

**MARIN COUNTY FLOOD CONTROL DISTRICT**

**DEPARTMENT OF PUBLIC WORKS**

**REQUEST FOR PROPOSAL (RFP)**

**SANTA VENETIA TIMBER REINFORCED BERM MAINTENANCE**

**APRIL 4, 2025**

On behalf of the Marin County Flood Control District/Department of Public Works, the Marin County Procurement Division is seeking to contract for Santa Venetia Timber Reinforced Berm Maintenance services as described in this solicitation.

The **DEADLINE** for submission is **May 2, 2025 until 2:00 PM PST**.

**Proposal packages will be received only via email: Luis.Damerell@MarinCounty.gov**

Any proposer who wishes their proposal to be considered is responsible for making certain that the completed proposal, including all RFP documents, is received in the by the proper time. Proposals received after the scheduled submittal deadline may not be considered.

The County of Marin does not discriminate on the basis of race color, religion, creed, sex, age, marital status, national origin, mental or physical disability, political belief or affiliation, veteran status, sexual orientation, gender identity (including gender expression), genetic information, and any other class of individuals protected from discrimination under state or federal law in any of its activities or operations. This includes, but is not limited to, hiring and firing of staff, selection of volunteers and vendors, and provision of services. We are committed to providing an inclusive and welcoming environment for all members of our staff, clients, volunteers, contractors, subcontractors, vendors and clients.

*The County of Marin is committed to developing and supporting diverse, equitable, and inclusive values within all aspects of its operations. By conducting business for or with the County, you are representing your commitment to rejecting inequities in employment, services, and practices by ensuring fair and equitable treatment for all.*

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## INSTRUCTIONS TO PROPOSERS

### General Project Description

The Marin County Flood Control and Water Conservation District (“District”) maintains flood control facilities throughout the County of Marin including the Timber-Reinforced Berm (TRB) on top of the earthen levee located along the right bank of South Fork of Gallinas Creek in the community of Santa Venetia (Flood Control Zone #7) in unincorporated San Rafael. The District is requesting proposals for maintaining dilapidated portions of the TRB. To avoid Ridgway’s Rail breeding season and rainstorms, the work will be scheduled to occur from September 1, 2025 to October 31, 2025.

The intention of the contract for the Timber-Reinforced Berm Maintenance is to fix approximately 90 lineal feet of the two timber bulkheads backfilled with soil. The bidder who enters into a contract with the District shall:

- Remove the berm wooden box structure and hardware
- Replace the bulkheads with new pressure treated wood and zinc-plated hardware
- Reuse the berm box soil fill material and add imported soil where necessary
- Fill and compact the TRB excavations left open from pre-existing tree stump grinding

### Pre-Proposal Conference and Site Walk

**A mandatory pre-proposal meeting and site walk are scheduled as follows:**

**10:00 AM on April 16, 2025  
Department of Public Works  
3501 Civic Center Drive, Room 304 Conference Room  
San Rafael, CA 94903**

Directions to the location of the first stop on the site walk will be provided at the pre-proposal conference.

Duration of the conference and site walk is anticipated to be 2 hours.

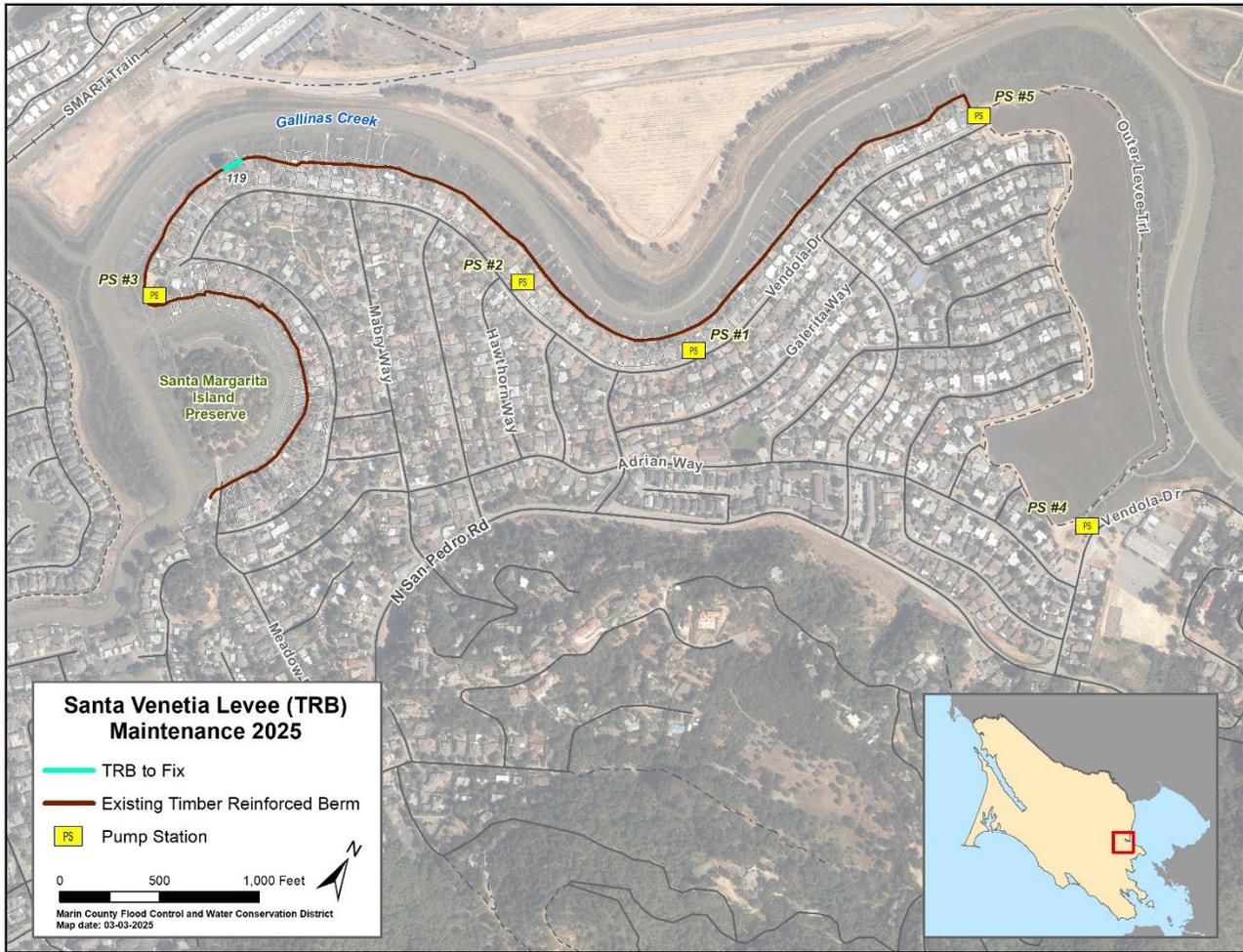


Figure 1 – Project Location Map

## Solicitation Questions

Proposers may submit written questions regarding this solicitation. All questions must be emailed and received by **April 21, 2025** no later than **2:00 PM PST**. Questions asked after this date and time will not be considered. All questions shall be submitted to via email: **Luis.Damerell@MarinCounty.gov**

**The email subject line shall be: “RFP Questions: Santa Venetia Timber Reinforced Berm Maintenance”**

Phone calls and faxed questions will not be accepted.

**Answers to all written questions concerning this solicitation will be posted on the District’s website on April 24, 2025.** It is the responsibility of all interested proposers to access the website(s) for this information. <https://flooddistrict.marincounty.gov>

## Submittal Requirements

**Electronic proposals are due on May 2, 2025 no later than 2:00 PM PST.** Once received, all proposals become property of the County of Marin and will not be returned. Proposals will be considered late if not received by the above due date and time and may be rejected.

**Via Email:**

**Luis.Damerell@MarinCounty.gov**

**All proposals shall be clearly marked “RFP - Santa Venetia Timber Reinforced Berm Maintenance” subject of the email and document title.**

The County of Marin reserves the right to reject any and all proposals and to elect not to enter into any contract for the services described in the scope of work. The County reserves the right to make multiple awards of this proposal. The County of Marin also reserves the right to request clarification of information from the proposer.

## Timeline of Events

The County of Marin will make all attempts to adhere to the following timeline.

<b>Release of RFP</b>	<b>April 4, 2025</b>
<b>Pre-Proposal Conference and Site Walk</b>	<b>April 16, 2025 – 10AM</b>
<b>Deadline to Submit Questions</b>	<b>April 21, 2025 – No Later than 2:00PM PST</b>
<b>Responses to Questions</b>	<b>April 24, 2025</b>
<b>Proposal Submission Deadline</b>	<b>May 2, 2025 – No Later than 2:00PM PST</b>
<b>Contractor Selection</b>	<b>May 9, 2025 (Tentative)</b>
<b>Work Start Date</b>	<b>September 2, 2025 (Tentative)</b>

## Opening of Proposals

Proposals will not be publicly opened or read.

## Informed Proposers/ Examination of Documents

Before submitting a proposal, proposers must fully inform themselves of the conditions, requirements, and specifications of the work or materials to be furnished. Failure to do so will be at the proposer's own risk. It is the responsibility of the proposer to carefully and thoroughly examine and be familiar with legal and procedural documents, general conditions, all forms, specifications, addenda (if any), herein referred to as contract documents. Contractor shall satisfy himself as to the character, quantity, and quality of work to be performed and materials, labor, supervision, equipment and appurtenances necessary to perform the work as specified by the contract documents. The failure or neglect of the contractor to examine the documents shall in no way relieve them from any obligations with respect to the solicitation or contract. The submission of a proposal shall constitute an acknowledgment upon which the County of Marin may rely that the contractor has thoroughly examined and is familiar with the contract documents. No claim will be allowed for additional compensation that is based upon a lack of knowledge of any solicitation document.

## Nomenclatures

The terms successful proposer, offeror, bidder, vendor, supplier, and contractor may be used interchangeably in this solicitation and shall refer exclusively to the person, company, or corporation interested or submitting a proposal. The terms County of Marin and Department; quote, bid, proposal; contract, and purchase order, may be used interchangeably in this solicitation.

## Interpretation, Correction

The Proposer must carefully examine the specifications, terms and conditions provided in the Request for Proposal and become fully informed as to the requirements set forth therein. If anyone planning to submit a proposal discovers any ambiguity, conflict, discrepancy, omission, or error in the proposal, has any questions in relationship to the "Scope of Work", or any other related matters, shall immediately notify the responsible party of such concern in writing via email at **Luis.Damerell@MarinCounty.gov** and request clarification or modification of the document(s) no later than the date specified in the RFP questions section.

## Prices, Negotiations and Mistakes

Prices shall be stated in dollars and quotations made separately on each item. Where there is a conflict between words and figures, words will govern.

## Withdrawal of Proposal

Submitted proposals:

- a) may not be withdrawn within 60 calendar days after the proposal opening
- b) may be withdrawn prior to the opening date only by written request of the proposer

## Terms of the Offer

Acceptance of proposer's offer shall be limited to the terms herein unless expressly agreed in writing by the County of Marin. Proposers offering terms other than those shown herein will be declared non-responsive and will not be considered.

\*\*\*END OF INSTRUCTIONS TO PROPOSERS\*\*\*

## PROJECT INFORMATION

### Background

The TRB structure is built atop a non-engineered earthen levee placed several decades ago and is a crucial component of the levee system that protects the Santa Venetia neighborhood from flooding. Under the TRB maintenance program, the next segment of the TRB to be fixed is located at 119 Vendola Drive.

### General Conditions

The issuance of this solicitation constitutes only an invitation to present responses. The County reserves the right, at its sole discretion, to determine whether or not any aspect of the response satisfactorily meets the criteria established in the solicitation. The County reserves the right to seek additional information and/or clarification from the respondent, the right to confer with any respondent submitting a response and the right to reject any or all responses with or without cause. The County reserves the right to reject any and all responses for failure to meet the requirements contained herein, to waive any technicalities and to select the responses, which, in the County's sole judgment, best meets the requirement of the project. In the event that the solicitation is withdrawn by the County for any reason, the County shall have no liability to any respondent for any costs or expense incurred with the preparation of a response to this solicitation or related work. The County reserves the right, at its sole discretion, to waive any irregularities or informality.

An example of the County of Marin General Services Agreement [GSA] is attached to this solicitation (**see Attachment H - General Services Agreement**). By submitting a response without exceptions, the contracting firm accepts all terms and conditions contained in the Sample General Services Agreement attached. Additional terms and conditions may be required and may be negotiated after award.

### Contract Term

Project completion required no later than October 31, 2025. The County reserves the right to extend the contract.

### Pricing

The estimated cost for this work is \$120,000. Prices quoted shall be firm and fixed through the contract term and shall not exceed the specified amount indicated unless mutually agreed upon.

