



REQUEST FOR PROPOSALS

DISTRICT ENGINEERING

SERVICES

RFP Release Date: May 18, 2022
Proposal Submission Deadline: June 21, 2022

Contact Person: Adrienne Carr, General Manager

North Coast County
Water District
2400 Francisco Blvd.
Pacifica, CA 94044
www.nccwd.com

REQUEST FOR PROPOSALS (RFP)
District Engineering Services

Release Date: May 18, 2022

Closing Date: June 21, 2022, 3:00 PM, late proposals will not be considered

Contact Person: Adrienne Carr, General Manager
Email: acarr@nccwd.com
Phone: 650.355.3462

North Coast County Water District
2400 Francisco Blvd.
Pacifica, CA 94044

1. PURPOSE

North Coast County Water District (District) requests proposal responses from highly-qualified and experienced professional engineering firms (Consultant or Proposer) who are familiar with public works and planning projects within San Mateo County, including project design, general engineering, map review and approval, planning reviews, preparation of bid and construction documents, bid assistance, construction management and observation, and other related services to provide services as District Engineer. Proposers should also be qualified to provide the type of general engineering services common to California municipalities. The District Engineer shall be retained by the District Board of Directors and shall be directly responsible to the Board.

Proposers must read this entire Request for Proposals (RFP) package and include all requested information in their proposals.

2. BACKGROUND

The North Coast County Water District is a county water district under California Government Code Section 30000 *et seq.* that is located on the western slopes of the coastal mountains of San Mateo County, overlooking the Pacific Ocean. The District's service area closely corresponds with the boundary of the City of Pacifica. The District delivers water to residential, commercial, and governmental customers and purchases all its potable water supplies from the San Francisco Public Utilities Commission (SFPUC). As of 2020, the District serves 12,261 water connections within its service area. Additionally, the District serves recycled water to customers for landscape irrigation uses via its recycled water system.

Deliveries from the SFPUC are delivered to the District's service area via a 21-inch water supply pipeline originating at the SFPUC's Harry Tracy Water Treatment Plant (HTWTP). The District pumps its water from its Main Pump Station located at the HTWTP through the 21-inch pipeline that generally parallels Skyline Boulevard in a northerly direction for approximately three miles to Sharp Park Road. The District also has emergency intertie connections with three neighboring water purveyors: the City of Daly City, the City of San Bruno, and Westborough Water District. The District's potable water distribution system delivers water to 32 pressure zones through approximately 130 miles of pipelines, 11 active storage tanks with a total capacity of 18.25 million gallons (MG), and four booster pump stations (including the Main Pump Station).

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3. PROPOSAL DUE DATE

Written proposals must be received at the District office at 2400 Francisco Blvd, Pacifica, CA 94044 by 3:00 pm on June 21, 2022, addressed to the attention of Adrienne Carr, General Manager. Each Proposal shall be clearly marked indicating the Proposer's name and address, the solicitation name, "Request for Proposal to Provide District Engineering Services," and Proposal type (i.e., Technical or Cost).

Proposals received after the time or at any place other than stated in this RFP will not be accepted. Postmarks are not acceptable.

4. REQUEST FOR CLARIFICATION

If any person submitting a proposal is in doubt as to the true meaning of any part of these specifications, they may submit to Adrienne Carr, General Manager, a written request by June 7, 2022 for an interpretation or clarification thereof. Requests may be by mail at the address above or email at acarr@nccwd.com. Any modification of these specifications will be made in writing by addendum and distributed to all those receiving a copy of said specifications. Oral interpretations will not be binding on the District.

Responses to requests of interpretations or clarifications will be provided by the District by June 14, 2022. The District reserves the right to postpone this deadline for its own convenience.

5. WITHDRAWAL OF PROPOSAL

Submission of a proposal shall constitute a firm offer to the District for ninety (90) days from the proposal submission deadline. A Proposer may withdraw its proposal without prejudice any time before the date and time when proposals are due by submitting a request for its withdrawal to Adrienne Carr, General Manager, at 2400 Francisco Blvd, Pacifica CA 94044 or acarr@nccwd.com. A telephone request is not acceptable.

6. SCOPE OF SERVICES

The scope of services for the District Engineering Services included in this RFP is more specifically described in Exhibit A, Scope of Services.

7. TERM

The contract to provide District Engineering Services is for an initial term of one (1) year. The District may, in its sole discretion, exercise options for up to four (4) additional one (1)-year terms under the same terms and conditions of the Agreement for Professional Services (Agreement) by giving the Consultant sixty (60) days' written notice prior to the expiration of the then current contract term of the District's intention to exercise the option term(s).

