



Diamond Springs - El Dorado Fire Protection District

501 Pleasant Valley Road, Diamond Springs, CA 95619

Office (530) 626-3190 ♦ Fax (530) 626-3188

www.diamondfire.org

REQUEST FOR STATEMENT OF QUALIFICATIONS and REQUEST FOR PROPOSAL for FIRE STATION 49 ROOF / GUTTER REPLACEMENT

Issued: December 17, 2021

Diamond Springs/El Dorado Fire Protection District (“DSED Fire”) is requesting submission of statements of qualifications (“Statement(s)”) and proposals (“Proposal(s)”) from highly qualified and experienced individuals, partnerships, corporations, associations, professional organizations, or entities (“Firm(s)”) to provide DSED Fire with **roof removal, re-roof, fascia, gutter replacement, and dry rot repair at Fire Station 49, located at 501 Pleasant Valley Road Diamond Springs, CA 95619. The Services are further described in the *Scope of Services* attached hereto at Appendix 1, Exhibit A.**

Submittal. Interested Firms are invited to submit their Statement and Proposal (“Response(s)”) to:

Diamond Springs/El Dorado Fire Protection District
Administrative Office
501 Pleasant Valley Road
Diamond Springs, CA 95619
Attn: Spencer Morgan, Captain

Responses Deadline. All Responses must be received on or before **January 14, 2022**, not later than **3:00 PM**. At said place and time, and promptly thereafter, all Proposals that have been properly submitted will be publicly opened and read aloud. All interested parties are invited to attend. Bids received after said time will not be accepted and will be returned unopened.

Questions. Questions regarding this request for statement of qualifications and proposal (“RFQ/P”) may be directed in writing as follows:

Spencer Morgan, Captain
smorgan@diamondfire.org

Firms are directed to not contact any other person with inquiries regarding this RFQ/P. Questions will not be answered unless they are received by DSED Fire on or before January 10, 2022 at 3:00 PM.

Notice. This is not a request for bids or an offer by DSED Fire to contract with any Firm responding to this RFQ/P. DSED Fire reserves the right to reject any and all Responses. All materials submitted to DSED Fire in response to this RFQ/P shall remain the property of DSED Fire.

1. **General Information / Instructions for Response.**

1.1. **Form.** The Responses must contain all requested information and must be submitted in a sealed envelope marked **BID #22-001 - Station 49 Roof Bid** on the outside. The Responses must be complete and prepared to provide an insightful, straightforward, and concise overview of the capabilities of the Firm and of the Firm's Proposal.

1.2. **Statutory Structure.** DSED Fire intends, at its discretion and pursuant to applicable law(s), to award a contract to the selected Firm pursuant to Section 35060 of the Government Code. However, DSED Fire will award, if at all, to the responsible Firm whose proposal is most advantageous to DSED Fire with price and other factors considered.

1.3. **Contract Form and Indemnity.** DSED Fire's form of agreement ("Form of Agreement"), including the indemnification provision, is attached hereto as Appendix 1 to this RFQ/P. If the Firm has any comments, proposed changes, or objections to this Form of Agreement, it shall provide those comments, proposed changes, or objections in its Response. The Firm's comments, proposed changes, and objections must be sufficiently detailed, substantive, and clear to permit DSED Fire to respond. Please note: DSED Fire will not consider any substantive changes to the Form of Agreement if comments, proposed changes, or objections are not submitted with the Firm's Response.

2. **Content of Response.** The Firm's Statement must have each page numbered and must include the following information, using the following outline structure, except as may be otherwise directed:

2.1. **Statement of Qualifications.**

2.1.1. **Letter of Interest/Executive Summary.**

2.1.1.1. A dated Letter of Interest that includes the legal name of the Firm, address, telephone number, email address, and the name, title, and signature of the person(s) authorized to submit the Response on behalf of the Firm.