### Minimum Qualifications/Experience Requirement

Proposers are required to possess one of the following contractor licenses, active and in good standing with the California State Contractors License Board, Department of Consumer Affairs:

- Class A – General Engineering
- Class B – General Building
- Specialty Class -- C-27 Landscaping

Proposers are required to have a minimum of five (5) years\* of experience in commercial or government accounts of the same size and scope as described herein. Any proposer who cannot provide verifiable references for this minimum experience requirement may be considered non-responsive.

\*Personal, Professional experience may be substituted on a year-for-year basis

## SCOPE OF WORK

### Project Specifics

Contractor shall furnish all labor, materials, tools, equipment and incidentals described in the tasks listed below:

#### 1. Execution of Work

##### a. Demolition and Site Preparation

Contractor shall install temporary construction fencing (“snow fencing”) along the landside of the Work Zone (**see Attachment A - Work Site Detail Map**) to establish the limits of the work zone. Contractor shall remove fencing at the conclusion of the maintenance work.

Contractor shall install wildlife exclusion fencing (standard silt fencing to be converted as instructed) along the water side of the work zone (**see Attachment A - Work Site Detail Map**). Ground preparation shall consist of vegetation removal to a stubble, and a  $\geq 4$ ” trench along the path of the exclusion fence. Bottom of the exclusion fencing shall be placed in the trench then backfilled and tamped for embedment. Smooth carpet tape (submittal required) shall be applied to the top 4” (or wider) edge of the exclusion fencing as a rodent deterrent. Wildlife exclusion fence installation shall be overseen by the District’s biological consultant and the fence installation shall be monitored each day for integrity either by the District’s consultant or District staff. Contractor shall remove and dispose of fencing at the conclusion of the maintenance work.

Contractor shall remove the portion of the existing TRB structure above the existing ground surface. Removal of concrete post footings below grade is optional, so long as the existing footings do not interfere with the installation of the new posts, footings, and planks per **Attachment B - TRB Construction Detail and Post Footing Embedment Schedule**. Contractor shall dispose of the resultant debris at a disposal facility licensed to accept the debris and provide the District with copies of the disposal facility tags. Contractor shall dispose of any hazardous materials, such as any pressure treated wood generated during demolition of the TRB, at a disposal facility licensed to accept such debris. Contractor shall submit copies of all disposal tags to the District Engineer (Engineer) or District Project Manager (Project Manager).

##### b. Earthwork

Contractor shall strip all existing vegetation growing on the surface soil of the TRB. Contractor shall also remove all organics found within the existing TRB fill soil larger than 2” diameter. Contractor shall dispose of vegetation and organic waste at a disposal facility licensed to accept such debris and provide tags to the Engineer or Project Manager.

Contractor shall remove the remainder of two tree stumps and buttress roots (stump wood and roots  $\geq 2$ ” diameter) within the green box shown in **Attachment A - Work Site Detail Map**. Affected area is approximately 5’ x 20’ to a depth of  $\geq 18$ ” below ground surface. In October 2024, the bulk of the stumps had been mechanically removed by stump grinder.

Contractor shall also remove roots preventing post installation and berm box installation: Approximately 30 LF (see red line along TRB alignment shown on **Attachment A - Work Site Detail Map**) of the left end of the TRB alignment (location of a Eucalyptus removed in late 2024) is assumed to be randomly impacted to a depth of 24" below ground surface.

All excavated soil shall be stockpiled within the work zone outlined in **Attachment A - Work Site Detail Map**, as designated by the Engineer or Project Manager.

Contractor shall calculate the volume of import soil necessary to supplement the volume of existing soil available from on-site excavations. Soil meeting the specifications per **Attachment C - TRB Berm Box Soil Backfill Specification** is necessary to import to sufficiently fill each open excavation and the TRB berm box.

Contractor shall backfill the new berm box, and open excavations from tree root removal per the following specifications only after the respective excavations have been inspected and approved by the Engineer or Project Manager:

- Begin soil placement and compaction only after new TRB post concrete footings have cured for at least 48 hours after placement and tie rods (**Attachment B - TRB Construction Detail and Post Footing Embedment Schedule**) have been installed, and berm box has been inspected and approved by the Engineer or Project Manager
- Do not use compaction means or equipment which may damage the integrity of the new berm box
- Place and compact soil in progressive lifts of 6" or less
- Compact soil to a level of effort approximate to  $\geq 90\%$  compaction (gauge testing not required but must be approved by the Engineer or Project Manager)
- Place soil, whether native or imported (**see Attachment C for import soil fill specification**), to final grade as applicable:
  - Approximately level with the top edge of the new berm box, or
  - Approximately level with the ground surface adjacent to an open excavation

Contractor shall prevent any loose soil from entering the creek. Considering that the wildlife exclusion fencing is a modified silt fence, Contractor shall treat it as a dual-purpose BMP. Any failure of the silt/exclusion fencing is required to be repaired immediately and reported to the Engineer or Project Manager.

### c. TRB Installation

Contractor shall replace the specified portions of the TRB shown in **Attachment A - Work Site Detail Map**. Contractor shall construct the new TRB wall portions to match the height (i.e., top-of-wall elevation) of the portions of the TRB which are adjacent to and shall remain intact at the following addresses: 119 Vendola Dr. is the sole subject property of the base bid.

- Contractor shall note the following details: New lumber type: Pressure treated (EPA approved)
- New post spacing: 4 feet on-center
- Post footings: mixed wet concrete or dry pack concrete (>4000 psi strength performance)
- Bottom plank shall be embedded >4" below ground surface
- Install zinc plated threaded tie-rods, nuts, and washers to connect waterside to landside posts
- Required Submittals
  - Maintenance work schedule
  - Lumber and materials
  - Import soil (**Attachment C - TRB Berm Box Soil Backfill Specification**)
  - Erosion control product(s)

#### **d. Erosion Control**

Areas of the ground surface adjacent to the new TRB box that are left bare after construction shall be compacted using a level of effort approximate to  $\geq 90\%$  compaction and consistent with the guidance prescribed in **Attachment D - Marin County Flood Control & Water Conservation District Requirements for Contractors, Section 10 "Stormwater Pollution Prevention"**. For reference, the detail used in previous TRB maintenance jobs included an erosion control blanket consisting of coconut fiber woven with straw which was laid over a native seed mixture. Contractor shall coordinate timing of erosion control BMP installation with the District. The District shall provide and spread the seed mix before BMP installation.

#### **e. Site Access and Contractor Staging Areas**

District has secured necessary rights-to-enter (**see Attachment E – Rights to Enter**) to facilitate the maintenance work.

The work access point and staging area are shown on **Attachment A - Work Site Detail Map and Attachment F - Additional Staging Area Map**, respectively, for the maintenance work. Contractor shall maintain work accesses and staging areas in a safe, clean, and orderly condition at all times.

Repair and/or cost of damages within the site accesses, work zones and staging areas due to Contractor work activity shall be included in Contractor's bid price, and not charged for as extra work.

## Technical Requirements

### **1. Provision of Continuous Flood Control Facility Service**

In advance of a weather event in which a storm coincides with a predicted extreme high tide (above 6 feet MLLW [Mean Lower Low Water]) or just a predicted high tide event above 7 feet MLLW regardless of weather, Contractor shall provide a barrier to prevent Gallinas Creek water from crossing the earthen levee which supports the TRB wherever Contractor removed the TRB. Barrier method and materials must be approved by the Engineer or Project Manager. If the barrier method

approved is sandbags, at any location along the TRB maintenance work zone where the TRB has been removed (e.g., during demolition), in anticipation of the above referenced forecast conditions Contractor shall place sandbags in a manner consistent with the flood water barrier installation detail prescribed by the California Department of Water Resources (Emergency Flood Fighting Methods), such that tide water from Gallinas Creek will be dammed to an elevation of 8 feet NAVD 88 [North American Vertical Datum 88]. The intent of the temporary sandbags is to prevent tidewater inundation within or across the TRB work zone during demolition and construction activities if water levels in the creek are expected to be unusually high. Upon completion of the TRB maintenance, Contractor shall dispose of sandbag waste at a disposal facility licensed to accept such debris and provide tags to the Project Manager.

## **2. Construction Water Supply**

Contractor shall provide a portable pressurized water tank and hose sufficient to pump the necessary volume of any water wherever needed for maintenance and clean-up operations.

## **3. Toilet Facilities**

Contractor shall provide toilet/hygiene facilities and place the structure within the off-site staging area located at Pump Station 3 as indicated in **Attachment B - TRB Construction Detail and Post Footing Embedment Schedule**.

## **4. Sound Control**

Contractor shall comply with all local sound control and noise level rules, regulations and ordinances which apply to any work performed pursuant to the contract.

Each internal combustion engine, used for any purpose on the job or related to the job, shall be equipped with a muffler of a type recommended by the manufacturer. No internal combustion engine shall be operated on the project without said muffler.

Said noise level requirement shall apply to all equipment on the job or related to the job, including but not limited to trucks, transit mixers or transient equipment that may or may not be owned by Contractor. The use of loud signals shall be avoided in favor of light warnings except those required by safety laws for the protection of personnel.

Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed, therefore.

## 5. Work Hours

Normal working hours for this site shall not be earlier than 8:00 a.m. or later than 5:00 p.m., weekdays, unless otherwise approved by the Project Manager.

## 6. Stream Maintenance Program and Stormwater Management Guidelines

Contractor shall follow the biological, and erosion and sediment control guidelines prescribed in the Marin County Stream Maintenance Program manual. See **Attachment G - Stream Maintenance Program Acknowledgement** for the sections pertinent to the TRB maintenance work.

See also, <https://flooddistrict.marincounty.gov/documents/ca-department-of-fish-and-wildlife-creek-maintenance-activities-permit-2021/> for requirements Contractor shall follow for maintenance work in proximity to sensitive habit located in Flood Control Zone #7 per the District's permit administered by the California Department of Fish and wildlife.

For stormwater management guidelines see **Attachment D - Marin County Flood Control & Water Conservation District Requirements for Contractors, Section 10.**

## 7. Archeological Discoveries

Stop work immediately if suspected archaeological resources are encountered during construction. You must stop all construction activities within 100 feet of the discovery, secure the area, and report the potential discovery to the Engineer immediately. Do not move the archeological resource or take them. Do not resume work in the area until the County has provided a written directive.

Archaeological materials are the remains of past human activity including historic-period archaeological materials and pre-contact Native American archaeological materials. Nonhuman fossils are not archaeological materials unless they show direct evidence of human use or alteration or when found in direct physical association with archaeological materials.

Historic-period archaeological materials include cultural remains beginning with initial European contact in California but at least 50 years old and include:

- a) Trash deposits or clearly defined disposal pits containing tin cans, bottles, ceramic dishes, or other refuse indicating previous occupation or use of the site.
- b) Structural remains of stone, brick, concrete, wood, or other building material found above or below ground.
- c) Human skeletal remains from the historic period, with or without coffins or caskets, including any associated grave goods.

Pre-contact Native American archaeological materials include:

- a) Human skeletal remains or associated burial goods such as beads or ornaments.
- b) Evidence of tool making or hunting such as arrowheads and associated chipping debris of fine-grained materials such as obsidian, chert, or basalt.

- c) Evidence of plant processing such as stone pestles, grinding slabs, or stone bowls.
- d) Evidence of habitation such as cooking pits, stone hearths, and packed or burnt earth floors.
- e) Remains from food processing such as concentrations of discarded or burnt animal bone, shellfish remains, or burnt rocks used in cooking.
- f) Midden soil deposits: distinct change in native soil(s) to deposits of dark, organic-rich soils often with shell fragments scattered throughout.