8. SINGLE CONTRACTOR REQUIREMENTS

The District seeks to contract with one independent contractor. Subcontracting of any obligation

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or service under the contract is not allowed without the prior written consent of the General Manager of the District.

9. PROPOSER'S REPRESENTATIONS

By submitting a proposal, the Proposer affirms that he/she is familiar with all requirements of the RFP and has sufficiently informed himself/herself in all matters affecting the performance of the work or the furnishing of the labor, supplies, materials, equipment or facilities called for in this RFP: that he/she has checked the proposal for errors and omissions: that the prices stated are correct and as intended by the Proposer and are a complete statement of his/her prices for performing the work or furnishing the labor, supplies, materials, equipment or facilities required.

10. PROPOSAL CONTENT

Proposals must address each item below. Proposals must be in sufficient detail to permit evaluation and demonstrate ability to meet the requirements of this RFP. Proposals must be divided into two separate sealed envelopes: (1) Technical Proposal, and (2) Cost Proposal. The Cost Proposal must be marked "Confidential." Cost Proposals will remain sealed and confidential until opened in accordance with Section 12 of this RFP. Proposer must include five (5) hard copies and one (1) electronic copy of the Technical Proposal and one (1) hard copy of the Cost Proposal.

a. Technical Proposal

i. Cover Letter

The cover letter should summarize the major points contained in the proposal, and should be signed by an authorized representative of the firm. The Proposer must acknowledge that the Proposal shall be firm for at least ninety (90) days from the due date for the Proposals. Proposer should also indicate in its cover letter whether any portions of its proposal are confidential and whether it is taking any exceptions to the Sample Agreement.

ii. Firm Profile

Each Proposer should provide the firm's name, business address, and telephone number, as well as a brief description of the firm's size (nationally and locally), date of establishment, type of organization, and local organizational structure. Include a discussion of the firm's engineering capabilities, certifications or licenses, and resources.

iii. Background, Experience, and Financial Stability

Each Proposer shall provide a brochure or similar summary statement outlining the organization's history and experience, including experience within the last three years, in providing engineering services similar to those requested in this RFP. Proposers should identify any changes in ownership and/or major organizational changes that have occurred in the last five years.

Each Proposer shall provide either a most recent independently audited financial statement or

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financial income statements and balance sheets for the past two years. In addition, Proposers should include a brief description of any pending financial issues, including any pending litigation against the organization that may impact its financial capacity and stability.

The Proposer must provide a minimum of three (3) references receiving services from Proposer similar to those requested in this RFP, including name, address, telephone and contact person, and a brief description of the services provided.

iv. Key Personnel and Staffing

The Proposer must identify the person to serve as the District Engineer and all key personnel who may perform services in support of this function under this RFP. For each person identified, include a resume with relevant experience and professional qualifications, certifications or licenses and a brief description of their role or function in providing the proposed services. The designated District Engineer and identified individuals must be available for interview by the District, if desired.

v. Approach to Scope of Services

Each Proposer must submit a detailed Work Plan describing how it intends to provide the basic services and meet the requirements described in Exhibit A, Scope of Services. The Work Plan should explain the Proposer's approach to providing the specified services and the role that Proposer intends to perform as District Engineer. The Work Plan should also include a description of how the Proposer will coordinate with the District to complete projects in a timely and cost-efficient manner.

- b. **Cost Proposal.** To be submitted in a separate sealed envelope, marked "Confidential." Cost Proposals will remain sealed and confidential until opened in accordance with Section 12 of this RFP.

Each Proposer must submit a detailed Cost Proposal that provides a monthly flat fee (Retainer) for General District Engineering Services and an hourly fee schedule for the Project Manager and any other identified individuals for Task Order Services, as described in Exhibit A. The hourly fee schedule should include all costs for labor, overhead and profit, but exclude reasonable expenses for travel and mileage that will be reimbursed in accordance with the Agreement.

11. EVALUATION CRITERIA, SELECTION PROCESS, AND CONTRACT AWARD

Proposals will be screened to ensure Proposer(s)' responsiveness to the requirements of the RFP and the responsibility of the Proposer. A proposal will be considered responsive only if it complies in all material respects to the requirements of the RFP. The District intends to award an Agreement to the highest-ranked, most qualified, responsible Proposer that submits the a responsive proposal considered most advantageous to the District based on the Evaluation Criteria set forth below.

The District reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals or proposal procedures. The

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District reserves the right to withdraw or cancel this RFP at any time without prior notice and the District makes no representations that any contract will be awarded to any Proposer responding to this RFP. Proposals shall be prepared, presented, and negotiated at the sole cost of the Proposer. The District reserves the right to request additional information or clarifications from any and all Proposers during the evaluation and selection process.