2.1.1.2. An Executive Summary that shall include:

2.1.1.2.1. An outline of the Firm's general approach for work similar to the Services;

- 2.1.1.2.2. A brief summary of the Firm’s qualifications; and
 - 2.1.1.2.3. A summary of the Firm’s experience with work similar to the Services.
- 2.1.2. **Table of Contents.** A Table of Contents of the material contained in the Response should follow the Letter of Interest/Executive Summary.
- 2.1.3. **Firm Officers.** Provide signatory status of officer(s) of the Firm. If the Firm is a joint venture, list this information for all of the joint venture members.
- 2.1.4. **Local Office.** Provide the location of your local office nearest to DSED Fire, your main office if different, and other relevant resources of the Firm.
- 2.1.5. **Personnel and Team Members.**
 - 2.1.5.1. **Personnel.** Include resumes of key personnel who would likely be assigned to the Services. Specifically define the role of each person and outline his or her individual experience and responsibilities. Indicate the name of the person(s) who would serve as the primary contact(s) for DSED Fire. If the Firm would utilize resources from more than one office, indicate office locations and how the work would be coordinated.
 - 2.1.5.2. **Other Proposed Team Members.** In addition to Firm’s personnel, identify team members, other firms, funding partners, or similar entities the Firm may request be part of the Services.
 - 2.1.5.3. **Registration and Licensing.** No contractor or subcontractor may be listed on a 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 purposes only under Labor Code section 1771.1(a)]. The Firm’s personnel shall possess the appropriate contractor’s license(s) for the scope of work performed at the time the contract is awarded. All work shall be performed by a licensed, bonded, and insured contractor and crew. A direct contractor that is awarded a public works contract involving an expenditure in excess of twenty-five thousand dollars (\$25,000) shall, before commencement of work, give a payment and performance bond to and approved by the Diamond Springs/El Dorado Fire Protection District.

2.1.6. **Performance Verification and Monitoring.** This is a prevailing wage project and is subject to compliance monitoring and enforcement by the Department of Industrial Relations. All applicable work will meet current standards set forth by the El Dorado County Building Department.

2.2. **Proposal.**

2.2.1. Please review the Form of Agreement attached as Appendix 1. DSED Fire is asking each Firm to propose Services that satisfy the requirements of this document.

2.2.2. **Contract Price:** All labor, materials, and cost(s) of building permit(s) shall be included in the proposal price. All contractors must include in its Proposal the proper prevailing wage rate for craft of work being performed. Contractor is required to supply all documents and delivery of certified payroll(s) upon completion of project prior to Diamond Springs/El Dorado Fire Protection District release of payment. Bids shall be a combination of lump sum and unit prices. Bids must be for all the work described in the Scope of Services of the Form of Agreement attached as Exhibit A to Appendix 1.

2.2.3. **Compensation.** Provide the Firm's total not-to-exceed fee for the Services, with a specified not-to-exceed fee allotted for each component phase of the Services, as well as the following:

2.2.3.1. A current hourly rate schedule for the Firm.

2.2.3.2. A precise scope of work for the Service(s) the Firm proposes.

2.2.3.3. Any reimbursable expenses the Firm proposes in addition to the Firm's fee.

3. **DSED FIRE's Evaluation / Selection Process.**

3.1 Proposals will be evaluated on the following minimum criteria:

3.1.1. Demonstrated understanding of problems and needs presented by the Services requested.

3.1.2. Qualifications of project personnel and Firm's ability to commit capable staff to complete the Services requested.

3.1.3. Quality and applicability of software and equipment to be used.

3.1.4. Ability to complete the Services in a timely manner without major deviations from necessary requirements.

- 3.1.5. Past experience with similar Services performed by proposed staff.
 - 3.1.6. Soundness of technical approach to accomplish all Service requirements.
 - 3.1.7. Cost to accomplish all Service requirements.
 - 3.2. DSED FIRE intends to select the Firm or Firms that best meets DSED Fire's needs to perform the Services as described in this RFQ/P. DSED Fire may, at its discretion, interview some or all of those Firms that provide a Response. One or more Firms may be selected and recommended to the governing board of DSED FIRE for approval.
 - 3.3. All Responses shall become property of DSED Fire. DSED Fire reserves the right to make use of any information or ideas in the Responses. All costs associated with the preparation or submission of a Response is solely the responsibility of the Firm submitting the Response.
 - 3.4. DSED Fire reserves the right to select one Firm for the entire Services or to divide the Services by scope and award of separate contracts to multiple Firms. DSED Fire also reserves the right to reject any and all Responses and/or to utilize other methods to procure Services for DSED Fire.
4. **Public Records.** Responses submitted to this RFQ/P will become the property of DSED Fire and subject to the California Public Records Act, Government Code sections 6250, et seq. Those elements in each Response that are trade secrets as that term is defined in Civil Code section 3426.1(d), or otherwise exempt by law from disclosure and which are prominently marked as "TRADE SECRET," "CONFIDENTIAL," or "PROPRIETARY," may not be subject to disclosure. DSED Fire shall not be liable or responsible for the disclosure of any such records including, without limitation, those so marked if disclosure is deemed to be required by law or by an order of the Court. A Firm that indiscriminately identifies all or most of its Response as exempt from disclosure without justification may be deemed non-responsive. In the event DSED Fire is required to defend an action on a Public Records Act request for any of the contents of a Response marked "Confidential," "Proprietary," or "Trade Secret," the Firm agrees, by submission of its Response for DSED Fire's consideration, to defend and indemnify DSED Fire from all costs and expenses, including attorneys' fees, in any action or liability arising under the Public Records Act.

