

REQUEST FOR PROPOSALS

Website Redesign Services



Irvine Ranch Water District
15600 Sand Canyon Avenue
Irvine, CA 92618
(949) 453-5000 | IRWD.com

Irvine Ranch Water District (IRWD) is soliciting proposals from website service agencies to provide the District with a complete redesign of IRWD.com. Interested agencies should submit their qualifications by 5 p.m. (*Pacific Daylight Saving Time*) on August 14, 2024.

The selected website services agency will work closely with the District’s Communications Department on the redesign of IRWD’s main website and connected subdomains. The purpose of the redesign is to provide a website that is user friendly, primarily allowing customers to find information and seamlessly pay their water bill on all mobile and desktop platforms. The website must also meet applicable federal and state transparency laws governing local governments, ADA and security requirements and will secondarily provide valuable information to the community about water quality, water savings, and IRWD facilities.

I. Background on IRWD

IRWD is a multi-service local governmental agency responsible for providing retail drinking water service, sewage collection and treatment, water recycling, water banking, and urban runoff natural treatment services to approximately 450,000 residents and a daytime population of more than 600,000. The District encompasses approximately 181 square miles extending from the Pacific Coast to the foothills of the Santa Ana Mountains, covering Irvine and portions of Costa Mesa, Lake Forest, Newport Beach, Orange, Tustin, Santa Ana and unincorporated areas of Orange County.

Established in 1961 as an independent special district organized under the California Water District Code, IRWD is governed by a five-member, publicly elected Board of Directors responsible for the District’s policies and decision-making. Day-to-day operations are supervised by the General Manager and District staff.

IRWD’s mission is to provide high-quality water and sewer services in an efficient, cost-effective, and environmentally sensitive manner, which produces a high level of customer satisfaction.

In the water industry, IRWD is viewed as an innovative water provider on the cutting edge of new programs and ideas. The District is recognized nationally as a leader in water efficiency as well as environmental and water recycling programs, and is known for its customer communications

Additional information about IRWD can be found at www.IRWD.com.

II. IRWD’s Websites

The District’s primary website, IRWD.com — redesigned and developed from the ground up in 2010 — has been honored with a 2010 Webby Award, a 2011 Orange County Public Relations Society of America Protos Award for Best Website and an Honorable Mention from Hermes. While the website has served the District well, IRWD is looking to modernize and fully redesign it to improve functionality, communication effectiveness and user experience.

In-house IRWD staff updates the day-to-day website content using a recent version of Joomla. Web server maintenance and security and higher-level web development is managed by the District’s current website services contractor.

The District also manages several other domains and subdomains which are connected to IRWD.com. In

2023, content from Rightscape.com – one of the District’s domains – was reformatted and incorporated into IRWD.com, and in mid-2024, RightscapeResources.com underwent the same transition.

Consultant would be expected to provide services that include the initial design, development and full implementation of a redesign, which may or may not include a proposal to transition IRWD.com to a new content management system.

III. Goals of IRWD.com Redesign Project

The primary goals of IRWD’s redesigning IRWD.com are:

- Enhance IRWD.com as a communication tool for IRWD;
- Improve user experience and navigation to make it easier for visitors to find the information they need within website pages;
- Enhance the visual design to create a modern, professional, and visually appealing website that reflects IRWD’s brand and engages its visitors;
- Ensure all pages of the website can be translated into multiple languages, using built-in language translation options and browser translation;
- Ensure the website is mobile-friendly and responsive across all devices and web browsers;
- To utilize best practices for search engine optimization and implement full integration with Google Analytics;
- Integrate the website with IRWD’s third-party payment portal;
- Develop a website that is easy to maintain and update as often as needed, on which new pages can be created and new items can be posted daily; and
- Ensure the website complies with all applicable federal and state laws and regulations governing local government websites, the federal rule of Accessibility of Web Information and Services of State and Local Government Entities, and current security standards.