Selection Committee and Technical Proposal Evaluation Process:

A review panel (Committee) will evaluate the technical proposals submitted and rank them based on the Evaluation Criteria below. In ranking proposals, the Committee will consider the proposal materials submitted, oral interviews (if any are held) and any other relevant information about a given Proposer (e.g., references). The District will not assume that a Proposer possesses any capability unless such a capability is established by the submitted proposal.

The Committee's composite scores for all steps of the evaluation process will comprise the official record for the proposal evaluation process; individual evaluation records will not be available for public inspection at any point during or after the evaluation process. By submitting a proposal, Proposers agree to be bound by these terms and will not later challenge said terms.

Evaluation Criteria

The Committee will evaluate proposals using the Evaluation Criteria described below.

- 1) Experience and qualifications of firm and assigned staff
- 2) References and relevant work performed (particularly for public agencies/special districts)
- 3) Firm/entity key personnel assigned to the engagement
- 4) Demonstrated ability to competently implement the scope of services
- 5) Demonstrated understanding of the issues raised by the District in this RFP and the completeness of addressing the scope of work

Interviews

Following the initial review and screening of technical proposals, one or more Proposers may be invited to participate in the next step of the selection process. This step may include the submission of additional information, as described below, and/or participation in an oral interview. If the District conducts interviews, it will do so with those Proposers found to be within the competitive range. Attendees at an interview should be restricted to those individuals who will have direct involvement with provision of the services. The District expects that, at a minimum, the proposed Project Manager will attend the oral interview; other key personnel may also attend.

Revised Proposals and Negotiations

The District reserves the right to negotiate with any individual(s) or qualified firm(s), to request revised proposals, to interview or not, or to request best and final offers (BAFOs) if it is in the best interest of the District to do so. Upon completion of each step in the selection process, the Committee will re-rank the firms remaining in the competitive range, in accordance with the Evaluation Criteria set forth above.

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The District will open the Cost Proposal from the top-ranked firm(s) only and it may accept the proposal or negotiate the cost. If negotiations are unsuccessful, the District will terminate the negotiations with that firm and may open negotiations with the next highest-ranked firm. If negotiations with this firm are also not successful, the District may repeat the negotiations process with the next-highest ranked firm or, at its sole discretion, the District may reject all remaining proposals. The District, however, may award a contract without conducting interviews or negotiations.

The District will initiate negotiations with the highest-ranked firm(s), and may open negotiations with the next-highest firm(s) at the same time, and will proceed accordingly until it is satisfied it has the best solution and value for the District. If negotiations are unsuccessful, the District may terminate the negotiations with said firm(s).

Contract Award

The Committee will bring recommendations to the Board of Directors, who will in turn make a final decision on the selection of the Consultant and authorize the District Manager's execution of a contract with the selected Consultant to perform the requested services.

12. AGREEMENT FOR PROFESSIONAL SERVICES

The firm selected by the District to provide the District Engineering services outlined in this RFP will be required to execute an Agreement for Professional Services with the District. A sample Agreement is attached hereto as Exhibit B so that Proposers will have an opportunity to review the terms and conditions that will be included in the final contractual agreement. If a Proposer desires any additions, deletions or modifications to the form of Agreement, they must submit a request for such additions, deletions or modifications with the proposal. With the exception of any requests for such additions, deletions, and modifications, the Proposer will, by making a proposal, be deemed to have accepted the form of Agreement.

13. PROTEST PROCEDURES

Proposal protests must follow the following procedures. Protests based upon restrictive specifications or alleged improprieties in the RFP procedure shall be filed in writing with the General Manager at least five (5) calendar days prior to the Proposal due date. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Protests based upon the recommendation for contract award must be submitted in writing to the General Manager within 48 hours of receipt of notice of the recommendation of award. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Failure to comply with these procedures may result in rejection of the protest.

14. EX PARTE COMMUNICATION

Proposers and Proposers' representatives must communicate in the manner set forth in this RFP. All such communication must be directed to the General Manager until a contract is awarded.

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There must be no communication with any officer, director, employee, or agent of the District about this RFP, except as may be reasonably necessary to carry out the procedures specified in this RFP.

Proposers and Proposers' representatives may not communicate with the District's Board members about this RFP except in writing and if the communication is made public. Nothing herein prohibits Proposers and their representatives from making oral statements or presentations in public to one or more representatives of the District during a public meeting.

At the District's sole discretion, Proposer's communications with members of the Committee, other District staff or elected officials for the purpose of unfairly influencing the outcome of this RFP may be cause for the Proposer's proposal to be rejected and disqualified from further consideration.