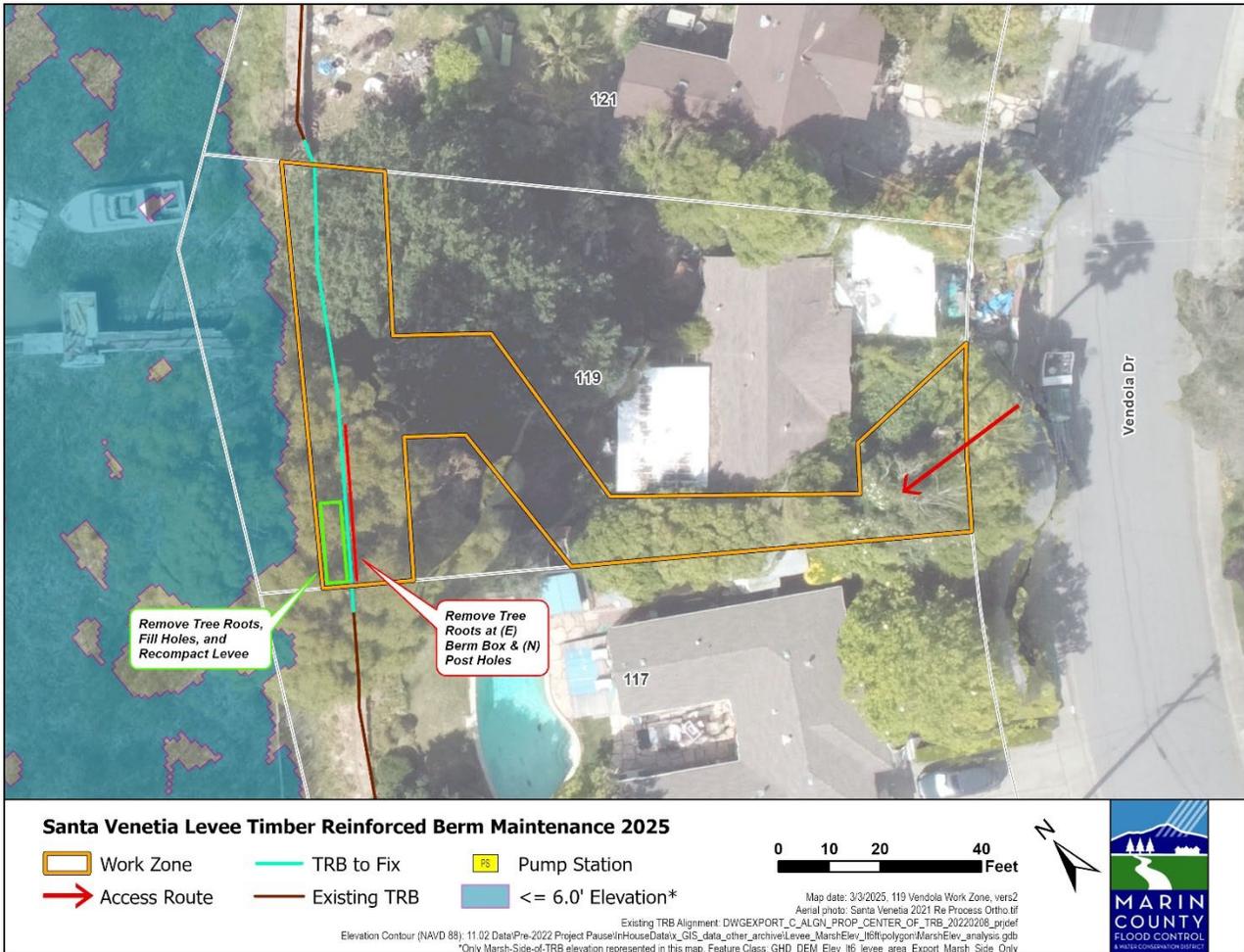
If ordered, furnish resources to assist in the investigation or recovery of archaeological resources. This work is change order work.

#### **8. Extra Work**

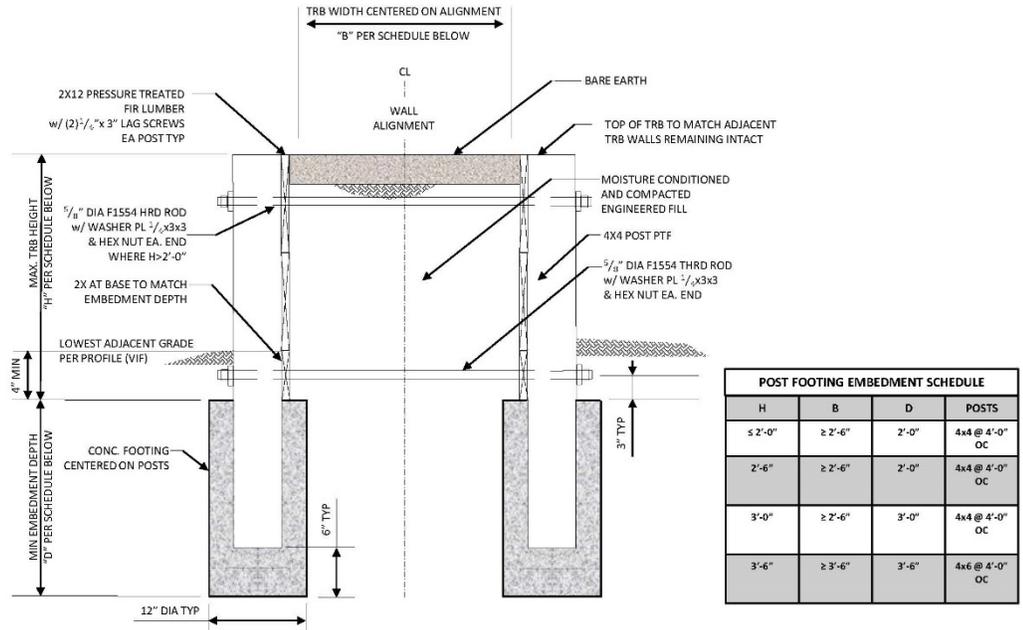
Contractor will be notified in writing if the District desires to expand the specifications as described above. *Exceptions to the Scope of Work* shall be utilized for this contract for all work in excess of what's necessary to complete the TRB maintenance described in this RFP. The classification and cost (\$/hour) shall represent the prevailing wages paid for the labor classification and any overhead for the company which includes all vacation, sick pay, and any incidentals. State of California prevailing wages shall apply for the work performed.

\*\*\*END OF SCOPE OF WORK\*\*\*

# ATTACHMENT A – Work Site Detail Map



# ATTACHMENT B - TRB Installation Detail and Post Footing Embedment Schedule



## ATTACHMENT C - TRB Berm Box Soil Backfill Specification

### **TRB Berm Box Soil Fill Specification**

Imported select fill soil must meet the following specs:

- PI 8-25
- LL < 45
- 2-inch maximum particle size
- Min 85% passing No. 4 sieve
- Min. 40% fines (passing #200) for levees and allowable USCS classifications: CL/SC/SM/ML

## ATTACHMENT D – Rights to Enter

**MARIN COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT  
RIGHT TO ENTER**

This Right to Enter is made and entered into on 8/28/2024, 2024 by and between the MARIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT ("District") and LYNN ROTH, Trustee ("Owner"),

WHEREAS, Owner is the owner of the following described real property:

Assessor Parcel No.: 180-011-19 herein referred to as the "Property"; and

WHEREAS, a levee exists along the length of the Gallinas Creek for the benefit of the community and extends across the Property; and

WHEREAS, a Timber Reinforced Berm structure (TRB) exists along the levee and requires replacement as part of the District's Maintenance Program; and

WHEREAS, the functionality of the TRB is at risk due to two large eucalyptus trees and their root system which are currently impacting the levee structure, lifting the levee and causing disrepair; and

WHEREAS, the District desires to inspect and potentially trim down and/or remove the trees on the Property at no cost to Owner to prevent the damage to the TRB; and

WHEREAS, Owner is concerned about the large trees on the Property and the fall risk and agrees that removal of the trees is in Owner's best interest; and

WHEREAS, the District desires and requests temporary rights to the Property to access, inspect, and trim down or remove two (2) eucalyptus trees (tree work) and reconstruct the TRB; and

WHEREAS, the Owners agree to allow District the temporary rights above mentioned for access, inspection, tree work, and flood control purposes; and

THEREFORE, the parties hereto agree to enter into this Right to Enter (RTE) upon the following conditions and terms:

1. GRANT OF RIGHTS. Owner by signature of this RTE hereby grants to the District and its authorized agents, contractors, and employees the right to enter said Property, as is necessary, in order to inspect, and trim and/or remove two large eucalyptus trees, demolish the existing TRB and construct a temporary wooden TRB replacement structure including replacement stairs, including access to and from the trees and levee, staging and delivery of materials, equipment and personnel necessary to complete the maintenance work and related tree work. District shall maintain access rights to monitor the TRB in its post-construction state to ensure proper vegetation management and function of the TRB for up to five years as further described below in Section 3, Term. The rights herein granted shall be over

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and across a portion of the referenced property limited specifically to the area shown on Exhibit "A", attached hereto and made a part hereof, hereinafter referred to as the "Access and Construction Area". Access to the Property shall be kept free and clear of obstruction.

2. ACCEPTANCE. The RTE shall be effective immediately upon acceptance by the District, evidenced by signatures and date below.

3. TERM. The term of this RTE shall be until December 31, 2025 to allow for tree work and reconstruction of the TRB replacement structure and shall commence on the date this RTE is entered into. The District shall maintain rights of access to the Property until December 31, 2029 for TRB monitoring purposes as described within Section 1, Grant of Rights.

4. DAMAGE TO IMPROVEMENTS. Reasonable precautions will be exercised by District and its contractors to avoid damage to existing improvements, if any, within the Access and Construction Area. District shall repair or replace side fence sections and gates as needed for construction access.

5. HOLD HARMLESS. The Owners hold harmless the District, its authorized agents, contractors, and employees from all claims by the Owners or by any third party, except insofar as said claims can be shown to be caused by the negligence of the District, or its authorized agents, contractors, and employees.

6. NOTICES. All notices shall be made in writing and may be given by personal delivery, email or by mail. Notices sent by mail shall be addressed as follows:

Owner: Lynn Roth, Trustee  
1 Paseo Way  
Greenbrae, CA 94904  
Email: [Lynnroth@karter.com](mailto:Lynnroth@karter.com)  
Primary Contact: 415-302-6009

District: Marin County Flood Control and Water  
Conservation District  
Department of Public Works  
P.O. Box 4186  
San Rafael, CA 94913-4186  
Attn: Luis Damerell  
Email: [luis.damerell@marincounty.gov](mailto:luis.damerell@marincounty.gov); and

District Vegetation Management:

Marin County Flood Control and Water  
Conservation District  
Department of Public Works  
P.O. Box 4186  
San Rafael, CA 94913-4186  
Attn: Hannah Lee  
Email: [hannah.lee@marincounty.gov](mailto:hannah.lee@marincounty.gov)

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and when so addressed, shall be deposited in the United States Mail, postage prepaid. Notices shall be deemed given pursuant to this section upon the day of personal service, or (2) consecutive calendar days following the deposit of the same in the custody of the United States Postal Service. District shall provide Owners not less than 48 hours' notice prior to commencement of access and construction. Owner prefers to be contacted at her Primary Contact number as provided above for all Noticing by call or text.

7. This RTE supersedes and replaces any previous RTE or other written or oral agreements.

8. This RTE shall be binding on each parties successors and assigns.

9. This RTE may be executed by electronic signature(s) and transmitted either by facsimile or in a portable document format ("pdf") version by email and such electronic signature(s) shall be deemed as original for purposes of this RTE and shall have the same force and effect as a manually executed original.

Owner:

DocuSigned by:  
By: Lynn Roth Date 8/27/2024  
A06BDA8664F04E9...  
Lynn Roth, Trustee

ACCEPTANCE:

The above Right to Enter is hereby accepted by Marin County Flood Control and Water Conservation District subject to the conditions stated.

Marin County Flood Control and  
Water Conservation District:

Signed by:  
By: Berenice Davidson Date 8/28/2024  
E2A06B0FE2BC4F6...  
Public works Assistant Director



ATTACHMENT E – Marin County Flood Control & Water Conservation District  
Requirements for Contractors

## MARIN COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT REQUIREMENTS FOR CONTRACTORS

*The County of Marin is committed to developing and supporting diverse, equitable, and inclusive values within all aspects of its operations. By conducting business for or with the County, you are representing your commitment to rejecting inequities in employment, services, and practices by ensuring fair and equitable treatment for all.*

### 1. LICENSES

All Contractors and their Subcontractors shall be licensed at the time of the bid date by the Contractors State License Board of the State of California to perform the work, if such work lawfully requires such licensing.

### 2. TAXES

Contractors shall calculate payment for all sales, unemployment, old age pension and other taxes imposed by local, city, state or federal law, and shall include such expenses in the total amount bid.

### 3. CONTRACTOR REGISTRATION WITH CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS

A contractor or subcontractor may not be qualified to bid on or be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 (with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)).

No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

Contractor must comply with all applicable California Labor Code provisions and related regulations, including, but not limited to the following: Labor Code Sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815; Title 8, Division 1, Chapter 8, Subchapter 4.5 of the California Code of Regulations (8 CCR 16451 et seq.).

This project is subject to the requirements of Division 2, Part 7, Chapter 1 of the Labor Code, as well as the obligation to furnish certified payroll records directly to the Labor Commissioner in accordance with 8 CCR 16461. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

           If initiated by Marin County Flood Control & Water Conservation District (the "District") representative, the above paragraph has been determined by the District to be inapplicable on the basis that the services to be provided under this contract do not require registration with the California Department of Industrial Relations pursuant to Labor Code Section 1771.1(a). It is the Contractor's responsibility to correct this determination if it believes the conclusion to be inaccurate.