IV. Firm Qualifications

The ideal firm will have the following minimum qualifications:

- Experience using platform to develop a site that can be easily updated, maintained, and utilized to post new items independently by IRWD;
- Experience designing and creating websites of the size and complexity of IRWD.com for other local government or similar organizations;

- An extensive portfolios of website development and design;
- Experience providing project management for the redesign of a website like IRWD.com;
- Experience providing education, training, or guidance on the back end of websites for client staff that will maintain the website; and
- Knowledge of California special district website requirements such as ADA compliance, transparency, and security.

V. Scope of Work

Although the following list is not intended to be exhaustive, the District’s website redesign services agency is expected to provide the services listed below:

A. Planning, design, development, and full implementation of a redesign of IRWD.com.

Consultant will work directly with IRWD staff to plan, design, develop and fully implement a functional, sleek website redesign of all of IRWD.com that matches IRWD’s brand and communication priorities. The website redesign should excel in positive user experience. Work may include but is not limited to project management, content strategy and development of a site architecture, graphic and visual design, full-stack coding, custom software or app development, mobile and browser optimization, testing and quality assurance, site security and accessibility, and software training as necessary.

B. Migration of existing content.

Consultant will develop a plan to fully migrate existing IRWD.com content, including all files and photos, and ensuring all links remain intact or are appropriately redirected. Consideration of legally required content must be given.

C. Implementation of security.

IRWD.com also collects personal information on its websites, which adds an extra level of security requirements for forms and servers, and therefore its redesign considerations.

D. Updating of content management system if necessary.

IRWD.com’s current content management system is Joomla. Consultant will conduct a full investigation to ensure all redesign plans can be properly implemented within this CMS and, if not, will make a recommendation for a new CMS. If approved, consultant will develop an implementation plan and support the implementation of the new CMS.

E. Testing and launch of redesign.

Utilizing proper quality testing, consultant will ensure IRWD.com’s redesign is functional across all devices and browsers prior to launch. Consultant will provide an appropriate timeframe for launch to ensure preparation by staff that includes communication to customers.

Consultant will lead the implementation of the redesign launch.

F. Post-redesign support for IRWD.com (up to 12 months).

Consultant will continue to provide support to IRWD staff for quality assurance for up to six months after implementation of redesign. Work may include but is not limited to CMS updates, general maintenance, new or updated page builds, forms, fixes, and more. Maintenance also includes troubleshooting and ensuring all pages are mobile friendly.

G. Project management, timeline, and deliverables.

Consultant will be responsible for project management, working closely with IRWD staff. Consultant will provide a timeline within the first 30 days of contract start date. Deliverables may include but are not limited to a fully developed and redesigned IRWD.com that is user friendly, primarily allows customers to seamlessly pay their water bill, and secondarily provides valuable information to the community about water quality, water savings, and IRWD facilities.

Meeting schedule:

- Intake meeting, goal setting, identify key dates (to be conducted within 30 days of contract start date)
- Presentation meetings for key stakeholders (to be determined based on project timeline)
- Coordination meetings with IRWD I.T. staff to ensure data security (monthly)
- Project status report meetings with IRWD Communications staff (weekly)

H. Staffing

Provide sufficient, qualified staffing. If external consultants are used or if key staffing changes occur, this should be clearly communicated to IRWD.

VI. Requirements for Responsive Proposals

The purpose of this Request for Proposals (RFP) is for each proposer to demonstrate that it has the background, qualifications, competence, and capability to provide website redesign services to the District as outlined in the Scope of Work section that meet IRWD’s goals for this project.

Submittals should include a discussion of the website service agency’s ability to provide the services listed in the Scope of Work as well the following information, the firm’s qualifications, and how it will achieve IRWD’s goals for the website redesign categories in the following sections:

- A. **Firm Qualifications**: In addition to demonstrating how the firm meets the qualifications listed in Section IV, please include:
- i. Firm contact information
 - ii. Background information on the firm and its experience
 - iii. The proposed project manager(s) and team that, if selected, would be providing the website services to IRWD, and a detailed description of their experience;

- iv. Website addresses for 3-5 sites that demonstrate agency’s experience in website redesign services and development, particularly in public utilities industry;

B. Plan to Implement the Scope of Work: In addition to discussing how the firm will implement the Scope of Work in Section V, if selected, please include:

- i. Description of the work plan and approach, including strategy, tools and techniques, proposed for meeting IRWD’s website redesign service needs;

C. Conflicts of Interest

- i. Disclosure of any joint venture and/or proposed subcontract agreements that would be used during the course of the project;
- ii. Documentation that personal or organizational conflicts of interest prohibited by law do not exist;

D. References and Pricing

- i. List of references; and
- ii. Proposed project fees and hourly rate, including labor, material, equipment, and insurance needed.