15. CONFIDENTIALITY OF PROPOSALS

The California Public Records Act (California Government Code Sections 6250 *et seq.*) mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the content of any request for clarification/explanation, exception or substitution, response to these specifications, protest or any other written communication between the District and the Proposer shall be available to the public.

If the Proposer believes any communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer shall request that the District withhold from disclosure the proprietary or other confidential information by marking each page containing such information as confidential. The Proposer may not designate its entire proposal or bid as confidential. Additionally, Proposer may not designate its cost proposal or any required bid forms or certifications as confidential.

If Proposer requests that the District withhold from disclosure information identified as confidential, and the District complies with the Proposer's request, Proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless the District from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the Proposer information), and pay any and all costs and expenses related to the withholding of Proposer information. Proposer shall not make a claim, sue or maintain any legal action against the District or its directors, officers, employees or agents in connection with the withholding from disclosure of Proposer information.

If Proposer does not request that the District withhold from disclosure information identified as confidential, the District shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to the District.

16. TENTATIVE SCHEDULE

Tuesday, May 18, 2022	Release of RFP
Tuesday, June 7, 2022	Written questions and requests for clarification due
Tuesday, June 14, 2022	District responses to questions and requests for clarification

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Tuesday, June 21, 2022	RFP responses due no later than 3:00pm, evaluations begin
Week of June 27	Interviews/negotiations (optional)
Wednesday, July 20, 2022	Potential award of contract by Board of Directors
Monday, August 1, 2022	Services begin (approximate)

These tentative dates, including commencement of services, are subject to change at the sole discretion of the District.

17. CONFLICT OF INTEREST

Firms submitting a proposal in response to this RFP must disclose any actual, apparent, direct or indirect, or potential conflict of interest that may exist with respect to the firm, management, or employees of the firm or other persons relative to the services to be provided under the Agreement for Professional Services for engineering services to be awarded pursuant to this RFP. If a firm has no conflicts of interest, a statement to that effect shall be included in the Proposal.

Depending on the nature of the work performed, Proposer may be required to publicly disclose financial interests under the District's Conflict of Interest Code. Proposer agrees to promptly submit a Statement of Economic Interest on the form provided by the District upon receipt.

No member, officer or employee of the District or of any of its member jurisdictions during his/her tenure of office, or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds therefrom.

18. EXHIBITS

- A. Scope of Work
- B. Sample Professional Services Agreement

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EXHIBIT A

SCOPE OF WORK

Services shall be provided under two general categories General District Engineer Services and Task Order Services, as described more fully herein.

1. **General District Engineer Services.** In consideration of a monthly flat fee (Retainer), Consultant shall provide the following Services (Ongoing Services):

- a. Attend one monthly Board of Directors meeting, not to exceed three hours per month;
- b. Conduct routine District business at District facility, not to exceed one hour per month, which may include making and receiving telephone calls and sending and receiving miscellaneous correspondence;
- c. Provide storage for maps, files, and documents pertaining to District projects;
- d. Maintain availability to the District in the event of emergencies; and
- e. Additional duties or responsibilities agreed to in writing by the parties, which may include a reduction or elimination of the Services described in this Section 1.

2. **Task Order Services.** Upon execution and delivery of a Task Order by the District, Consultant shall perform professional engineering and consulting Services in addition to those defined as Ongoing Services (“Task Order Services”). Such Task Order Services may include, but are not limited to: preliminary investigations, cost studies, feasibility studies, economic analyses, and forecasts; general administration and management of on-going District affairs; special planning, engineering studies, appraisals, and utility rate analyses financial/budgetary planning; technical advice; general supervision and direction to District staff; general engineering advice to and on the behalf of District staff; representation of the District at meetings as necessary to properly execute the duties and/or provide the services listed herein, including technical representation of the District at meetings or conferences with regulatory, municipal, county, and state agencies; review and checking of maps, plans permits and other documents; design, document preparation, contract administration, and inspection for District utility and public works projects; surveying and mapping; construction plans, specifications and contract documents, and all permit submittals; reports on project activities; and other District matters reasonably related to engineering.

- a. **Special Engineering Projects.** Except those projects described in subdivisions b. and c., below, all Task Order Services requested by the District, including, but not limited to, non-routine engineering investigation, reports or projects shall be classified as Special Engineering Projects. Improvement projects with a construction cost under one hundred thousand dollars (\$100,000), or as otherwise designated in writing by the District General Manager, shall also be classified as Special Engineering Projects. At the discretion of the General Manager, Consultant may be required to prepare a scope of work, budget, and schedule for a Special Engineering Assignment.
- b. **Major Improvement Projects.** All Task Order Services related to the preparation of plans, specifications, cost estimates, engineering services during construction of improvement projects, and/or construction management services, and which cost one hundred thousand dollars (\$100,000) or more, or as otherwise designated in writing by

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the District General Manager, shall be classified as Major Improvement Projects. Consultant shall submit a detailed scope of work, budget, and schedule for each Major Improvement Project for review and approval by the District General Manager. The scope shall specify the responsibilities of the District and shall include a schedule for completing the work.