### 4. PAYING OF PREVAILING WAGE RATES

Pursuant to Section 1773 of the Labor Code, the general prevailing wage rates for Marin County where the work is to be done have been determined by the Director of the California Department of Industrial Relations. The General Prevailing Wage Rates are available at the Department of Public Works and are also available at the State of California Division of Labor Statistics and research web site at <http://www.dir.ca.gov/DLSR/PWD/index.htm>. Said rates are based on an eight (8) hour day, forty (40) hour week, except as otherwise noted and currently in effect. Existing agreements between the Building Trades and Construction Industry groups relate to wages, overtime, holidays and other special provisions shall be strictly observed. In compliance with the provisions of Section 1776 of the Labor Code of the State of California, as amended the Contractor and each of their Subcontractors shall keep an accurate payroll record, 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 or worker employed by them in connection with the project. Said records shall be available for inspection at all reasonable hours, and copies

shall be made available to the employee or their authorized representative, the State Division of Labor Standards Enforcement, the State Division of Apprenticeship Standards, and the County.

The contractor or subcontractor shall, as a penalty to the Flood Control & Water Conservation District, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation Labor Code Section 1813 et seq.

Prevailing wages must be paid on Public Work projects, in most instances, if the cost exceeds \$1,000 (labor or labor & materials) and involves, but is not limited to: Construction, alteration, demolition, installation, repair work, maintenance and installation of modular furniture.

For additional information please visit the Department of Industrial Relations at <http://dir.ca.gov>

## **5. INDEMNIFICATION**

To the maximum extent allowed by law and consistent with Civil Code Section 2782, Contractor shall effectively defend, indemnify, and hold harmless the County of Marin ("County") and District, their officers, agents, and employees, from any liability as a consequence of any willful act or negligent act or omission by the Contractor, any of the Contractor's employees or agents, or any subcontractor, and shall be responsible for any and all damage, injury, or death to persons, or damage to property. Contractor shall indemnify, defend and hold harmless County and District, their officers, agents, and employees from any and all claims, suits, actions, costs, and liability ensuing in connection with the performance of the contract, or failure to protect the safety of workers or the general public. The duty to defend shall include, but is not limited to, the payment of court costs, expert witness fees, and attorney's fees (whether or not handled "in-house" by the County) and shall further include attorney's fees for separate counsel if there exists an actual or potential conflict between County or District and Contractor.

Consistent with Civil Code Section 2782, this provision does not impose upon Contractor liability for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense arising from the sole negligence, or willful misconduct of the County or District or their agents, servants, or independent contractors who are directly responsible to the County or District, or for defects in design furnished by those persons. In addition, consistent with Civil Code Section 2782, this provision neither imposes upon Contractor, nor relieves County or District of, liability arising from the active negligence of the County or District.

## **6. INSURANCE**

The Contractor shall maintain a commercial general liability insurance policy in the amount of **one million dollars (\$1,000,000.00)**. If the policy has an annual aggregate, the limit of the annual aggregate must be at least twice the occurrence limit. Where the services to be provided under this Contract involve or require the use of any type of vehicle by Contractor in order to perform said services, Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of \$1,000,000.00. Said policies shall remain in force through the life of this Contract and shall be payable on a "per occurrence" basis only. **The County of Marin and The Marin County Flood Control & Water Conservation District** shall both be named as an additional insured on the commercial general liability policy. The insurer shall supply a certificate of insurance with endorsements signed by the insurer evidencing such insurance to County or District prior to commencement of work.

**X** By initialing in the space provided, Contractor warrants that the services to be provided under this Contract do not require the use of any type of vehicle by Contractor.

Nothing herein shall be construed as a limitation of Contractor's liability, and District agrees to timely notify Contractor of any negligence claim.

Failure to provide and maintain the insurance required by this contract will constitute a material breach of the agreement. In addition to any other available remedies, may suspend payment to the Contractor for any services provided during any time that insurance was not in effect and until such time as the Contractor provides adequate evidence that Contractor has obtained the required coverage.

#### **7. WORKERS' COMPENSATION**

The Contractor acknowledges that it is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and it certifies that it will comply with such provisions before commencing the performance of the work of this Contract. If Contractor has employees, a copy of the certificates evidencing such insurance shall be provided to County or District prior to commencement of work.

Workers' Compensation insurance as required by the State of California and Employers Liability Insurance with limit of \$1,000,000. If any work shall be performed on, in, or under a body of water and governed by U.S. Longshoremen's and Harbor Workers Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims. Contractor is responsible for determining if there is an exposure to such an injury and agrees to indemnify the County and District for all claims arising out of such an injury.

**X** \_\_\_\_\_ By initialing in the space provided, Contractor warrants that no employees will be used in providing the services under this Contract.

#### **8. NONDISCRIMINATORY EMPLOYMENT**

Contractor and/or any permitted subcontractor shall not unlawfully discriminate against any individual based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person. Contractor and/or any permitted subcontractor understands and agrees that Contractor and/or any permitted subcontractor is bound by and will comply with the nondiscrimination mandates of all Federal, State, and local statutes, regulations and ordinances.

#### **9. INTEGRATED PEST MANAGEMENT (IPM)**

The Contractor shall strictly adhere to the guidelines established in the County of Marin's IPM Ordinance and Policy, approved by the Board of Supervisors on July 21, 2009. All pesticide applications, regardless of material used, must be approved by the IPM Coordinator prior to use at any facility covered by the contract. Material for weed eradication and pest control shall be only those listed in the County of Marin's approved list and categories III and IV herbicides, non-corrosive, non-staining, and shall not leave a flammable residue. Pesticides shall be Environmental Protection Agency and California Department of Agriculture approved and used in strict accordance with manufacturer's label, recommendations, Federal, State, and local laws. All requests for application must be submitted to the IPM Coordinator four (4) calendar days prior to posting (described below). Requests must include a map of the area, material requested to be used and dates of application requested. All applications must be approved by the IPM Coordinator in writing and applicators must have a signed Pest Control Recommendation before application. All information regarding approved applications will be posted to the County of Marin IPM website. Four (4) calendar days prior to any pesticide application, any area to receive a pesticide application shall be posted to notify the public except those areas specifically noted in the Ordinance. Chemical application must use least toxic methods and be used as the last resort and only with written approval. Failure to comply with the Marin County IPM Ordinance & Policy may result in fines of up to \$200.00 per incident and/or contract termination. The IPM policy and Ordinance is available at the following website: <https://www.parks.marincounty.org/projectsplans/ipm>

List of Materials

August 2022

Page 3 of 5

Within thirty (30) calendar days after award, Contractor shall furnish to the IPM Coordinator for approval a list of fertilizers, herbicides, insecticides, and other chemicals that the Contractor proposes to use at each work site. Contractor shall also furnish a sample label and a MSDS for each product. Only County approved materials may be used.

#### Records

Contractor is required to maintain records of pest control activities. Contractor shall submit reports on a monthly basis to the IPM Coordinator if fertilizers, herbicides, insecticides, and other chemicals were used at the work site. Reports are to include the date, name of the pest, the site/location the work was done, name of technician performing the work, and corrective action taken. If a pesticide was used, the product name, the amount applied, and the area treated must also be reported.

### **10. STORMWATER POLLUTION PREVENTION**

In performing or delivering services at County and/or at Marin County Flood Control & Water Conservation District-owned, leased or managed property, or in performance of services and activities on behalf of County regardless of location, the Contractor shall implement any and all applicable Best Management Practices (BMPs) designed to prevent and reduce stormwater pollution in a manner pursuant to and consistent with the County's Stormwater Runoff Pollution Prevention ordinance (Chapter 23.18) and the Phase II Small Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit, Water Quality Order No. 2013-0001-DWQ, General Permit No. CAS000004 and subsequent revisions and amendments thereto.

Guidance on current Best Management Practices is available from the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) through two documents: 1) "Minimum Control Measures for Small Construction Projects"; and 2) the "Municipal Field Operations and Maintenance Activities Best Management Practices Guidelines" handbook. Both documents are available upon request from Marin County Public Works, room 304 of the Marin County Civic Center or electronically on the MCSTOPPP website:

Minimum Control Measures for Small Construction Projects:

<https://mcstoppp.org/wp-content/uploads/2020/09/esc-measures-for-small-construction-projects.pdf>

Municipal Field O&M Activities BMP Guidelines: <https://mcstoppp.org/e11h-field-om-bmps-handbook/>

Under E.11 Pollution Prevention and Good Housekeeping (E.11.g and h).

### **11. LAWS GOVERNING WORK PERFORMED BY CONTRACTOR**

The contractor shall comply with all applicable federal, state and local laws, rules, regulations, and ordinances. These laws include, but are not limited to, bird and nesting laws such as the Federal Migratory Bird Treaty Act of 1918, the California Department of Fish and Wildlife codes 3503, 3503.5, 3513, and Marin County Code 23.16.010 for Pacheco Pond. Contractor is required to be familiar with and in compliance with all bird nesting buffer areas and breeding dates when work may negatively impact birds and nesting areas.

The parties stipulate that this agreement was entered into in the County of Marin, City of San Rafael, in the State of California. The parties further stipulate that the County of Marin, City of San Rafael is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from.

### **12. CANCELLATION OF CONTRACT**

**Without** CAUSE, the County of Marin may cancel this contract at any time with 30 days written notice to the supplier/contractor. **With** CAUSE, the County of Marin may cancel this contract at any time with five (5) days written notice to the Proposer. Cancellation for cause shall be at the discretion of the County of Marin and shall be, but is not limited to, failure to supply the materials, equipment or service specified within the time allowed or within the terms, conditions or provisions of this contract. The Successful Proposer may not cancel this contract without prior written consent of the County of Marin Purchasing Agent.

**13. TERMINATION FOR COVENIENCE**

The County reserves the right to terminate the contract at any time, for the convenience of the County of Marin, without penalty or recourse, by giving written notice to the Contractor at least 30 calendar days prior to the effective date of such termination. The Contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the County pursuant to the contract prior to the effective date of termination. Termination compensation cannot exceed the monthly service fee, and the termination nullifies the remaining months of the contract.

- 1. Termination for lack of funding: The County reserves the right to terminate any contract in any user agency if said agency loses funding during the term of the contract.
- 2. Termination for non-performance: The County may terminate the contract in whole or in part if delivery or performance is repeatedly unsatisfactory. Unsatisfactory performance includes but is not limited to:

**14. DEBARMENT AND SUSPENSION CERTIFICATION**

The Contractor under Title 49, Code of Federal Regulation, Part 29, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, and manager: is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency; has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

**15. GENUINE BID**

The Undersigned hereby certifies that this bid is genuine and not sham or collusive, or made in the interest or on behalf of any person or business not herein named, and that Contractor has not directly or indirectly induced or solicited any other bidder to furnish a sham bid, or any other person or business to refrain from bidding, and that Contractor has not in any manner sought by collusion to secure an advantage over any other bidder.

Contractor has read and understands the foregoing and agrees to be bound by all of the foregoing terms and conditions.

\_\_\_\_\_  
Contractor (Firm Name)

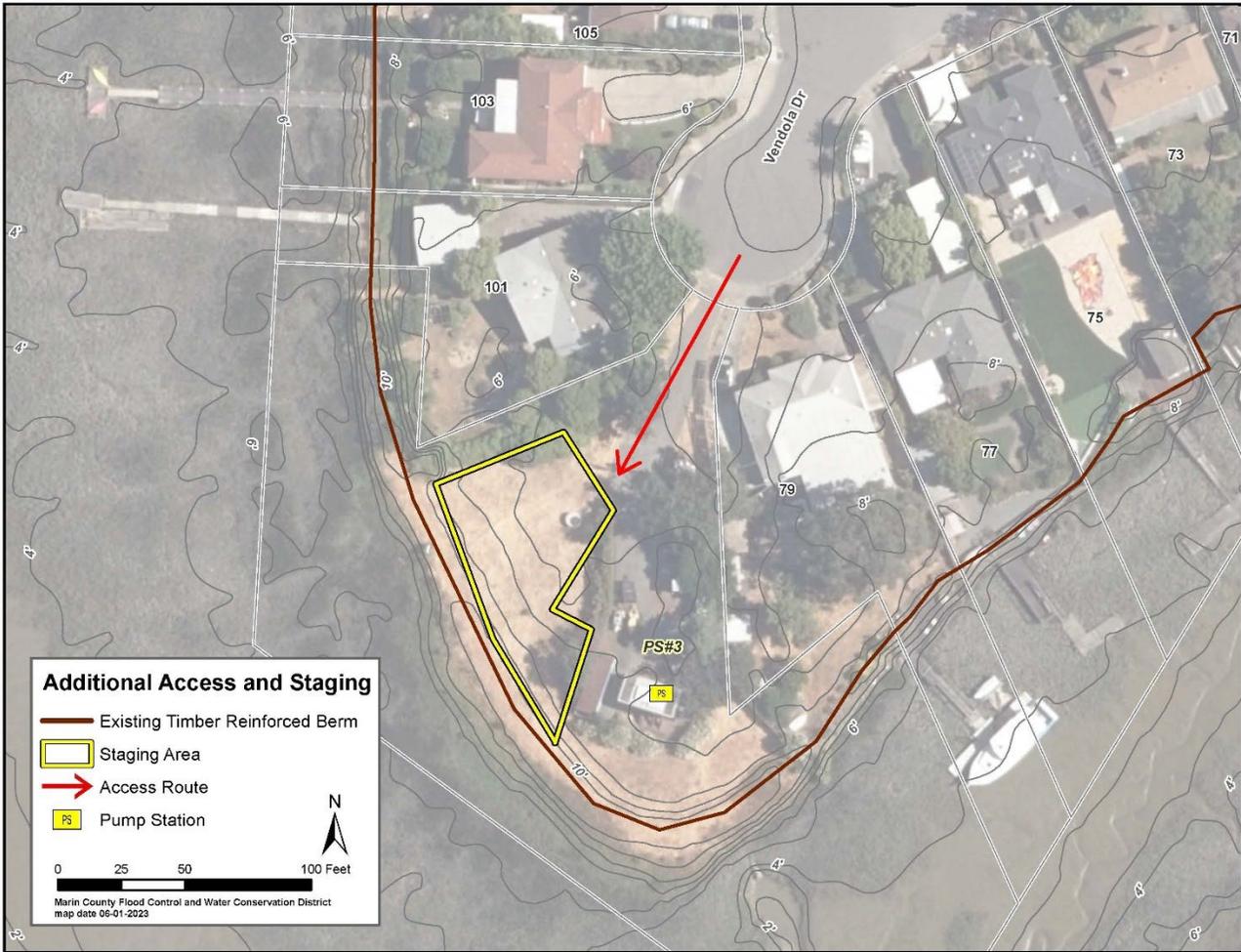
\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
DIR Registration Number