VII. Selection Process

A. Proposal Evaluation Criteria

Proposals will be reviewed by the District and examined for compliance with all of the requirements of this RFP. In reviewing the proposals, the District will likely give the following weight to each of these portions of the response:

Requirements	Maximum Points
A. Firm Qualifications	40
B. Plan to Implement the SOW	40
C. Conflicts of Interest	10
D. References and Pricing	10
Total	100

IRWD, at its discretion, reserves the right to modify the process or the weight given to any portion of the responses. The District, at its discretion, may waive any omission that it deems to be non-essential or inconsequential. While qualifications will be the primary criteria for selection, a firm’s pricing structure will be considered in conjunction with qualifications when IRWD makes its final selection.

B. Proposal Evaluation

IRWD intends to select the web redesign services agency best suited to meet its website redesign services needs based on the Proposals it received and interviews conducted. Final selection will be based on evaluation of proposals and interview(s). Submitting agencies should note that fee proposals and pricings, while important, will not be the deciding factor in final selection. IRWD will negotiate a final scope and fee for services with the selected agency.

The Proposals will be initially screened by the District and an invitation to interview with the District will be extended to selected agencies. Selected agencies may be invited to participate in one or more interviews, which may include an opportunity for the proposing web services agency to make a brief presentation to the District. The District currently anticipates that the initial interviews of selected agencies will take place at the District's office in Irvine, California, the week of August 26, 2024.

A proposing agency shall bear the cost of preparing its proposal, any interviews, and/or meetings with the District as part of this selection process. The project manager(s) will be expected to be physically present for any interview the agency has been invited to participate in. IRWD is not inclined to waive the requirement for the project manager(s) to be physically present for the interview, but may accommodate alternative methods for participation, if justified. Written clarification of a submitted Proposals may also be requested of a submitter.

Proposing agencies responding to the RFP should note that IRWD is subject to the California Public Records Act, and all submitted information is subject to disclosure to the general public. All submittals will become the property of IRWD.

The contract for web design services will be in accordance with IRWD's Professional Services Agreement, which is included as Exhibit "A". IRWD is not inclined to modify the Professional Services Agreement but will consider proposed modifications that are specifically included as part of the written proposal.

IRWD reserves the right to reject any and all proposals, waive any proposal formalities, and modify, postpone or cancel the proposed selection procedure at its sole discretion. The District, at its discretion, may waive any omission that it deems to be non-essential or inconsequential.

VIII. Proposal Submittal Format and Deadline

Responses to this RFP should be in writing only and should respond to each element of the Scope of Work and submittal requirements. Responses should be complete and self-contained and should not require reference to other documents or sources in order to be complete. Video proposals will not be accepted. The maximum length of the proposal should not exceed 8 pages (excluding attachments such as the resumes). Excessive or irrelevant materials will not be favorably received.

To be considered, one electronic copy shall be delivered to IRWD no later than 5 p.m. (Pacific Daylight Saving Time) on August 14, 2024. The electronic copy in a searchable pdf format is to be delivered to IRWD's Digital Communications Analyst Roxanne Ancona at Ancona@IRWD.com. The subject shall read "2024 Website Redesign Services RFP," followed by the consulting firm name.

IX. Anticipated Evaluation Timeline

IRWD anticipates that it will review and consider submitted Proposals between August 15 and August 23, 2024. The target dates for initial interviews with selected firms is currently the week of August 26, 2024, with interviews expected to take place at the District’s office at 15600 Sand Canyon Avenue, Irvine, California. The selection of a web redesign services agency and work on IRWD’s behalf is expected to begin shortly thereafter.