- c. **Subdivision and Development Projects.** All Task Order Services related to review and processing of subdivision and other development projects in accordance with the District's regulations concerning water service extensions and water system improvements shall be classified as Subdivision and Development Projects. Such work may include initial review of subdivision and other development projects, including, but not limited to, tentative maps and easement processing, final review of subdivision and other development improvement plans, and observation of construction methods and materials used in the construction of subdivision or other development improvements.

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EXHIBIT B

SAMPLE PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made as of the [REDACTED] day of [REDACTED] 2022, by and between the NORTH COAST COUNTY WATER DISTRICT (“DISTRICT”) and [REDACTED] (“ENGINEER”).

WHEREAS, the DISTRICT desires to obtain professional engineering services in connection with the planning, design, construction, management, and operation of the DISTRICT's water system and to designate a “District Engineer”; and

WHEREAS, ENGINEER is a qualified professional engineering firm and desires to furnish such services.

NOW, THEREFORE, the parties agree as follows:

1. **SCOPE OF SERVICES.** ENGINEER agrees to provide professional engineering services ("Services") to the DISTRICT in accordance with the terms and conditions of this Agreement. In the performance of its work, the ENGINEER represents that it (1) has and will exercise the degree of professional care, skill, efficiency, and judgment of engineering consultants; (2) carries all applicable licenses, certificates, and registrations in current and good standing that may be required to perform the work; and (3) will retain all such licenses, certificates, and registrations in active status throughout the duration of this engagement.

The scope of the ENGINEER’s services will consist of the services set forth in the Request for Proposals dated [REDACTED], which is attached hereto and incorporated herein as Exhibit A, as supplemented by ENGINEER’s written proposal dated [REDACTED], attached hereto and incorporated herein as Exhibit B.

2. **AGREEMENT DOCUMENTS.** This Agreement consists of the following documents:

- (1) This Agreement,
- (2) Exhibit A, Request for Proposals dated [REDACTED],
- (3) Work Directives/Task Orders, if applicable, and
- (4) Exhibit B, ENGINEER’s Proposal including [negotiated] cost/labor rates.

In the event of conflict between or among the terms of the Agreement documents, the order of precedence will be the order of documents listed above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence.

3. **TERM AND TERMINATION.** The term of this Agreement will be for a one-year term commencing upon [REDACTED] and ending on [REDACTED]. The ENGINEER will furnish the DISTRICT with all the services called for under this Agreement, and perform all other work, if any, described in the solicitation documents.

The DISTRICT reserves the right, in its sole discretion, to exercise up to four (4) one-year option

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term(s) to extend the Agreement, pursuant to the terms of this Agreement. If the DISTRICT determines to exercise the option term(s), the DISTRICT will give the ENGINEER at least 60 days' written notice of its determination.

It is understood that the term of the Agreement and any option term granted thereto as specified herein are subject to the DISTRICT's right to terminate the Agreement. The DISTRICT shall have the right and power to terminate this Agreement at any time, such termination to take effect sixty (60) days after the delivery of written notice to ENGINEER.

4. **COMPENSATION.**

In consideration of Services performed, the DISTRICT shall compensate and reimburse ENGINEER as follows:

- A. **General District Engineer Services Compensation.** DISTRICT shall pay ENGINEER a monthly Retainer fee for Ongoing Services in accordance with Exhibits A and B.
- B. **Task Order Services Compensation.** ENGINEER agrees to perform the services to be specified in each Task Order. Compensation for satisfactory performance of services performed under Task Orders will be as stated in each Task Order and, unless specifically stated otherwise in the Task Order, will be in accordance with the hourly labor rates set forth in Exhibit B.

It is expressly understood and agreed that in no event will the ENGINEER be compensated in an amount greater than the amount specified in any individual Task Order for the services performed under such Task Order. Any change order must be in writing and approved by the DISTRICT.

- C. **Project Budgets.** For any project where ENGINEER is required to prepare and submit a budget, including any Major Improvement Project, ENGINEER shall not exceed the cost ceiling set forth in the approved budget without written approval of the DISTRICT.
- D. **Hourly Labor Rates.**
 - i. ENGINEER's hourly labor rates are set forth in Exhibit B.
 - ii. Mileage will be reimbursed at the standard Internal Revenue Service mileage rates. All travel must be approved in writing by the DISTRICT prior to the commencement of the travel. Lodging and per diem rates shall not exceed the U.S. General Services Administration (GSA) rate at the time of travel.
 - ii. Upon approval by the DISTRICT's General Manager, revisions to the hourly labor rates made pursuant to this section shall be effective as of the anniversary date of this Agreement for the calendar year in which such revisions were approved.