\_\_\_\_\_  
Expiration Date

# ATTACHMENT F - Additional Staging Area Map



## ATTACHMENT G – Stream Maintenance Program Acknowledgement

Contractor shall follow rules of the Stream Maintenance Manual (SMM) in performance of the TRB repairs, referenced here:

<https://flooddistrict.marincounty.gov/documents/marin-county-stream-maintenance-manual-2023/>

Contractor shall follow the CDFW, and Regional Water Quality Control Board permit requirements contained in documents linked here:

<https://flooddistrict.marincounty.gov/documents/ca-department-of-fish-and-wildlife-creek-maintenance-activities-permit-2021/>

[https://www.waterboards.ca.gov/sanfranciscobay/board\\_decisions/adopted\\_orders/2023/R2-2023-0011.pdf](https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2023/R2-2023-0011.pdf)

**Contractor shall particularly note and initial to acknowledge the following SMM sections applicable to TRB maintenance work:**

\_\_\_\_\_ Levee Maintenance pages 36-38

\_\_\_\_\_ BIRD-1: California Ridgway’s Rail and California Black Rail pages 47

\_\_\_\_\_ 8.0 FACILITIES MAINTENANCE AND REPAIR OF FLOOD CONTROL STRUCTURES pages 81-85

### **CONTRACTOR SIGNATURE OF ACKNOWLEDGEMENT**

\_\_\_\_\_

Contractor (Firm Name)

\_\_\_\_\_

Authorized Signature

\_\_\_\_\_

Date

## SOLICITATION DOCUMENTS TO BE RETURNED

**PLEASE PROVIDE ELECTRONIC SUBMISSIONS VIA EMAIL: [Luis.Damerell@MarinCounty.gov](mailto:Luis.Damerell@MarinCounty.gov)**

The following forms must be completed and submitted on or before the Submittal Deadline.

- |    |   |         |
|----|---|---------|
| a. | Exceptions to the Scope of Work                           | Page 34 |
| b. | Offer   | Page 35 |
| c. | Schedule of Proposed Fees                                 | Page 36 |
| d. | References and Performance                                | Page 37 |
| e. | Statement of Qualifications                               | Page 38 |
| f. | Debarment and Suspension Certification                    | Page 39 |
| g. | Non-Collusion Declaration                                 | Page 40 |
| h. | Attachment G – Stream Maintenance Program Acknowledgement |         |
|    | Page 32   |         |

Successful Proposer shall be **required** to furnish (at the time of selection):

- a. Certificate of Liability Insurance
- b. Additional Insured Endorsement naming County of Marin as additional insured
- c. W-9
- d. Any other requested documentation related to this solicitation





## SCHEDULE OF PROPOSED FEES

### Schedule of Proposed Fees

<b>Item</b>	<b>Description/Deliverables</b>	<b>Lump Sum Price</b>
Mobilization	Initial delivery of materials and equipment to job site. Flood District hosted environmental training held with contractor's crew.	\$
TRB Maintenance	Demolition and site preparation, earthwork, TRB installation, and erosion control.	\$
Demobilization	Site stabilization and clean-up: Contractor's surplus material, debris and equipment removed from job site.	\$
<b>Total Project Cost</b>		<b>\$</b>

## REFERENCES AND PERFORMANCE

Proposers shall provide the following information which will be used by the County in evaluating the proposal. Proposer must provide three former (within the past five years) or present clients for whom these individuals have performed contracting services related to each of the categories for which your firm is offering services.

1. Number of years in business: \_\_\_\_\_

2. Current average number of employees: \_\_\_\_\_

3. List 3 Former or Current accounts for contact as reference.

Name: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_

Phone number: \_\_\_\_\_

Name: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_

Phone number: \_\_\_\_\_

Name: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_

Phone number: \_\_\_\_\_



## DEBARMENT AND SUSPENSION CERTIFICATION

Title 49, Code of Federal Regulations, Part 29

The Contractor, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, and manager:

- is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

By \_\_\_\_\_  
Authorized Signature for Contractor

\_\_\_\_\_  
Printed Name & Title

**NON COLLUSION DECLARATION**  
**TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID**

The undersigned declares:

I am the \_\_\_\_\_ of \_\_\_\_\_, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_ [date], at \_\_\_\_\_ [city], \_\_\_\_\_ [state]."

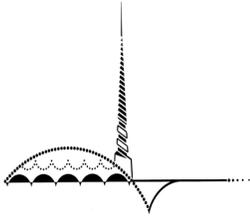
*(Amended by Stats. 2011, Ch. 432, Sec. 37. (SB 944) Effective January 1, 2012.)*

\_\_\_\_\_  
Printed Name of Document Signer

\_\_\_\_\_  
Signature of Document Signer

LOCAL BUSINESS PREFERENCE CERTIFICATION

PLEASE DO NOT COMPLETE THIS FORM UNLESS YOU QUALIFY FOR THE PREFERENCE



Chapter 3.10 of the Marin County Code, Preference in Contracts and Purchases, allows a 5% preference on the price submitted to local businesses which Contract with or

All respondents must certify they meet the definition of local business. Please initial one of the following definitions which apply to your business and describe below:

1. \_\_\_\_\_ has its principal place of business in Marin County; or

Describe: \_\_\_\_\_  
\_\_\_\_\_

2. \_\_\_\_\_ has a business license issued in Marin County for a period of six months prior to any claim of preference; or

Describe: \_\_\_\_\_  
\_\_\_\_\_

3. \_\_\_\_\_ maintains an office or other facility in Marin in which not less than five persons are employed substantially full time.

Describe: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Pursuant to Marin County Code, Chapter 3.10.40, any business which falsely claims a preference shall be ineligible to bid on county purchases or contracts for a period of one year from the date of discovery of the false certifications.

Upon request, vendor agrees to provide additional information to substantiate this certification.

Vendor certifies information provided is true and accurate under penalty of perjury.

\_\_\_\_\_  
Firm Name

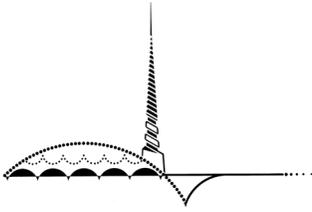
\_\_\_\_\_  
Business Address City, State, Zip Code

\_\_\_\_\_  
Signature of Authorized Representative Contact Number

\_\_\_\_\_  
Title E-Mail Address

## WORKFORCE PREFERENCE CERTIFICATION

**PLEASE DO NOT COMPLETE THIS FORM UNLESS YOU QUALIFY FOR THE PREFERENCE**



All respondents must certify and describe that their business employs at least 50% of the workforce under the service contract at the time of this solicitation are Marin County residents as defined below:

“Employee” means an individual who is permanently or temporarily employed by a county contractor or subcontractor performing direct services during any applicable pay period on work funded (in whole or in part) pursuant to a service contract as defined under this chapter.

Direct services do not include activity not directly contracted for by the county; for example, if the contract is for providing “counseling,” then only those employees providing that counseling are affected. Employees that would not be affected in that scenario would include support staff to those counselors, staff who process payroll or bill for the counselor’s time, or staff who supervise or manage those counselors. In another example, if the contract is to provide janitorial services, only those employees providing the janitorial services in county facilities would be affected. Employees who order supplies or repair equipment used in the performance of those services would not be affected.

Employee does not include an individual who is: (1) A worker classified as a student trainee, or intern working through an approved state or academic program or working towards state licensure or a professional accreditation sanctioned by a public entity or recognized licensure agency; (2) nor does it include anyone, regardless of age, who is providing services to earn academic credit or as part of a formal government approved, time-specific training program (e.g., Marin conservation corps trainees); and (3) employee also does not include a person providing volunteer services.

Describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Marin Workforce Bidders Preference Certification form must be completed and returned with your bid/proposal response if you are claiming the 5% bidding preference. Upon request, vendor agrees to provide additional information to substantiate this certification.

Vendor certifies information provided is true and accurate under penalty of perjury.

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Contact Number

\_\_\_\_\_  
Title

\_\_\_\_\_  
E-Mail Address

## GENERAL PROVISIONS

The provisions in this section, with the exception to the Evaluation Criteria and Invoicing address, cannot be altered without prior approval by County Counsel and Procurement

### Responsible Parties

Representing the County of Marin in all matters regarding the submission of this solicitation package shall be **Luis Damerell, Department of Public Works, Water Resources Division, Luis.Damerell@MarinCounty.gov**

All inquiries shall be directed to the designated County staff person as shown. Contact with any other County personnel or any undue “badgering” of such County personnel by the proposer is prohibited. Failure to comply with this request may be considered cause for disqualification of your proposal.

### Award of Contract

#### Request for Proposal (RFP)

Award of proposal, if awarded, will be made to the Proposer offering the most advantageous proposal after consideration of all Evaluation Criteria set forth below. The criteria are not listed in order of preferences. An Evaluation Committee will be established by the County of Marin. The Committee will evaluate all proposals received in accordance with the Evaluation Criteria. The County of Marin reserves the right to establish weight factors that will be applied to the criteria depending upon order of importance. Evaluation scores will not be released until after award of proposal. The County of Marin shall not be obligated to accept the lowest priced proposal but will make an award in the best interests of the County after all factors have been evaluated.

Receipt of the official Contract shall indicate award of the proposal. Award of proposal shall be made by the County of Marin to the responsible Proposer who meets the provisions and specifications of this proposal after consideration of all evaluation criteria to provide the services as described in this request. The County reserves the right to make a multiple award of this proposal.

### Award Evaluation Criteria

The Evaluation Criteria that will be used to evaluate all received proposals are listed **below**.

A selection committee will evaluate each submission and determine which individuals, firms, corporations, organizations, or teams will be invited to enter into a Contract.

The Selection Committee may also contact and evaluate the proposer’s references; contact any Proposer to clarify any response; contact any current users of a proposer’s services; solicit information from any available source concerning any aspect of a proposal; and/or seek and review any other information deemed pertinent to the evaluation process. The Evaluation Committee is not obligated to accept the lowest priced proposal but shall make an award in the best interest of the County of Marin, reject any and all proposals, and to waive any informalities and minor irregularities in the proposals.

Discussions/interviews may, at the County of Marin’s sole option, be conducted with responsible Proposers who submit proposals determined to be reasonably susceptible of being selected for an award. Discussions/interviews may be for the purpose of clarification to assure full understanding of, and

responsiveness to, the solicitation requirements. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and written revision of proposals. Revisions may be permitted after submissions and before award for obtaining best and final proposals. In conducting discussions/interviews, the County of Marin will not disclose information derived from proposals submitted by competing Proposers.

