the project is administered by a state agency in which case the apprenticeship requirements apply).
 - v. When the project is a private project not covered by the definition of public works as found in Labor Code section 1720.

4. Exemption from Apprenticeship Ratios:

- a. The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Consultant from the 1-to-5 ratio set forth in this Section when it finds that any one of the following conditions are met:
 - i. Unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%); or
 - ii. The number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen; or
 - iii. The Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis; or
 - iv. If assignment of an apprentice to any work performed under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.
- b. When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

5. Consultant's Compliance:

- a. The responsibility of compliance with this Section for all Apprenticeable Trades or Crafts is solely and exclusively that of the Consultant. All decisions of the Joint Apprenticeship Committee(s) under this Section are subject to the provisions of California Labor Code section 3081 and penalties are pursuant to Labor Code section 1777.7 and the determination of the Labor Commissioner.

EXHIBIT B

GENERAL PREVAILING WAGE DETERMINATIONS

See Separate Attachment

ATTACHMENT 1

BIOASSESSMENT SURVEY OF THE SMC

See Separate Attachment

ATTACHMENT 2

LOCAL VENDOR PREFERENCE – SELF CERTIFICATION

See Separate Attachment