5. **MANNER OF PAYMENT.** ENGINEER must submit monthly invoices/billing statements

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detailing the services performed during the billing period. Invoices shall fully define the work completed for each task order, the hours spent on each task, the pay rate for the personnel assigned, the percentage of the task completed in terms of actual work remaining, and costs remaining until completion of the task at the time of billing. The invoice will be paid within thirty (30) days after the approval by the District Board of Directors.

The DISTRICT reserves the right to withhold payment to the ENGINEER if the DISTRICT determines that the quantity or quality of the work performed is unacceptable. The DISTRICT will provide written notice to the ENGINEER within 10 calendar days of the DISTRICT's decision not to pay and the reasons for non-payment. If ENGINEER disagrees with the DISTRICT's decision not to pay and the reasons for non-payment, it must provide written notice detailing the reasons why it disputes the DISTRICT's decision to the DISTRICT within 30 calendar days of the DISTRICT's notice. If ENGINEER does not provide written notice in accordance with this section, it waives all rights to challenge the DISTRICT's decision.

All invoices shall be sent to:
North Coast County Water District
2400 Francisco Blvd.
Pacifica, CA 94044
Attn: Adrienne Carr, General Manager

6. **DISTRICT REPRESENTATIVE.** Except when approval or other action is required by the DISTRICT Board of Directors, the DISTRICT's General Manager, or such person or persons as they may designate in writing from time to time, shall represent and act for the DISTRICT.
7. **ENGINEER'S STATUS.** Neither ENGINEER nor any party contracting with ENGINEER shall be deemed to be an agent or employee of the DISTRICT. ENGINEER is and shall be an independent contractor and the legal relationship of any person performing services for ENGINEER shall be one solely between said parties.
8. **ASSIGNMENT.** ENGINEER shall neither assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of the DISTRICT.
9. **OWNERSHIP OF WORK.** All reports, designs, drawings, plans, specifications, schedules, and other materials prepared, or in the process of being prepared, for the Services to be performed by ENGINEER shall be and are the property of the DISTRICT. The DISTRICT shall be entitled to access to and copies of these materials during the progress of the work. Any property of the DISTRICT in the hands of ENGINEER or in the hands of any subcontractor upon completion or termination of the work shall be delivered immediately to the DISTRICT. If any property of the DISTRICT is lost, damaged or destroyed before final delivery to the DISTRICT, ENGINEER shall replace such property at its own expense. ENGINEER hereby assumes all risks of loss, damage or destruction of or to such materials. ENGINEER may retain a copy of all material produced under this agreement for its use in its general business activities.
10. **CHANGES.** All Task Orders executed by the DISTRICT for Services described in this Agreement shall be deemed executed pursuant to this Agreement. The DISTRICT may, at any time and in writing, make changes to a Task Order within the Scope of Services described in this Agreement by issuing a Change Order. If such Change Order results in an increase to the costs set

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forth in the approved budget for such Task Order Services or results in an increase to the time necessary for performance of the Task Order Services beyond the schedule submitted by ENGINEER, DISTRICT shall approve a revised budget, schedule, or both as a condition of issuing such Change Order.

In the event ENGINEER has notice of any unanticipated condition or contingency that may affect its performance of the Services with regard to the submitted budget and/or schedule, ENGINEER shall immediately notify the DISTRICT in writing. The written notice shall detail the circumstances giving rise to the unforeseen condition or contingency and shall set forth a proposed budget and/or schedule adjustment.

ENGINEER shall deliver such notice to the DISTRICT prior to performing any Services related to the proposed budget and/or schedule adjustment. Approval by DISTRICT of budget and/or schedule changes must be in writing.

11. **RESPONSIBILITY; INDEMNIFICATION.** ENGINEER agrees to indemnify, defend and hold harmless the DISTRICT and its directors, agents, and employees from and against all claims, losses, damages and liabilities (including reasonable attorneys' fees) arising out of any injury to persons or property that may occur, or that may be alleged to have occurred, in the course of the performance of the Agreement to the extent caused by ENGINEER's recklessness or willful misconduct, or by ENGINEER's negligent provision or omission of services contemplated by this Agreement.