EVALUATION CRITERIA	PERCENTAGE
<u>Staffing</u> - Ability to make available the personnel and team that has the required licenses, experience, technical competence, and qualifications necessary to provide the requested services. Staff resumes. Dedicated staff with the most experience directly related to the services described in the scope of work.	10%
<u>Past Project Experience</u> - Demonstrated experience in and successful contract performance for efforts similar to work outlined in the scope of work. Previous experience and performance should demonstrate the breadth of services Contractor is qualified to perform, highlighting experience with public agencies within the last five years. Client satisfaction with similar services/projects. Proven ability to successfully complete work on schedule	15%
<u>Work Methodology</u> - Contractor’s understanding of the project objectives as illustrated by the proposed scope of work. Contractor’s ability to complete projects in a timely and efficient manner while delivering a quality product.	15%
<u>Communication</u> - Contractor must demonstrate prior ability to use professional sensitivity when interacting with the private property owners through whose properties the berm traverses or whose property is adjacent to the berm alignment. The project site is set in a residential neighborhood.	10%
<u>Cost Proposals</u> - The cost effectiveness of the proposal will be evaluated.	50%
<u>Total</u>	100%

## Preferences

Whenever the County of Marin acquires services or supplies by purchase order and/or contract, the Purchasing Agent, in evaluating the price or proposal, shall award preferences based upon the following preferences. In no case shall the total of all preferences which a bid is eligible exceed fifteen (15.0) percent.

1. *Local Business Preference* - In accordance with County of Marin Code **3.10** there shall be a five (5.0) percent preference on the price submitted by a local county business.

2. *Workforce Development Preference* - In accordance with County of Marin Code **2.50.070** Ordinance # 3435 there shall be a five (5.0) percent preference to contractors that can certify that at least 50 percent of the workforce under the service contract will be Marin County Residents.
3. *Recycled Product Preference* - In accordance with County of Marin Code **3.08** there shall be a fifteen (15.0) percent preference on the price submitted involving recycled products.

*This section shall not apply to transactions in which the allowance of these preferences is otherwise prohibited by state or federal statutes or regulation.*

## Supplier Performance Management Program (SPMP)

The Supplier Performance Management Program may be used to evaluate and assess contractor performance. This program may include but is not limited to: scheduled contract review, scorecards to measure performance on contract specific metrics, and periodic meetings to review performance and address any corrective action that may need to be taken. The intent is to be mutually beneficial, not only to ensure the supplier/contractor is meeting our expectations, but that the County is communicating our expectations to the supplier/contractor.

## Addenda

Any changes, additions, deletions or clarifications to this proposal package shall be made by written addendum, issued by the County of Marin. Addenda will be sent to all known entities in receipt of the solicitation and shall be incorporated in the proposal. The proposer shall sign and date the addendum and submit with their response to the solicitation.

Addenda issued within five (5) calendar days of the proposal opening date/time shall be cause for extension of the opening date, if so determined by the Purchasing Agent, in order to allow prospective Proposers sufficient time to prepare their proposals.

## Change Orders

The County of Marin may at any time, without notice to any sureties, make any change in the work specified in the resulting Contract by issuing a change order, including but not limited to changes:

1. In the terms and conditions of the Contract
2. In the written specifications

NO ORDER, STATEMENT OR CONDUCT, WRITTEN OR ORAL, SHALL BE TREATED AS A  
CHANGE ORDER UNLESS IN WRITING AND SIGNED BY BOTH PARTIES.

## Invoicing and Payment

Payment by the County of Marin to vendor shall be made in full, per invoice within 30 calendar days after receipt of a correct invoice. Invoices shall be made per division. Invoices shall be mailed through the postal service. Purchase Orders are required for each order placed and invoices should reference the associated purchase order.

Depending on originating charges vendor shall submit an invoice only after services have been rendered to each of the following email addresses (all three email addresses):

1. Project Manager: [Luis.Damerell@MarinCounty.gov](mailto:Luis.Damerell@MarinCounty.gov)
2. Flood Control District: [DPWFloodInvoices@MarinCounty.gov](mailto:DPWFloodInvoices@MarinCounty.gov)
3. DPW Accounting: [DPW-Accounting@MarinCounty.gov](mailto:DPW-Accounting@MarinCounty.gov)

## Assignment and Subcontracting

The proposer shall have no right, authority or power to sell, mortgage or assign the resulting contract and/or purchase order or any interest herein, or any right, power or authority to allow or permit any other person or persons or organizations to have any interest in or use any part of the rights or obligations granted hereunder for any purpose whatsoever without the prior written consent of the County of Marin. Neither the contract and/or purchase order nor any interest created thereby shall pass by operation of law to any trustee or receiver in bankruptcy or to any other receiver or assignee for the benefit of creditors or any claim hereunder to any other party or parties, except as expressly authorized by the County of Marin.

## Force Majeure

Time extension for delay may be allowed for the Proposer by the County of Marin for any delay in the completion/delivery of specified items which arises from unforeseeable causes beyond the control of the proposer and without fault or negligence of the proposer, including but not restricted to such causes as the act or negligence of the County of Marin, stormy or inclement weather in which specified work cannot be done, strikes, boycotts, acts of God, acts of the public enemy, acts of government, fire, flood, epidemics, freight embargo, delays of suppliers which arise from unforeseeable causes beyond the control and without the fault or negligence of both the proposer and supplier.

## Nondiscriminatory Employee

The County of Marin does not discriminate on the basis of race color, religion, creed, sex, age, marital status, national origin, mental or physical disability, political belief or affiliation, veteran status, sexual orientation, gender identity (including gender expression), genetic information, and any other class of individuals protected from discrimination under state or federal law in any of its activities or operations. This includes, but is not limited to, hiring and firing of staff, selection or volunteers and vendors, and provision of services. We are committed to providing an inclusive and welcoming environment for all members of our staff, clients, volunteers, contractors, subcontractors, vendors and clients.

## Fair Employment Provisions

The contractor awarded this proposal and doing the work herein specified shall not knowingly fail to hire or allow to be dismissed from employment thereon any persons because of race, color, sex, religion, national origin, or creed. The hiring of all labor for the work included in this contract shall be in accordance with applicable directives of the Department of Fair Employment and Housing of the State of California.

The contractor shall comply fully with Titles I and II of the Americans with Disabilities Act (ADA), Sections 508 and 504 of the 1973 Rehabilitation Act as amended in 1998 in that the contractor's hiring practices do not discriminate against disabled persons.

The contractor shall cooperate fully with the County and affiliated unions to promote and ensure the maximum employment of minorities and other protected group members with particular emphasis on

residents of Marin County, in all phases and at all levels of the work. The contractor shall encourage maximum utilization of apprenticeship and other on-the-job training programs to achieve this goal.

Contractor and/or any permitted subcontractor shall not unlawfully harass nor discriminate against any individual based on race, religious creed, color, national origin, ancestry, medical condition, marital status, sex, sexual orientation, age or condition of disability. Contractor and/or any permitted subcontractor understands and agrees that Contractor and/or any permitted subcontractor is bound by and will comply with the nondiscrimination mandates of all Federal, State and local statutes, regulations and ordinances.

A County representative will be available to advise and assist in implementation of the foregoing.

The Contractor shall comply with any and all federal, state and local laws (including, but not limited to the County of Marin Nuclear Free Zone and Living Wage Ordinance) affecting the services provided by the contractor.

## Cancellation of Contract

**Without** CAUSE, the County of Marin may cancel this contract at any time with thirty (30) days written notice to the supplier/contractor. **With** CAUSE, the County of Marin may cancel this contract at any time with five (5) days written notice to the Proposer. Cancellation for cause shall be at the discretion of the County of Marin and shall be, but is not limited to, failure to supply the materials, equipment or service specified within the time allowed or within the terms, conditions or provisions of this contract. The Successful Proposer may not cancel this contract without prior written consent of the County of Marin Purchasing Agent.

## Termination for Default – Time Extension for Delay

If the proposer fails or refuses to prosecute the work, or any separable part thereof, so as to ensure that the items specified will not be completed and/or delivered within the time specified in the proposal documents and Purchase Order, the County of Marin, may, by written notice to the proposer, terminate its right to proceed with the work or such part of the work as to which there has been a delay at the County's option. The proposer and its sureties shall be liable to the County of Marin for liquidated damages, or if no liquidated damages are so provided, then for any damages to the County of Marin resulting from the proposer's failure or refusal to complete/deliver the items within the specified time.

## Termination for Convenience

The County reserves the right to terminate the contract at any time, for the convenience of the County of Marin, without penalty or recourse, by giving written notice to the Contractor at least thirty (30) calendar days prior to the effective date of such termination. The Contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the County pursuant to the contract prior to the effective date of termination. Termination compensation cannot exceed the monthly service fee, and the termination nullifies the remaining months of the contract.

1. Termination for lack of funding: The County reserves the right to terminate any contract in any user agency if said agency loses funding during the term of the contract.

2. Termination for non-performance: The County may terminate the contract in whole or in part if delivery or performance is repeatedly unsatisfactory. Unsatisfactory performance includes but is not limited to:

- a. Repeated failure to respond within requested time-frame
- b. Failure to perform services when promised or expected
- c. Inability to reach Contractor contact; lack of customer service

## Nuclear Free Zone

The County of Marin is a nuclear free zone in which work on nuclear weapons and/or the storage or transportation of weapons related components and nuclear material is prohibited or appropriately restricted. The County is prohibited or restricted from contracting for services or products with, or investing County funds in, any nuclear weapons proposer (Marin County Ordinance, Chapter 23.12 Nuclear-Free Zone).

<https://www.marincounty.org/depts/bs/boards-and-commissions/commissions/peaceconversion>

## Damages

The proposer shall be held responsible for damage to existing facilities/sites, or to completed new work, that may be caused by the proposer's work or workmen. Proposer shall properly repair damage or remove and replace damaged property as appropriate at the proposer's expense as required by the County of Marin.

## Living Wage

This contract is subject to the County of Marin Living Wage Ordinance #3435 [(part), 2005]. The ordinance requires the payment of a living wage to all covered employees engaged in providing services pursuant to a service contract as defined in section 2.50.030 (F). Proposer specifically agrees that should the County of Marin investigate allegations of non-compliance with the Living Wage Ordinance, proposer shall make available for audits its books and records relating to the service contract, as well as the books and records of its subcontractors and proposer will make available employees in furtherance of its investigation. Misrepresentation during the procurement or contracting process in order to secure the contract will disqualify a contractor or subcontractor from further consideration in the procurement or contracting process. Failure to comply once a contract has been awarded will constitute a material breach of the contract and may result, among other things, in the suspension or termination of the affected contract opportunities for a period not to exceed three years. (Marin County Ordinance, Chapter 2.50 Living Wage)

<http://www.marincounty.org/depts/ad/divisions/management-and-budget/living-wage-ordinance>

## Cooperative Agreement

Agreement may be used by other governmental agencies, school districts, and special districts upon mutual consent of both parties. The proposer shall provide firm fixed pricing for all items or services, as specified herein, and allow agencies to purchase said goods or services at any time during the effective period of the resulting County of Marin Contract and/or Purchase Order.

## Joint Procurement

In accordance with 2 C.F.R §200.318(e) Intergovernmental agreements for procurement or use of common goods and services is encouraged by federal procurement guidelines. Joint procurement is a contracting

method in which two or more agencies agree from the outset to use a single solicitation document and enter into a single contract for goods or services. The proposer understands in providing a response to this solicitation, that a single contract will be issued for the benefit of all agencies identified within the solicitation.

## Independent Proposer

The proposer agrees and certifies that they or any of their agents, servants, or employees is not an agent or employee of the County of Marin. The proposer is an independent solely responsible for proposer's acts. The resulting Contract and/or Purchase Order shall not be construed as an agreement for employment with the County. The Non-Collusion Affidavit shall be signed and returned with the submitted proposal.

## Non-Appropriation of Funds

The County of Marin warrants that it has funds available to remit payments on the resulting County Purchase Order at the time the purchase order is executed. Should appropriated funds during the term of the Purchase Order become unavailable for the purpose of the Contract and/or Purchase Order, the County may cancel the agreement by providing the proposer with written notice. Such notice shall release both the County and proposer from all obligations under the Contract and/or Purchase Order, and proposer shall refund the County the balance of any advance payment made for orders of goods and/or services which are outstanding, or which have not been received by the County.

## Compliance or Deviation to Specifications

Proposer hereby agrees that the material, equipment or services offered will meet all the requirements of the specifications in this solicitation unless deviations are clearly indicated in the proposer's response and listed as such under Exceptions to the Scope of Work.

## Governing Laws

This Request for Proposal and the resulting purchase order and/or contract shall be governed by all applicable federal, state, and local laws, codes, ordinances, and regulations including, but not limited to, those promulgated by the Federal Emergency Management Agency (FEMA), Homeland Security, CAL-OSHA, FED-OSHA, Environmental Protection Agency (EPA), Equal Employment Opportunity Commission (EEOC), California Department of Fair Employment and Housing (DFEH), the California State Department of Health and Human Services (CalHHS) and the County of Marin Environmental Health Department, the Federal Migratory Bird Treaty Act of 1918, the California Department of Fish and Wildlife codes 3503, 3503.5, 3513, and Marin County Code 23.16.010 for Pacheco Pond Wildlife area. This contract shall be in accordance with the substantive and procedural laws of the State of California.