A. Schedule

Item	Date
RFP distributed	July 25, 2024
Questions due to IRWD	Aug. 1, 2024
Responses to questions	Aug. 7, 2024
Proposals due to IRWD	Aug. 14, 2024
Consultant interviews	Week of Aug. 26, 2024
Consultant selection	Sept. 2024

X. Additional Information and Changes

All requests for additional information shall be made to the IRWD Digital Communications Analyst by email. No oral modifications of this RFP shall be valid. Any modifications shall be written and issued by RFP addendum.

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT (“**Agreement**”) is effective on _____, 20__ (“**Effective Date**”) and is between IRVINE RANCH WATER DISTRICT, a California Water District formed and existing pursuant to the California Water District Law (“**IRWD**”) and **CONSULTANT/VENDOR NAME** (“**Consultant**”). IRWD and Consultant are each a “**Party**” and together are the “**Parties**” to the Agreement.

A. IRWD requires technical or professional services of the Consultant, described as **DESCRIPTION OF SERVICES OR PROJECT** (the “**Services**”), described in more detail in the “**Scope of Work**” attached as Exhibit A, unless modified by any Variance (as described in Section 3, below).

B. IRWD shall pay the Consultant pursuant to Section 2 of this Agreement and the “**Compensation Schedule**” attached as Exhibit B.

C. The Parties intend by this Agreement to establish the terms and conditions under which Consultant will perform the Services.

The Parties therefore agree as follows:

1. Consultant Performance and Provision of Services

1.1 Services to be Provided. Consultant shall perform all Services identified in the Scope of Work. Consultant shall furnish all services, personnel, materials, equipment, tools, subsistence, vehicles, transportation and all other items necessary to perform the Services. Consultant shall pay applicable state or local fees necessary to obtain permits for the Services, unless otherwise provided in the Compensation Schedule.

1.2 Performance Standards. The Consultant shall provide the Services using the standard of care, skill, and efficiency ordinarily used by members of the profession practicing under similar circumstances as of the Effective Date in the same locality as IRWD.

1.3 Notice to Proceed. Consultant must not proceed with the Services until it receives specific written authorization from IRWD in the form of a “**Notice to Proceed.**” The Notice to Proceed will identify the commencement date upon which the Consultant shall commence the Services.

1.4 Authorization for Phases and Itemized Tasks. If the Scope of Work specifies that all or a portion of the Services are to be performed in phases or tasks, the Consultant must not proceed with any phase or task until separately authorized by IRWD in a written notice. Consultant shall immediately proceed with the authorized phase or task on the commencement date in IRWD’s authorization.

1.5 Performance and Schedule

A. The duration of the Agreement commences upon the Effective Date.

B. While time is of the essence in performing this Agreement, Consultant shall coordinate its performance of the Services with IRWD to ensure its timely completion of the Scope of Work.

C. Consultant shall provide the Services in accordance with any schedule included in the Scope of Work.

D. Consultant must promptly notify IRWD of any anticipated delays or causes or casualties beyond the Consultant's control which may affect the provision of Services. If the time for completing the Scope of Work is projected to be exceeded due to circumstances beyond the Consultant's control, then Consultant may have an additional amount of time to complete the Services if agreed upon in writing between the Parties pursuant to Section 3, Variances.

1.6 Consultant's Personnel

A. Project Manager. Consultant shall assign a Project Manager and shall not remove the Project Manager without the prior approval of IRWD. If the Project Manager leaves the employment of the Consultant, upon written notice by the Consultant and approval by IRWD, which will not be unreasonably withheld, the Consultant may substitute the Project Manager with another person, who will possess similar qualifications and experience.

B. Qualified Personnel. Consultant shall assign only personnel, including its employees and authorized subcontractors and subconsultants, who are qualified to perform the Services. If the quality of the Services or personnel assigned by Consultant is unacceptable to IRWD, Consultant shall promptly assign replacement personnel upon IRWD's request and approval of replacement personnel.