Irrespective of any language to the contrary in this Agreement or under applicable law, ENGINEER shall have no duty to provide or fund upfront defense costs of DISTRICT against unproven claims or allegations, but shall reimburse those reasonable attorneys' fees, expert fees and all other costs and fees incurred in any judicial proceeding, litigation, arbitration, mediation or other negotiated settlement incurred by DISTRICT that are caused by the negligence, recklessness or willful misconduct of ENGINEER, its employees, agents and subconsultants (collectively, "Defense Costs"). However, ENGINEER shall provide its immediate cooperation, at no additional cost to the DISTRICT, to the DISTRICT in defending such claims. Moreover, ENGINEER's responsibility for the DISTRICT's defense costs shall be limited to the proportion of ENGINEER's responsibility for the underlying injury as determined in any judicial proceeding, litigation, arbitration, mediation, or other negotiated settlement which addressed ENGINEER's responsibility for the underlying injury. In the event that it is determined that the losses, injuries or damages claimed against the DISTRICT did not arise out of, pertain to, or relate to ENGINEER's negligence, recklessness or willful misconduct, ENGINEER shall not be responsible for any portion of the DISTRICT's defense costs. This indemnity shall survive the termination of this Agreement.

12. **INSURANCE.**

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

A. **Workers' Compensation.** If ENGINEER employs any person to perform work in connection with this Agreement, ENGINEER shall procure and maintain at all times during

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the performance of such work, Workers' Compensation Insurance in conformance with the laws of the State of California and Federal laws when applicable. Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease. Such insurance shall also contain a waiver of subrogation in favor of the North Coast County Water District and its directors, officers, agents and employees while acting in such capacity, and their successors and assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

B. Bodily Injury, Death and Property Damage Liability Insurance.

1) Commercial General Liability. ENGINEER also shall maintain at all times during the performance of this Agreement General Liability Insurance with a limit for each occurrence of Two Million Dollars (\$2,000,000) or the full per occurrence limits of the policies available, whichever is greater for, naming as additional insureds, in connection with ENGINEER's activities, the District and its directors, officers, employees, and engineer and agents.

2) Automobile Liability. ENGINEER shall maintain automobile liability insurance of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage per occurrence.

3) The Commercial General Liability and Automobile Liability Insurance policies will be primary insurance and the insurance companies providing such policies will be liable for the full amount of any loss or claim which ENGINEER is liable up to and including the total limit of liability, without right of contribution from any other insurance covering the DISTRICT.

Inclusion of the DISTRICT as an additional insured shall not in any way affect its rights as respects to any claim, demand, suit or judgment made, brought or recovered against ENGINEER. The policy shall protect ENGINEER and the DISTRICT in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest had been named as an insured. Such insurance shall also contain a waiver of subrogation in favor of the DISTRICT and its directors, officers, and employees while acting in such capacity, and their successors and assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

C. Professional Liability Insurance. ENGINEER shall also maintain Professional Liability Insurance covering ENGINEER's performance under this Agreement with a limit of liability of One Million Dollars (\$1,000,000) for any one claim and \$2,000,000 policy aggregate. This insurance shall be applicable to claims arising out of or related to the performance of this Agreement.

D. Evidence of Insurance. Prior to commencement of work hereunder, ENGINEER shall deliver to the DISTRICT a Certificate of Insurance which shall indicate compliance with the insurance requirements of this Section and shall stipulate that thirty (30) days' advance written notice of cancellation, non-renewal or reduction in limits shall be given to the DISTRICT.

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E. Deductibles and Retentions. ENGINEER shall be responsible for payment of any deductible or retention on ENGINEER’s policies without right of contribution from the DISTRICT. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that the policy of ENGINEER or any subcontractor contains a deductible or self-insured retention, and in the event that the DISTRICT seeks coverage under such policy as an additional insured, ENGINEER shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy for a lawsuit arising from or connected with any alleged act or omission of ENGINEER, subcontractor, or any of their officers, directors, employees, agents, or suppliers, even if ENGINEER or subcontractor is not a named defendant in the lawsuit.

F. General Insurance Conditions. All policies will be issued by insurers acceptable to the DISTRICT. The insurance will be issued by an insurance company authorized to do business in the State of California with a minimum "Best's" rating of no less than A:VII, or equivalent, or as otherwise approved by the DISTRICT. Worker's Compensation coverage requirements may be met with the California State Compensation Fund.

G. Subcontractors. ENGINEER shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and ENGINEER shall ensure that the DISTRICT is an additional insured on insurance required from subcontractors. In the event a claim is made, the DISTRICT reserves the right to request certified duplicate copies of all insurance policies required in this Section.

13. NOTICES. All communications relating to the day-to-day activities of the project shall be exchanged between the DISTRICT’s General Manager and ENGINEER’s _____.