If applicable the entity, its owner, or its agents responding to this Request for Proposal shall comply with California Government Code section 84308 ("Levine Act") and the applicable regulations of the Fair Political Practices Commission concerning campaign disclosure (2 California Code of Regulations sections 18438.1-18438.8), which (1) require a party to a proceeding involving a contract to disclose on the record of the proceeding any contribution, as defined by Government Code section 84308(a)(6) totaling more than \$500 that the party or their agent has made within the prior 12 months, and (2) prohibit a party to a proceeding involving a contract from making a contribution, as defined by Government Code section 84308(a)(6), totaling more than \$500 to any County officer during the proceeding and for 12 months following the final decision in the proceeding. If applicable, the entity, its owner, and its agents responding to this Request for Proposal shall submit the [Levine Act Disclosure Statement & Form](#) with the proposal.

## Insurance

Successful proposer shall be required to furnish and maintain insurance as follows:

### Commercial General Liability:

The Contractor shall maintain a commercial general liability insurance policy in the amount of \$1,000,000 (\$2,000,000 aggregate). The County shall be named as an additional insured on the commercial general liability policy.

### Commercial Automobile Liability:

Where the services to be provided under this Contract involve or require the use of any type of vehicle by Contractor, Contractor shall provide comprehensive business or commercial automobile liability coverage, including non-owned and hired automobile liability, in the amount of \$1,000,000.00.

### Workers' Compensation:

The Contractor acknowledges the State of California requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code. If Contractor has employees, a copy of the certificate evidencing such insurance, a letter of self-insurance, or a copy of the Certificate of Consent to Self-Insure shall be provided to County prior to commencement of work.

## Debarment and Suspension Certification

Title 49, Code of Federal Regulations, Part 29

The bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, and manager:

- is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

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

## Conformity with Law and Safety

Vendor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including Federal, State, Municipal and Local Governing Bodies having jurisdiction over the scope of services or any part hereof, including all provisions of the Occupation Safety and Health Act of 1979 and all amendments thereto, and applicable Federal, State and Local Government Safety Regulations. All services performed by Vendor must be in accordance with these laws, ordinances, codes and regulations. Vendor shall indemnify and save County harmless from any and all liability, fines,

penalties and consequences arising from any non-compliance of violations of such laws, ordinances, codes and regulations.

Accidents: If a death, serious personal injury, or substantial property damage occurs in connection with the performance of this agreement, Vendor shall immediately notify the County by telephone. Vendor shall promptly submit to County a written report, in such form as may be required by County, of all accidents which occur in connection with this agreement. This report must include all of the following information:

- (1) Name and address of the injured or deceased person, and
- (2) Name and address of Proposer's subcontractor (if any), and
- (3) Name and address of Proposer's Liability Insurance Carrier, and
- (4) A detailed description of accident and whether any of County's equipment or material was involved.

### Attorney's Fees

If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provisions of this Agreement, each party shall cover their own attorneys' fees and cost.

### Proposer Agreement to Terms and Conditions

Submission of a signed proposal will be interpreted to mean Proposer has agreed to all the terms and conditions set forth in the pages of this solicitation.

### Right to Audit

County shall have the right of audit and inspection of the Vendor's business records at any time during the term of this agreement. Vendor shall have readily available all records related to the performance of the agreement and shall provide office space as may be required for County to audit these records.

### California Public Records Act (CPRA)

Applicants acknowledge and agree that the County is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If Applicant's proprietary information is contained in documents or information submitted to the County, and Applicant claims that such information falls within one or more CPRA exemption, the Applicant must clearly mark such information "CONFIDENTIAL AND PROPRIETARY" and identify the specific lines containing such information.

In the event of a request for such information, County will make reasonable efforts to provide notice to Applicant prior to any disclosure. If Applicant contends that any documents are exempt from the CPRA and wishes to prevent disclosure, then Applicant is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Marin County before the County's deadline to respond to the CPRA request. If Applicant fails to obtain such remedy, County may disclose the requested information without penalty or liability.

Applicant further agrees that it shall defend, indemnify and hold County harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees and attorneys' fees) that may result from deniable by County of a CPRA request for information arising from any representation, or any action (or inaction) by the Applicant.

## Taxes

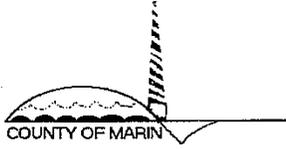
Successful Proposer shall pay all federal, state and local taxes, levies, duties and assessments of every nature due in connection with any work under the contract and shall indemnify and hold harmless the County of Marin from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

## Tax, California Non-Resident Income and Franchise Tax Withholding

The California Franchise Tax Board through the California Revenue and Taxation Code (R&TC) Section 18662 and the related regulations requires the withholding of California income and franchise taxes from payment made to nonresident California vendors performing services in this state. A withholding of 7% (the 2011 rate which is applicable to change) of all service-related invoices will be withheld and remitted to the state; there is no required withholding on goods provided. In addition, there are higher applicable rates that apply to nonresident foreign non-corporate partners, corporate partners and foreign bank (including financial institution partners).

\*\*\*END OF GENERAL PROVISIONS\*\*\*

ATTACHMENT H – General Services Agreement (SAMPLE ONLY)



GENERAL SERVICES AGREEMENT (SAMPLE)  
County of Marin  
General Services Agreement

**THIS GENERAL SERVICES AGREEMENT (the “Agreement”)** dated \_\_\_\_\_ is  
**BY AND BETWEEN:**

The County of Marin – Specify Department  
3501 Civic Center Drive #, San Rafael, CA 94901  
(The “County”)

-- AND --

THIS BUSINESS ENTITY, COMPANY, PERSON.  
Street Address, City, STATE Zip Code  
(The “Contractor”)

County is of the opinion and Contractor represents that Contractor has the necessary qualifications, experience and abilities to provide the below described services to County. Contractor agrees to provide such services to County as set forth in this Agreement and in the **Terms and Conditions** set forth in **Exhibit B** to this Agreement and incorporated herein by this reference.

In consideration of the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, County and Contractor (individually the “Party” and collectively the “Parties”) agree as follows:

**Scope of Service(s):** The services to be provided by Contractor are described in **Exhibit A, Scope of Work**.

**Term of Agreement:** Agreement shall commence on \_\_\_\_\_ and shall terminate on \_\_\_\_\_.

**Fees and Payment Schedule:** In no event will the cost to County for the services to be provided herein exceed the maximum sum of \_\_\_\_\_, including direct non-salary expenses. Contractor shall provide County with its Federal Tax I.D. number prior to submitting the first invoice. Exhibit D may provide greater detail of payment schedule.

*The County of Marin is committed to developing and supporting diverse, equitable, and inclusive values within all aspects of its operations. By signing this contract, you are representing your commitment to rejecting inequities in employment, services, and practices by ensuring fair and equitable treatment for all.*

Your signature indicates your agreement to all terms and conditions set forth herein. The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their representative legal entities.

\_\_\_\_\_  
County of Marin

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Printed Name & Title

\_\_\_\_\_  
Printed Name & Title

**COUNTY COUNSEL REVIEW AND APPROVAL** *(required if template content has been modified)*

**APPROVED AS TO FORM:**

County Counsel: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name:

SAMPLE

**EXHIBIT A**  
**SCOPE OF WORK**

SAMPLE

## **EXHIBIT B**

### **TERMS AND CONDITIONS**

1. **INSURANCE.** Contractor shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by Contractor, his agents, representatives, employees or subcontractors

**Commercial General Liability:**

Contractor shall maintain a Commercial General Liability Insurance policy with limits not less than \$1,000,000 per occurrence (\$2,000,000 aggregate). County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the Commercial General Liability policy.

**Commercial Automobile Liability:**

Where the services to be provided under this Agreement involve or require the use of any type of vehicle by Contractor, Contractor shall provide Comprehensive Business or Commercial Automobile Liability coverage, including non-owned and hired automobile liability, with limits of not less than \$1,000,000 per accident for bodily injury property damage.

**Workers' Compensation:**

Contractor acknowledges the State of California requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code. If Contractor has employees, a copy of the certificate evidencing such insurance, a letter of self-insurance, or a copy of the Certificate of Consent to Self-Insure shall be provided to County prior to commencement of work. Contractor must also carry Employers Liability Insurance with limits of not less than \$1,000,000 per accident for bodily injury or disease.

**Errors and Omissions, Professional Liability or Malpractice Insurance.**

Contractor may be required to carry errors and omissions, professional liability or malpractice insurance appropriate to Contractor's profession.

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

Contractor's insurance coverage shall be primary coverage as respects County, its officers, officials, employees, and volunteers. Any insurance or self-insurance

maintained by County, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

Contractor hereby grant Entity a waiver of any right to subrogation which an insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect the waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Contractor shall furnish County with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to County before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive Contractor's obligation to provide them. County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

County reserves the right to modify these requirements, including limits and type of coverage, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

If Contractor does not carry a required insurance coverage and/or does not meet the required limits, the coverage limits and deductibles shall be set forth on a waiver, **Exhibit C**, attached hereto.

Failure to provide and maintain the insurance required by this Agreement will constitute a material breach of this Agreement. In addition to any other available remedies, County may suspend payment to Contractor for any services provided during any time that insurance was not in effect and until such time as Contractor provides adequate evidence that Contractor has obtained the required coverage.

2. **INDEMNITY.** To the fully extent permitted by law (including, without limitation, California Civil Code Section 2782), Contractor shall indemnify, defend (with legal counsel reasonably acceptable to County), and hold harmless County, its employees, officers, departments, officials, representatives, and agents, from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of Contractor or its agent), expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigations) whether or not involving a third party claim, which arise out of or relate to any breach of any

representation or warranty contained in this Agreement, as well as any negligence, recklessness, willful misconduct or omission in the performance of this Agreement.

3. **ANTI-DISCRIMINATION AND ANTI-HARASSMENT.** Contractor and/or any subcontractor shall not unlawfully discriminate against or harass any individual including, but not limited to, any employee or volunteer of the County of Marin based on race, color, religion, gender, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, sexual orientation, gender identity, genetic information, or any other basis protected by law. Contractor and/or any subcontractor understands and agrees that Contractor and/or any subcontractor is bound by and will comply with the anti-discrimination and anti-harassment mandates of all Federal, State and local statutes, regulations and ordinances including, but not limited to, County of Marin Personnel Management Regulation (PMR) 21.
4. **LICENSING AND PERMITS.** Contractor shall maintain the appropriate licenses through the life of this Agreement. Contractor shall also obtain any and all permits which might be required by the services to be performed herein.
5. **BOOKS OF RECORD AND AUDIT PROVISION.** Contractor shall maintain on a current basis complete books and records relating to this Agreement. Such records shall include, but not be limited to, documents supporting all bids, all income and all expenditures. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work on this Agreement. In addition, Contractor shall maintain detailed payroll records including all subsistence, travel and field expenses, and canceled checks, receipts and invoices for all items. These documents and records shall be retained for at least five years from the completion of this Agreement. Contractor will permit County to audit all books, accounts or records relating to this Agreement or all books, accounts or records of any business entities controlled by Contractor who participated in this Agreement in any way. Any audit may be conducted on Contractor's premises or, at County's option, Contractor shall provide all books and records within a maximum of fifteen (15) days upon receipt of written notice from County. Contractor shall refund any monies erroneously charged.
6. **WORK PRODUCT/PRE-EXISTING WORK PRODUCT OF CONTRACTOR.** Any and all work product resulting from this Agreement is commissioned by the County of Marin as a work for hire. County shall be considered, for all purposes, the author of the work product and shall have all rights of authorship to the work, including, but not limited to, the exclusive right to use, publish, reproduce, copy and make derivative use of, the work product or otherwise grant others limited rights to use the work product. To the extent Contractor incorporates into the work product any pre-existing work product owned by Contractor, Contractor hereby acknowledges and agrees that ownership of such work product shall be transferred to the County of Marin.

7. **TERMINATION.**

- a. If Contractor fails to provide in any manner the services required under this Agreement or otherwise fails to comply with the terms of this Agreement or violates any ordinance, regulation or other law which applies to its performance herein, County may terminate this Agreement by giving five (5) calendar days written notice to the party involved.
- b. Force Majeure. Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.
- c. Either party hereto may terminate this Agreement for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by registered mail.
- d. In the event of termination not the fault of Contractor, Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Agreement so long as proof of required insurance is provided for the periods covered in the Agreement or Amendment(s).

8. **APPROPRIATIONS.** Where the funding source for this Agreement is contingent upon an annual appropriation or grant from the Marin County Board of Supervisors, the State of California or other third party, County's performance and obligation to pay under this Agreement is limited by the availability of those funds. Should the funding source for this Agreement be eliminated or reduced, upon written notice to Contractor, County may reduce the Maximum Cost to County identified in this Agreement to reflect that elimination or reduction.

9. **RELATIONSHIP BETWEEN THE PARTIES.** It is expressly understood that in the performance of the services herein, Contractor, and its agents and employees, shall act in an independent capacity and as an independent contractor and not as officers, employees or agents of County. Contractor shall be solely responsible to pay all required taxes, including but not limited to, all withholding social security, and workers' compensation.