RFQ/P FOR FIRE STATION 49 ROOF / GUTTER REPLACEMENT

FORM OF AGREEMENT

INDEPENDENT CONTRACTOR AGREEMENT FOR PROFESSIONAL SERVICES

Roof Removal, Re-Roof, Fascia, Gutter Replacement, and Dry Rot Repair

This agreement (“Agreement”) is by and between the Diamond Springs/El Dorado Fire Protection District (“DSED Fire”) and [Contractor Name] (“Contractor”) (together, they are referred to as “Parties”, and individually, as a “Party”).

AGREEMENT

1. EXHIBITS

This Agreement has multiple Exhibits. Any Exhibit that is specified in this Agreement is by this reference made a part of it.

Exhibits include:

- Exhibit A: Scope of Services
- Exhibit B: Compensation
- Exhibit C: General Terms and Conditions
- Exhibit D: Insurance

2. EFFECTIVE DATE AND TERM

- a. This Agreement shall take effect on [date] (“Effective Date”).
- b. Services shall be completed no later than 90 days from execution of this Agreement (weather permitting). Contractor shall commence providing Services under this Agreement as soon as reasonably possible after the date indicated in Paragraph 2.a., above, and shall diligently perform all Services as required or requested by DSED Fire until all Services specified in Exhibit A have been completed to DSED Fire’s satisfaction.

3. INDEPENDENT CONTRACTOR

Contractor, in the performance of this Agreement, is and shall act as an independent contractor. Contractor understands and agrees that Contractor and all of Contractor’s employees shall not be considered officers, employees, agents, partners, or joint venture of DSED Fire, and are not entitled to benefits of any kind or nature normally provided employees of DSED Fire, and/or to which DSED Fire’s employees are normally entitled,

including, but not limited to, State Unemployment Compensation or Worker's Compensation. Contractor shall assume full responsibility for payment of all federal, state, and local taxes or contributions, including unemployment insurance, social security, and income taxes with respect to Contractor's employees.

4. SCOPE OF SERVICES

Contractor shall furnish to DSED Fire the services described in Exhibit A ("Services").

5. COMPENSATION

Contractor shall receive payment for Services satisfactorily rendered pursuant to this Agreement, as specified in Exhibit B ("Compensation").

6. GENERAL TERMS AND CONDITIONS

The General Terms and Conditions are set forth in Exhibit C.

7. INSURANCE

Exhibit D, entitled Insurance, is attached and incorporated by reference.

8. NOTICE

Any notice required by this Agreement may be given either by personal service or by deposit (postage prepaid) in the U.S. mail addressed as follows:

To DSED Fire:

Diamond-Springs El Dorado Fire
Protection District
Administrative Office
501 Pleasant Valley Road
Diamond Springs, CA 95619
Attn: [Name], [Title]

To Contractor:

[Contractor Name]
[Contractor Address]
[Contractor City, State, Zip code]
Attn: [Contractor Contact]

[CONTINUED ON NEXT PAGE]

9. LIMITATION OF LIABILITY

Other than as provided in this Agreement, DSED Fire’s financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall DSED Fire be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect, or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.

The Parties have executed this Agreement on the dates indicated below.