2. Compensation

2.1 Rate of Compensation. IRWD will compensate Consultant on a time and materials basis in accordance with the Compensation Schedule set forth in Exhibit B. Total compensation paid by IRWD will not exceed \$**Enter Dollar Amount** (the "**Not-to Exceed Amount**"), unless approved pursuant to Section 3.

2.2 Reimbursement of Expenses. IRWD will only reimburse Consultant for expenses detailed for reimbursement in the Compensation Schedule or for any approved Variance pursuant to Section 3.

2.3 Invoicing and Payment. Consultant shall submit invoices to IRWD no more frequently than monthly for the Services performed pursuant to this Agreement. Each invoice must itemize the Services rendered by task, if specific tasks are detailed in the Scope of Work, and the amount due in accordance with the Compensation Schedule or any approved Variance. Within 30 calendar days of receipt of each invoice, IRWD will notify Consultant in writing of any disputed amounts included on the invoice and request a revised invoice. IRWD will pay all undisputed invoices within 30 calendar days of receipt of that invoice.

2.4 Payment Process and Verification. IRWD shall direct payment to the Consultant using the address provided on the W-9 that Consultant provides to IRWD. If the Consultant at any time requests payment be made to a different payee, address, account, or by a method that differs from the initial payment form (e.g. wire transfer versus check payment), including requests made in an invoice or email, then IRWD shall take reasonable steps to verify the request. If IRWD undertakes reasonable steps to verify the request, then Consultant will bear all responsibility for any payment that Consultant later claims was directed to the wrong payee, address, account, or method, including, for example, any fraudulently-requested change resulting from the Consultant's business email compromise.

3. Variances

3.1 Process for Variances. IRWD may request, or Consultant may recommend, that Consultant perform additional services or different services from those delineated in the original or amended Scope of Work. IRWD, in its sole discretion, may delete services from the Scope of Work (and the associated portions of the Compensation Schedule). Upon IRWD's request or Consultant's recommendation for additional or changed services, Consultant must provide a cost estimate, written description, and schedule for the additional or changed work.

3.2 Effect of Variance. Changes to the Scope of Work, Compensation Schedule, Not-to-Exceed amount, changes in time to perform the Services, and other amendments to the Agreement may only be made through, and take effect upon, the execution of a Professional Services Variance ("**Variance**"), in the form attached as Exhibit C. IRWD will not be required to pay for any additional or changed services rendered in advance of the execution of a Variance covering the additional or changed services. Following the execution of any Variance, all terms and provisions of the Agreement, except as expressly modified by that Variance, will remain in full force and effect.

4. Termination or Abandonment. IRWD may terminate or abandon any portion or all of the Services for any reason by giving at least ten calendar days written notice to Consultant. Upon termination, IRWD may take possession immediately of all Work Product, as defined in Section 10.2 of this Agreement, developed for the portion of the Services completed and/or being abandoned, and Consultant must deliver such Work Product to IRWD by the termination date. IRWD will pay Consultant for any portion of the Services rendered prior to the notice of termination and any necessary work through the termination date. If termination occurs prior to completion of any task of the Services for which a payment request has not been received, the fee for services performed during that task will be based on an amount mutually agreed upon by IRWD and Consultant. IRWD will not be liable for any costs other than described in this Section.

5. Insurance

5.1 Required Policies. Before commencing with the Services and without limiting Consultant's indemnification obligations provided within this Agreement, Consultant shall always maintain the following policies of insurance with insurers possessing a policyholders' Rating of A- (or higher) and Financial Size Category of VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by IRWD. Consultant may

not commence work until all required insurance documentation, including endorsements, is provided to IRWD. Failure to provide required insurance documentation may result in the immediate termination of the Agreement by IRWD, without complying with the notice period required by Section 4.

5.2 Policy Amounts

A. Comprehensive General Liability Insurance. Consultant shall maintain a comprehensive general liability insurance policy with coverage on an “occurrence” basis, including products and completed operations, property damage, bodily injury, personal injury, and, with limits no less than \$1,000,000 per occurrence, \$2,000,000 aggregate.