10. **ADDITIONAL SERVICES.** County shall not be responsible for services rendered that are not set forth in the Scope of Work. When this Agreement covers a continuing service rendered over a stated period of time, a new Agreement must be obtained upon expiration of the term to authorize the continuation of service.

11. **TIME IS OF THE ESSENCE.** Time is of the essence on this Agreement. If services are not completed at the time agreed, County reserves the right to cancel this Agreement and hold Contractor accountable. If service dates cannot be met, Contractor agrees to advise County, in writing of the earliest possible date for delivery of services.

12. **MISCELLANEOUS PROVISIONS.**

- a. Integration; Incorporation. This Agreement, including all exhibits attached hereto, and all specifications, drawings, and data submitted to Contractor with the order are hereby incorporated and made a part hereof.
- b. Amendments. This Agreement may only be amended by written agreement signed by all the parties to this Agreement.
- c. Severability. If any provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid, void or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable by federal or state statute or regulation, but the remaining portions of this Agreement can be enforced without failure of material consideration to any party, then the remaining provisions shall continue in full force and effect. If, however, the provision to be severed is a material part of this Agreement, the foregoing shall not apply, and the parties shall in good faith renegotiate such provision.
- d. Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Marin County, California.
- e. Attorneys' Fees. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provisions of this Agreement, each party shall cover their own attorneys' fees and cost.
- f. Waiver. A failure by a party to this Agreement to require full compliance with any requirement or condition of this Agreement shall not be deemed to be a waiver of that requirement or condition or of any subsequent breach of the same or any other requirement or condition. Acceptance by County of performance or fulfillment of a requirement or a condition by Contractor, including payment to Contractor by County, shall not be deemed to be a waiver of any preceding breach by Contractor, regardless of County's knowledge or such preceding breach at the time of acceptance.
- g. Conflict of Interest. Contractor shall avoid all conflict of interest or appearance of conflict of interest in performance of this Agreement. Contractor hereby covenants that during the term of this Agreement it will not employ any person to administer any portion of this Agreement that has an interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.
- h. Headings. The headings of this Agreement are for convenience of reference only, are not part of this Agreement and do not affects its interpretation.
- i. Authority of Signatories. Any individual executing this Agreement on behalf of Contractor represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Contractor, and that this Agreement is binding upon said Contractor in accordance with its terms.

- j. Assignment/Subcontracting. Neither party may delegate its rights or obligations under this Agreement and shall not assign, subcontract or otherwise transfer its rights or obligations or any interest herein without the express prior written consent of the other party. Any attempted assignment, transfer, delegation, hypothecation or subletting without the other party's prior written consent shall be null and void.

**13. COMPLIANCE WITH LOCAL AND FEDERAL LAWS.** Contractor certifies that in performing this Agreement it will comply with all applicable provisions of the federal, state and local laws, regulations, rules and orders (including, but not limited to Marin County Code Chapters 23.13-Nuclear Free Zone and 2.50-Living Wage) affecting the goods or services covered by this Agreement. If applicable, it shall be the responsibility of Contractor to monitor the prevailing wage rates as established by the California Department of Labor for any increase in rates during the project and adjust wage rates accordingly. Prevailing wage rates are available at the State of California Division of Labor Statistics and Research website <http://www.dir.ca.gov/oprl/pwd/>.

The California Franchise Tax Board through California Revenue and Taxation Code (R&TC) 18662 and the related regulations require the withholding of California income and franchise taxes from payments made to non-resident California vendors performing services in this state. A withholding of 7% (the 2011 rate, which is applicable to change) of all service related invoices will be withheld and remitted to the state; there is no required withholding on goods provided. In addition, there are higher applicable rates that will be withheld from non-resident foreign non-corporate partners, corporate partners and foreign banks (including financial institution partners).

**14. DEBARMENT CERTIFICATION.** The bidder under Title 49, Code of Federal Regulation, Part 29, under penalty of perjury, certifies that upon acceptance of this Agreement, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, and manager; is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency; has not been suspended debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any manner involving fraud or official misconduct in the past 3 years.

**15. STATE REGISTRATION.** No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code 1771.1(a)].

No Contractor or subcontractor can be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

SAMPLE

**EXHIBIT D**  
**FEE AND PAYMENT SCHEDULE**

SAMPLE

## **EXHIBIT E**

### **FEDERAL PROVISIONS**

This Exhibit is incorporated into the Agreement entered into between Contractor and County.

#### I. DEFINITIONS

- a. **Government** means the United States of America and any executive department or agency thereof.
- b. **FEMA** means Federal Emergency Management Agency.
- c. **Third Party Subcontract** means a subcontract at any tier entered into by Contractor or subcontractor, financed in whole or in part with Federal assistance originally derived from FEMA.

#### II. FEDERAL COMPLIANCE

- a. This is an acknowledgement that FEMA financial assistance will be sought and if available used to fund all or a portion of the Agreement. Contractor shall at all times comply with all applicable regulations, policies, procedures, and FEMA Directives as they may be amended or promulgated from time to time during the term of this Agreement, including but not limited to those requirements of 2 CFR 200.317 through 200.326 and more fully set forth in Appendix II to Part 200 – Contract Provisions for non-Federal Entity Contracts Under Federal Awards, which is included herein for reference. Contractor's failure to so comply shall constitute a material breach of the Agreement.
- b. Contractor agrees to include the above clause in each third-party subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

#### III. CLEAN AIR ACT (applicable to all contracts and subcontracts in excess \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year)

- a. Contractor agrees to comply with all applicable standards, orders, or regulations pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.
- b. Contractor agrees to report each violation to The County of Marin and understands and agrees that the County of Marin will, in turn, report each violation to the FEMA, and the appropriate Environmental Protection Agency Regional Office.
- c. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provide by FEMA.

#### IV. FEDERAL WATER POLLUTION CONTROL ACT (applicable to all contracts and subcontracts in excess \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year)

- a. Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- b. Contractor agrees to report each violation to the County of Marin and understands that The County of Marin will, in turn, report each violation to FEMA, and the appropriate Environmental Protection Agency Regional Office.
- c. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provide by FEMA.

V. BYRD ANTI-LOBBYING AMENDMENT 31 U.S.C. §1352 (as amended)

- a. Contractor shall not use or pay any funds received under this Agreement to influence or attempt to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. Contractor agrees to the provisions of Attachment 1, Certification Regarding Lobbying, attached hereto and incorporated herein (applicable for contracts or subcontracts in excess of \$100,000).
- c. Contractor agrees to include paragraphs a. and b. above in each third-party subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

VI. PROCUREMENT OF RECOVERED MATERIALS

- a. In the performance of the Agreement, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired-
  - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - ii. Meeting contract performance requirements;
  - iii. At a reasonable price.
- b. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines website. <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>
- c. Contractor also agrees to comply with all other applicable requirements of Section 6002 of the "Solid Waste Disposal Act".

VII. DEBARMENT AND SUSPENSION CLAUSE

- a. The Agreement and this Exhibit is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Contractor is required to verify that none of Contractor's principals (defined at 2 C.F.R. §180.995) or its affiliates (defined at 2 C.F.R. §180.905) are excluded or disqualified (defined at 2 C.F.R. §180.935).
- b. Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transactions it enters into.
- c. This certification is a material representation of fact relied upon by the County of Marin. If it is later determined that Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to the remedies available to the County of Marin, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. The bidder or proposer agrees to comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while the offer is valid and throughout the period of any contract that may arise out of this offer. The bidder or proposer agrees to include such compliance in its lower tier covered transactions.

VIII. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (applicable to all contracts in excess of \$100,000 that involve the employment of mechanics or laborers or other construction work, but not to purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence)

- a. *Overtime requirements:* No contractor or subcontractor contracting for any part of the contract work, which may require or involve the employment of laborers or mechanics, shall require or permit any such laborer or mechanic in any workweek, in which he or she is employed on such work, to work in excess of forty(40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one (1) and one-half (1/2) the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.
- b. *Violation; liability for unpaid wages; liquidated damages:* In the event of any violation of the clause set forth in VII(a) of this section Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen or guards, employed in violation of the clause set forth in VIII(a) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in VIII(a) of this section.

- c. *Withholding for unpaid wages or liquidated damages*: the County of Marin shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in VIII(b) of this section.
- d. *Subcontracts*: Contractor or subcontractor shall insert in any subcontracts the clauses set forth in VIII(a) through (d) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in VIII(a) through (d) of this section.

IX. DEPARTMENT OF HOMELAND SECURITY SEAL, LOGOS, FLAGS

- a. Contractor shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA approval.

X. ACCESS TO RECORDS

- a. Contractor agrees to provide the County of Marin, the FEMA administrator, the Comptroller General of the United States, or any of their authorized representative access to any books, documents, papers, and records of Contractor which are directly pertinent to the Agreement for the purposes of making audits, examinations, excerpts and transcriptions.
- b. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.
- d. In compliance with the Disaster Recovery Act of 2018, the County of Marin and Contractor acknowledge and agree that no language in the Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

XI. NO OBLIGATION BY FEDERAL GOVERNMENT

- a. The Federal Government is not a party to the Agreement or this Exhibit and is not subject to any obligations or liabilities to the non-Federal entity, contractor or any other party pertaining to any matter resulting from the contract.

- b. Contractor agrees to include the above clause in each third-party subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

XII. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

- a. Contractor acknowledges that the 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to the Agreement.

XIII. TERMINATION FOR CAUSE

Contractor's failure to perform or observe any term, covenant or condition of this Exhibit shall constitute an event of default under the Agreement and County may terminate the Agreement.

XIV. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE (applicable to all construction contracts awarded meeting the definition of "federally assisted construction contract" under 41 CFR 61-1.3).

- a. During the performance of the Agreement, Contractor agrees as follows:
  - i. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
  - ii. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
  - iii. Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation

information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information.

- iv. Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- v. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- vi. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- vii. In the event of Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- viii. Contractor will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (viii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is

threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Contractor may request the United States to enter into such litigation to protect the interests of the United States. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings

- XV. ANTI-KICKBACK ACT COMPLIANCE (applicable to all contracts and subgrants for construction or repair above \$2,000 where the Davis-Bacon Act also applies; 44 CFR §13.36(i)(4))
- a. Contractor agrees to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3), as may be applicable, which are incorporated by reference into the Agreement.
  - b. Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause

requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

- c. A breach of the contract clauses above may be grounds for termination of the Agreement, and for debarment as a contractor or subcontractor as provided in 29 C.F.R. § 5.12.

- XVI. DAVIS-BACON ACT COMPLIANCE (applicable to construction contracts in excess of \$2,000 awarded by grantees and subgrantees when required by Federal grant program legislation;)
- a. To the extent required by any Federal grant programs applicable to expected funding or reimbursement of County's expenses incurred in connection with the services provided under the Agreement, Contractor agrees to comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) as set forth below. These requirements are in addition to the requirements set forth in the Agreement.
  - b. Contractor shall be bound to the provisions of the Davis-Bacon Act, and agrees to be bound by all the provisions of Labor Code section 1771 regarding prevailing wages. All labor on this project shall be paid neither less than the greater of the minimum wage rates established by the U.S. Secretary of Labor (Federal Wage Rates), or by the State of California Director of Department of Industrial Relations (State Wage Rates). Current DIR requirements may be found at <http://www.dir.ca.gov/lcp.asp>.
- XVII. PATENT RIGHTS (applicable to contracts for experimental, research, or development projects financed by FEMA)
- a. General. If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the Agreement, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the County and Contractor agree to take actions necessary to provide immediate notice and a detailed report to FEMA.
  - b. Unless the Government later makes a contrary determination in writing, irrespective of Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the County and Contractor agree to take the necessary actions to provide, through FEMA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR, Part 401.

- c. Contractor agrees to include paragraphs a. and b. above in each third-party subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FEMA.

XVIII. INCORPORATION OF UNIFORM ADMINISTRATIVE REQUIREMENTS

- a. The preceding provisions include, in part, certain standard terms and conditions required by FEMA, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by FEMA are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FEMA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any County requests that would cause County to be in violation of the FEMA terms and conditions.

SAMPLE

**Attachment 1**

**CERTIFICATION REGARDING LOBBYING**

*Certification for Contracts, Grants, Loans, and Cooperative Agreements*

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loan, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Date

THE FOLLOWING EXHIBITS ARE INCLUDED TO COMPLETE THIS CONTRACT:

<b>EXHIBIT</b>	<b>DESCRIPTION</b>	<b>INCLUDED</b>
A	SCOPE OF WORK	
B	TERMS AND CONDITIONS	XX
C	INSURANCE WAIVER (if needed)	
D	FEE AND PAYMENT SCHEDULE (if needed)	
E	FEDERAL PROVISIONS (if needed)	

SAMPLE