**Diamond-Springs El Dorado Fire Protection [Contractor Name]
District**

Date: _____, 20__

Date: _____, 20__

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

EXHIBIT A
to INDEPENDENT CONTRACTOR AGREEMENT
FOR PROFESSIONAL SERVICES

SCOPE OF SERVICES

- A. Scope of Work:** Work includes main building and engine bay, re-roof, replace fascia, gutters, downspouts, and repair dry rot at 501 Pleasant Valley Road, Diamond Springs, CA 95619. Scope of the project will include complete tear-off, clean-up, and disposal of all existing roofing materials, gutters, and fascia. Any necessary dry rot repairs determined upon removal of existing roof. All dry rot repair will require a change order. Provide and install new 30- year laminated shingle roof system with a synthetic underlayment and ridge vent. Install new seamless 7” painted fascia gutter system with downspouts. Install new pre-painted sheet metal edge metal, valley, pipe penetration, and wall flashings. All work will meet current standards set forth by the El Dorado County Building Department.
- B. Re-Roofing Project:** Furnish all labor and materials necessary for the completion of a watertight roof:
1. Tear off all built-up roofing down to wood sheathing and dispose of debris.
 2. Remove and dispose of all fascia, rain gutters, and downspouts.
 3. Install new pre-painted sheet metal, edge metal, valley, pipe penetration, and wall flashings.
 4. Provide and install new 30- year laminated shingle roof system with a synthetic underlayment.
 5. All materials shall meet Title 24 Building Energy Efficiency Standards for cool roofs.
 6. Install ridge vent.
 7. Install new 2” x 6” fascia.
 8. Install new seamless, pre-painted 7” fascia gutter system with downspouts.
 9. Reinstall all mechanical equipment, roof top units, antennas, ducting, and gas piping that was removed for roof installation.
 10. New installation will include new flashing, boots, hubs, drains, trim caps, and any other items encountered that ensure a leak proof roof. Any exposed flashing or cap shall have color similar to station paint scheme.
 11. Start up all equipment and verify proper operation.
 12. Clean up and remove all debris caused by the above work.
 13. Bidders must provide a schedule for completion of work.
- C. Dry rot repair:** Furnish all labor and materials necessary for dry rot repairs determined upon removal of existing roof. All dry rot repair will require a change order. Compensation at Exhibit B shall include price per square foot to replace roof sheeting subject to dry rot.
- D. Labor:** All workers involved in the completion of the roof system will be highly skilled and trained roofers by the roof system manufacturer technical representative.

E. Use of Premises:

1. The use of premises will be limited to the work areas indicated.
2. Roof construction operations will be confined to the roof area involved and ground access for equipment and workers.
3. Keep all driveways and entrances clear and available for normal use.
4. No areas will be used for parking or storage of materials unless otherwise designated by the building's owner.
5. Any damage caused by the installation operations will be repaired depending on any unforeseen conditions.
6. The building and its occupants will be protected during the construction.
7. Contractor will provide onsite bathroom and wash station for workers.
8. Ensure that there is no interference emergency apparatus being able to respond.

H. Safety:

1. During all phases of construction, all applicable OSHA standards will be fully complied with.
2. Material Safety Data Sheets will be available on the job site at all times.
3. Appropriate fire suppression equipment will be on the job site at all times.
4. Provide temporary barricades to ensure safe passage for pedestrians around ground level equipment, materials, and dumpsters.
5. All flammable materials will be stored away from spark and open flames and Personal Protective Equipment will be worn when needed.

I. Debris Removal:

1. Conduct debris removal operations with minimal interference to streets, sidewalks, and adjacent facilities.
2. A chute, hoist, or other apparatus will be utilized to remove debris from the elevated roof sections in a controlled manner.
3. During the debris removal process, should any adjacent improvements be contaminated with dust, dirt, or debris, they will be cleaned to return said improvements to a pre-construction condition.
4. Maintain good housekeeping practices during all phases of construction.
5. Promptly dispose of all debris. Do not allow debris to accumulate on site.
6. Debris will be hauled away by a licensed special waste contractor, to be legally disposed of, recycling whenever possible.

EXHIBIT B
to INDEPENDENT CONTRACTOR AGREEMENT
FOR PROFESSIONAL SERVICES

COMPENSATION

A. Compensation

DSED Fire shall pay Contractor under this Agreement, compensation as follows:

1. **Re-Roofing**
 - Materials
 - Labor

2. **Dry Rot Repair**
 - Materials
 - Labor

All materials and work performed collectively shall not to exceed _____.

Compensation shall be computed pursuant to the following rate schedule:

Title	Rate

B. Payment Process

Contractor shall invoice DSED Fire for Services actually rendered only upon the completion of the work, and DSED Fire shall pay all undisputed amounts owing within thirty (30) days of receipt of each invoice.