All other notices and communications deemed by either party to be necessary or desirable to be given to the other party shall be in writing and may be given by personal delivery to a representative of the parties or by mailing the same postage prepaid, addressed as follows:

If to the DISTRICT: North Coast County Water District
2400 Francisco Blvd.
Pacifica, CA 94044
Attn: Adrienne Carr, General Manager

If to ENGINEER: _____

Attn: _____

The address to which notices or communications may be delivered may be changed from time to time by notice mailed as described above. Any notice given by mail shall be deemed given on the day after that on which it is deposited in the United States Mail as provided above.

14. EQUAL EMPLOYMENT OPPORTUNITY. In connection with the performance of this

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Agreement ENGINEER shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, gender identity, disability or national origin. ENGINEER shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, disability or national origin. Such actions 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. ENGINEER further agrees to include a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

15. MISCELLANEOUS.

A. Confidentiality. Any DISTRICT materials that the ENGINEER has access or materials prepared by the ENGINEER during the course of this Agreement (“confidential information”) will be held in confidence by the ENGINEER, which will exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees and agents of the ENGINEER as necessary to accomplish the rendition of Services. The ENGINEER, its employees, subcontractors, subconsultants and agents, will not release any reports, information, or other materials prepared in connection with this Agreement, whether deemed confidential or not, without the approval of the DISTRICT’s General Manager or designee.

B. Records. During the term of this Agreement, ENGINEER shall permit representatives of the DISTRICT to have access to, examine and make copies, at the DISTRICT's expense, of its books, records and documents relating to this Agreement at all reasonable times.

C. District Warranties. The DISTRICT makes no warranties, representations or agreements, either express or implied, beyond such as are explicitly stated in this Agreement.

D. Severability. If any provision of this Agreement is deemed invalid or unenforceable, that provision will be reformed and/or construed consistently with applicable law as nearly as possible to reflect the original intentions of this Agreement, and in any event, the remaining provisions of this Agreement will remain in full force and effect.

E. Use of Subcontractors. ENGINEER shall not subcontract any Services to be performed by it under this Agreement without the prior written approval of the DISTRICT, except for service firms engaged in drawing, reproduction, typing and printing. ENGINEER shall be solely responsible for reimbursing any subcontractors and the DISTRICT shall have no obligation to them.

F. Attorneys' Fees. If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding shall recover, in addition to all court costs, reasonable legal fees.

G. Applicable Law. This Agreement, its interpretation and all work performed thereunder, shall be governed by the laws of the State of California.

H. Rights and Remedies of the DISTRICT. The rights and remedies of the DISTRICT provided herein will not be exclusive and are in addition to any other rights and remedies provided

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by law or under the Agreement.

I. Binding on Successors. All of the terms, provisions and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

J. No Third Party Beneficiaries. This Agreement is not for the benefit of any person or entity other than the parties.

K. Waiver. Any waiver of any breach or covenant of this Agreement must be in a writing executed by a duly authorized representative of the party waiving the breach. A waiver by any of the parties of a breach or covenant of this Agreement shall not be construed to be a waiver of any succeeding breach or any other covenant unless specifically and explicitly stated in such waiver.

L. Entire Agreement; Modification. This Agreement, including any attachments, constitutes the entire Agreement between the parties with respect to the subject matter hereof, and supersedes any prior understanding or agreement, oral or written, with respect to such subject matter. It may not be amended or modified, except by a written amendment executed by authorized representatives by both parties. In no event will the Agreement be amended or modified by oral understandings reached by the parties or by the conduct of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first above written.

**NORTH COAST COUNTY WATER
DISTRICT:**

ENGINEER*:

Signature: _____

Signature: _____

Print: _____

Print: _____

Title: _____

Title: _____

Date: _____

Date: _____

Signature: _____

Print: _____

* Note: If ENGINEER is a Corporation, this Agreement must be executed by two officers of the corporation, consisting of one officer from each of the two separate categories:

- (1) the President, Vice President, or Chair of the Board; and
- (2) the Secretary, Assistant Secretary, Treasurer or Chief Financial Officer.

In the alternative, this Agreement may be executed by a single Officer or a person other than an Officer provided demonstrating that such individual is authorized to bind the Corporation (e.g. – a copy of a certified resolution from the Corporation’s bylaws).

If the ENGINEER is a limited liability company (LLC), the Agreement must be executed by an officer or member who has the full and proper authorization to bind the LLC. The Officer or member must provide evidence satisfactory to the DISTRICT indicating the individual’s authority to bind the LLC, such as a certified copy of a resolution authorizing the individual to execute written contracts or a copy of the LLC operating agreement.

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Title: _____

Date: _____

APPROVED AS TO FORM:

By: _____
Attorney for the DISTRICT