EXHIBIT C
to INDEPENDENT CONTRACTOR AGREEMENT
FOR PROFESSIONAL SERVICES

GENERAL TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Contractor's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for services to California public agencies.
2. **ORIGINALITY OF SERVICES.** Contractor agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to DSED Fire and/or used in connection with this Agreement, shall be wholly original to Contractor and shall not be copied in whole or in part from any other source, except those submitted to Contractor by DSED Fire as a basis for such services.
3. **PRODUCT.** Contractor understands and agrees that all matters produced under this Agreement shall become the property of DSED Fire and cannot be used without DSED Fire's express written permission. DSED Fire shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of DSED Fire. Contractor consents to use of Contractor's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
4. **TERMINATION.**
 - a. **Without Cause by DSED Fire.** DSED Fire may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by DSED Fire shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by Contractor or no later than three (3) days after the day of mailing, whichever is sooner.
 - b. **Without Cause by Contractor.** Contractor may not terminate this Agreement without cause.
 - c. **With Cause by DSED Fire.** DSED Fire may terminate this Agreement upon giving written notice of intent to terminate for cause. Cause shall include:
 - (1) material violation of this Agreement by Contractor; or
 - (2) any act by Contractor exposing DSED Fire to liability to others for personal injury or property damage; or
 - (3) Contractor is adjudged bankrupt, Contractor makes a general assignment for the benefit of creditors, or a receiver is appointed on account of Contractor's insolvency.Written notice by DSED Fire shall contain the reasons for such intent to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, DSED Fire may secure the required services from another contractor. If the expense, fees, and/or costs to DSED Fire exceeds the cost of providing the service pursuant to this Agreement, Contractor shall immediately pay the excess expense, fees, and/or costs to DSED Fire upon the receipt of DSED Fire's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to DSED Fire.
 - d. **With Cause by Contractor.** Contractor may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
 - (1) material violation of this Agreement by DSED Fire; or
 - (2) any act by DSED Fire exposing Contractor to liability to others for personal injury or property damage; or
 - (3) DSED Fire is adjudged bankrupt, DSED Fire makes a general assignment for the benefit of creditors, or a receiver is appointed on account of DSED Fire's insolvency.Written notice by Contractor shall contain the reasons for such intention to terminate and unless within thirty (30) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the thirty (30) calendar days cease and terminate. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to Contractor.
 - e. Upon termination, Contractor shall provide DSED Fire with all documents produced maintained or collected by Contractor pursuant to this Agreement, whether or not such documents are final or draft documents.
5. **INDEMNIFICATION/ DEFENSE /HOLD HARMLESS.**
 - a. **Generally.** To the furthest extent permitted by California law, Contractor shall indemnify, defend, and hold

- free and harmless the Indemnified Parties from any Claim to the extent that the Claim:
- (1) arises out of, pertains to, or relates to the negligent errors or omissions (active or passive, ordinary or gross), recklessness (ordinary or gross), or willful misconduct of Contractor, its directors, officials, officers, employees, contractors, subcontractors, consultants, or subconsultants; *or*
 - (2) arises out of, pertains to, or relates to the performance of this Agreement.
- b. **Indemnified Parties, Defined.** The “Indemnified Parties” are DSED Fire, its officers, consultants, employees, and trustees.
 - c. **Claim, Defined.** A “Claim” consists of actions, assessments, counts, citations, claims, costs, damages, demands, judgments, liabilities (legal, administrative or otherwise), losses, notices, expenses, fines, penalties, proceedings, responsibilities, violations, reasonable attorney’s and consultants’ fees and causes of action to property or persons, including personal injury and/or death, except that:
 - (1) If the Agreement is a contract for design professional services under Civ. Code, § 2782.8, a “Claim” shall be limited to those that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Contractor; and
 - (2) If Contract is a construction contract with a public agency under Civ. Code, § 2782, a “Claim” shall exclude any loss to the extent that such loss arises from the active negligence, sole negligence, or willful misconduct of the Indemnified Parties or defects in design furnished by those persons.
 - d. DSED Fire may accept or reject legal counsel Contractor proposes to defend DSED Fire with, in its sole and absolute discretion, and may thereafter appoint, legal counsel to defend DSED Fire at Contractor’s expense against a Claim set forth in Section 5.a, supra, of this Exhibit C.
6. **INSURANCE.** Contractor shall procure and maintain at all times it performs any portion of the Services the insurances specified in Exhibit D to the Agreement.
 7. **CONFIDENTIALITY.** Contractor and Contractor’s agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services (“Confidential Information”), and shall not disclose Confidential Information, including information derived from Confidential Information, to any person not a party to this Agreement without the express prior written consent of DSED Fire, except as required by law or as necessary for Contractor’s agents, personnel, employee(s), and/or subcontractor(s) to perform the Services. If Contractor or any of Contractor’s agents, personnel, employee(s), and/or subcontractor(s) is served with any subpoena, court order, or other legal process seeking disclosure of any Confidential Information, both Contractor and the person served shall each promptly send to DSED Fire notice(s) of the legal process, but in no event shall do so any later than forty-eight (48) hours or such shorter time frame as necessary so that DSED Fire may exercise any applicable legal rights and remedies. Contractor shall require its agents, personnel, employee(s), and/or subcontractor(s), as a condition of their retention, appointment, employment, or contract, to agree to comply with the provisions of this Section, and shall not permit its agents, personnel, employee(s), and/or subcontractor(s) access to Confidential Information in the absence of such agreement being effective. The obligations imposed in this Section shall survive the termination of this Agreement.
 8. **CONFLICT OF INTEREST.** Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provisions of Gov. Code, § 1090 et seq. and Chapter 7 of the Political Reform Act of 1974 (Gov. Code, § 87100 et seq.), and certifies that it does not know of any facts that constitute a violation of those provisions. In the event Contractor receives any information subsequent to execution of this Agreement that might constitute a violation of these provisions, Contractor agrees it shall immediately notify DSED Fire of this information.
 9. **APPROVAL OF LEGISLATIVE BODY.** This Agreement shall not be binding upon DSED Fire until DSED Fire’s legislative body has approved all the terms and conditions contained herein.
 10. **DISPUTES.** In the event of a dispute between the parties as to performance of Services, Agreement interpretation, or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, Contractor shall neither rescind the Agreement nor stop performing the Services.
 11. **COMPLIANCE WITH LAWS.** Contractor shall observe and comply with all rules and regulations of the governing board of DSED Fire and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Contractor observes that any of the Services required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify DSED Fire, in writing, and, at the sole option of DSED Fire, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor’s receipt of a

written termination notice from DSED Fire. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying DSED Fire of the violation, Contractor shall bear all costs arising therefrom.

12. **PERMITS/LICENSES.** Contractor and all Contractor's employees or agents shall secure and maintain in force all permits and licenses that are required by law in connection with the furnishing of Services pursuant to this Agreement.
13. **SAFETY AND SECURITY.** Contractor is responsible for maintaining safety in the performance of this Agreement.
14. **ANTI-DISCRIMINATION.** It is the policy of DSED Fire that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, or any other class or status protected by applicable law, and therefore Contractor agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code section 12900 and Labor Code section 1735. In addition, Contractor agrees to require like compliance by all its subcontractor(s).
15. **AUDIT.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor shall permit DSED Fire, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that DSED Fire shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.
16. **EVALUATION OF CONTRACTOR AND SUBORDINATES.** DSED Fire may evaluate Contractor in any manner which is permissible under the law. DSED Fire's evaluation may include, without limitation:
 - a. Requesting that DSED Fire employee(s) evaluate Contractor and Contractor's employees and subcontractors and each of their performance.
 - b. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s).
17. **TIME IS OF THE ESSENCE.** Time is of the essence in the performance of Services and the timing requirements agreed upon by the Parties, if any, shall be strictly adhered to unless otherwise modified in writing in accordance with Section 28 of this Agreement. Contractor shall commence performance, and shall complete all required Services no later than the dates agreed upon by the Parties. Any Services for which times for performance are not specified shall be commenced and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to Contractor by DSED Fire.
18. **PROVISIONS REQUIRED BY LAW DEEMED INSERTED.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted and this Agreement shall be read and enforced as though it were included. If through mistake or otherwise, any provision is not inserted or is not correctly inserted, then upon application of either Party, the Agreement shall be amended to make the insertion or correction. All references to statutes and regulations shall include all amendments, replacements, and enactments in the subject which are in effect as of the date of this Agreement, and any later changes which do not materially and substantially alter the positions of the Parties.
19. **ASSIGNMENT AND SUCCESSORS.** Neither DSED Fire nor Contractor shall, without the prior written consent of the other Party, assign the benefit or in any way transfer their respective obligations under this Agreement. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and, except as otherwise provided herein, upon their executors, administrators, successors, and assigns.
20. **SEVERABILITY.** In the event that any provision of this Agreement shall be construed to be illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining provisions hereof, but such illegal or invalid provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal or invalid provision had never been included herein, unless to do so would frustrate the intent and purpose of this Agreement.
21. **FORCE MAJEURE.** No Party shall be liable to any other Party for any loss or damage of any kind or for any default or delay in the performance of its obligations under this Agreement (except for payment obligations) if and to the extent that the same is caused, directly or indirectly, by fire, flood, earthquake, elements of nature, epidemics,

pandemics, quarantines, acts of God, acts of war, terrorism, civil unrest or political, religious, civil or economic strife, or any other cause beyond a Party's reasonable control.

22. **VENUE/GOVERNING LAWS.** This Agreement shall be governed by the laws of the State of California and venue shall be in the County and/or federal judicial DSED Fire in which DSED Fire's principal administrative office is located.
23. **ATTORNEY'S FEES.** If suit is brought by either Party to enforce any of the terms of this Agreement, each Party shall bear its own attorney's fees and costs.
24. **EXHIBITS.** All Exhibits referred to in this Agreement are incorporated in this Agreement and made a part of this Agreement as if fully set forth herein.
25. **ENTIRE AGREEMENT.** This Agreement represents the entire agreement between DSED Fire and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended or modified only by an agreement in writing, signed by both DSED Fire and Contractor.
26. **MODIFICATION.** This Agreement may be amended at any time by the written agreement of DSED Fire and Contractor.
27. **WAIVER.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.
28. **AUTHORITY.** The individual executing this Agreement on behalf of Contractor warrants that he/she is authorized to execute the Agreement on behalf of Contractor and that Contractor will be bound by the terms and conditions contained herein.
29. **HEADINGS AND CONSTRUCTION.** Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the Parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. This Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared the same. Unless otherwise indicated, all references to paragraphs, sections, subparagraphs, and subsections are to this Agreement.
30. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, when signed by all of the Parties hereto, shall constitute one and the same instrument. A facsimile or electronic signature shall be as valid as an original.
31. **DEBARMENT.** Contractor certifies that neither it nor its principals or subcontracts is presently barred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency as required by Executive Order 12549.
32. **FEDERAL AUDIT.** Contractor shall provide DSED Fire, any person granting funds to DSED Fire to fund this Contract, any Federal grantor agency when funds are granted to DSED Fire to fund this contract, the Comptroller General of the United States, or any of their duly authorized representatives with access to its books, documents, papers, and records of Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions. All such records shall be retained for no less than three (3) years after final payment is made under this Agreement.
33. **APPLICABLE LAW.** Contractor shall apply with applicable law as a condition of this Agreement, including by way of illustration and not by limitation, all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
34. **ENVIRONMENTAL STANDARDS.** Contractor shall comply with state and federal environmental standards, which may be prescribed pursuant to the following, as applicable:
 - a. California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000- 21177), to include coordination with the city or county planning agency;
 - b. CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, §§ 15000- 15387);
 - c. Federal Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.), which establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters;
 - d. Federal Clean Air Act of 1955 (42 U.S.C. § 7401) which regulates air emissions from stationary and mobile sources;
 - e. Institution of environmental quality control measures under the National Environmental Policy Act (NEPA) of 1969 (P.L. 91-190); the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA; and Executive Order 12898 which focuses on the environmental and human health effects of federal actions on minority and low-income populations with the goal of achieving environmental protection for all communities;

- f. Evaluation of flood hazards in floodplains in accordance with Executive Order 11988;
- g. Executive Order 11514 which sets forth national environmental standards;
- h. Executive Order 11738 instituted to assure that each federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each federal agency empowered to extend federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act and the Federal Water Pollution Control Act Executive Order 11990 which requires preservation of wetlands;
- i. The Safe Drinking Water Act of 1974, (P.L. 93-523);
- j. The Endangered Species Act of 1973, (P.L. 93-205);
- k. Assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);
- l. Conformity of Federal Actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.);
- m. Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- n. Contractor shall not be: 1) in violation of any order or resolution promulgated by the State Air Resources Board or an air pollution district; 2) subject to a cease and desist order pursuant to § 13301 of the California Water Code for violation of waste discharge requirements or discharge prohibitions; or 3) determined to be in violation of federal law relating to air or water pollution.

EXHIBIT D
to INDEPENDENT CONTRACTOR AGREEMENT
FOR PROFESSIONAL SERVICES

INSURANCE

Without in any way affecting the indemnity herein provided and in addition thereto, Contractor shall secure and maintain at all times during the Agreement the following types of insurance with limits as shown:

1. Workers' Compensation – A program of Workers' Compensation insurance or a state-approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with Two Hundred Fifty Thousand Dollars (\$250,000) limits covering all persons including volunteers providing services on behalf of Contractor and all risks to such persons under this Agreement.

2. Commercial/General Liability Insurance – Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than One Million Dollars (\$1,000,000), per occurrence. The policy coverage shall include:
 - a. Premises operations and mobile equipment.
 - b. Products and completed operations.
 - c. Broad form property damage (including completed operations).
 - d. Explosion, collapse and underground hazards.
 - e. Personal injury
 - f. Contractual liability.
 - g. Two Million Dollars (\$2,000,000) general aggregate limit.

3. Automobile Liability Insurance – Primary insurance coverage shall be written on an ISO Business Auto coverage form for all owned, hired and non-owned automobiles or Symbol 1 (any auto). The policy shall have a combined single limit of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage, per occurrence. If Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of Two Million Dollars (\$2,000,000) for bodily injury and property damage per occurrence. If Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

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

5. Additional Named Insured – All policies, except for the Workers’ Compensation policies shall contain endorsements naming the member agencies of DSED Fire, DSED Fire, and their officers, employees, agents and volunteers as additional named insureds with respect to liabilities arising out of the performance of Services hereunder. The additional insured endorsements shall not limit the scope of coverage for DSED Fire to vicarious liability but shall allow coverage for DSED Fire to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.
6. Waiver of Subrogation Rights – Contractor shall require the carriers of the above-required coverages to waive all rights of subrogation against the member agencies of DSED Fire, DSED Fire, and their officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit Contractor and Contractor’s employees or agents from waiving the right of subrogation prior to a loss or claim. Contractor hereby waives all rights of subrogation against DSED Fire.
7. Policies Primary and Non-Contributory – All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by DSED Fire.
8. Proof of Coverage – Contractor shall furnish Certificates of Insurance to DSED Fire evidencing the insurance coverage, including endorsements, as required, at the time this Agreement is mutually executed, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to DSED Fire, and Contractor shall maintain such insurance at all times during this Agreement. Within fifteen (15) days of the Effective Date, Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.
9. Severability of Interests – Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between Contractor and DSED Fire or between DSED Fire and any other insured or additional insured under the policy.
10. Acceptability of Insurance Carrier – Unless otherwise approved by DSED Fire, insurance shall be written by insurers authorized to do business in the State of California and with a minimum “Best” Insurance Guide rating of “A- VII”.
11. Insurance Review – DSED Fire is authorized, but not required, to reduce or waive any of the above insurance requirements whenever DSED Fire determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of DSED Fire. In addition, if DSED Fire determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, DSED Fire is authorized, but not required, to change the above insurance

requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against DSED Fire, inflation, or any other item reasonably related to DSED Fire's risk.

Any such reduction or waiver for the entire term of the Agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

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

12. Deductibles and Self-Insurance Retention – Any and all deductibles or self-insured retentions in excess of Ten Thousand Dollars (\$10,000) shall be declared to and approved by DSED Fire.
13. Failure to Procure Insurance – All insurance required must be maintained in force at all times by Contractor. Failure to maintain said insurance, due to expiration, cancellation, etc., shall be cause for DSED Fire to give notice to immediately terminate the Agreement. Failure to reinstate said insurance within the ten (10) days' of notice to do so shall be cause for termination and for forfeiture of this Agreement, and/or DSED Fire, at its discretion, may procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by DSED Fire shall be repaid by Contractor to DSED Fire upon demand but only for the pro rata period of non-compliance.
 - a. DSED Fire shall have no liability for any premiums charged for such coverage(s). The inclusion of DSED Fire as additional named insured is not intended to and shall not make a partner or joint venturer with Contractor in Contractor's operations.
 - b. Contractor agrees to require all parties or subcontractors, or others it hires or contracts with to perform any portion of the Services under this Agreement to provide insurance covering such use with the same insurance policies and requirements for Contractor as set forth in this Agreement and naming DSED Fire as additional insured. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided as required herein.