B. Automobile Liability Insurance. Consultant shall maintain an automobile liability insurance policy covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with the Project, including coverage for any owned, hired, and non-owned, rented, or leased vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

C. Workers’ Compensation Insurance. Consultant shall maintain a workers’ compensation insurance policy (Statutory Limits) as required by state law, and if required to do so also maintain Employer’s Liability Insurance (with limits not less than \$1,000,000). Consultant shall submit to IRWD, along with the certificate of insurance, a Waiver of Subrogation Endorsement in favor of IRWD, its directors, officers, employees, and agents. This coverage verification requirement is waived upon certification by Consultant that it has no employees or individuals who are defined as “employees” under the Labor Code, by signing below:

Consultant certifies that it currently has no employees or individuals who are defined as “employees” under the Labor Code and requests that the requirement be waived. Consultant shall immediately notify IRWD if, during the life of the Agreement, it hires employees and maintain the insurance required by this Section.

Consultant’s Signature: _____

Printed Name: **Print Name**

Title: **Print Title**

D. Professional Liability (Errors & Omissions) Insurance. Consultant shall maintain a professional liability insurance policy that covers the Services in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be on or before the Effective Date of this Agreement. Consultant shall maintain continuous coverage through a period no less than three years after completion of the services required by this Agreement.

E. Umbrella or Excess Policy. Consultant may use umbrella or excess Policies to provide the liability limits as required in this Agreement.

F. Drones. If Consultant will be using an Unmanned Aerial System (drone), then Unmanned Aerial System insurance coverage is required.

5.3 Additional Insured. General liability, automobile liability and all other applicable policies including excess/umbrella liability policies, shall provide, or be endorsed to provide, that IRWD, its directors, officers, employees, and agents, are additional insureds under such policies.

5.4 Primary Non-Contributory. For any claims related to this Agreement, the Consultant's insurance, including umbrella/excess coverage, must be primary and non-contributory. Any insurance or self-insurance maintained by IRWD, its directors, officers, employees, and agents will be excess of the Consultant's insurance and will not contribute to such insurance.

5.5 Waiver of Subrogation. All insurance coverage maintained pursuant to this Agreement must be endorsed to waive subrogation against IRWD, its directors, officers, employees, and agents, or must specifically allow Consultant to waive its right of recovery prior to a loss. This provision applies regardless of whether or not IRWD has received a waiver of subrogation endorsement from the insurer.

5.6 Notice of Cancellation. Consultant shall oblige its broker and insurers to provide IRWD with a 30-day notice of cancellation (except for nonpayment for which a ten-day notice is required) or nonrenewal of coverage for each required coverage. If the Consultant's insurers are unwilling to provide such notice, then Consultant shall notify IRWD immediately if Consultant fails to renew any of the required insurance coverages or insurer's cancellation or non-renewal.

5.7 Requirements Not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, IRWD requires and is entitled to the broader coverage and/or the higher limits maintained by the Consultant.

5.8 Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance applies separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policies shall not contain any cross-liability exclusions.

5.9 Self-Insured Retentions. Any deductibles or self-insured retentions must be declared in writing.

5.10 Timely Notice of Claims. Consultant shall give IRWD prompt and timely notice of claims made, or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

6. Indemnification

6.1 Consultant must indemnify, defend and hold IRWD and its directors, officers, agents, employees, and other entities for which IRWD's directors are the governing body, harmless from all damages, costs, liability claims, losses, judgments, penalties and expenses, including reasonable attorney's fees as a result of or arising out of relating to the Services provided under this Agreement, including but not limited to: (a) any injury to persons (including wrongful death) or property caused by the negligent acts, errors or omissions, or recklessness or willful misconduct of Consultant, its officers, agents or employees, or Consultant's breach of its obligations in performing this Agreement; or (b) any allegation that materials or services provided by the Consultant under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual property or proprietary right of any third party. This indemnification will survive the termination or expiration of the Agreement.

6.2 The Consultant's procurement of insurance does not limit Consultant's liability or full performance of Consultant's duties to indemnify, hold harmless and defend under Section 6.1 of this Agreement.

7. Compliance with Conflict of Interest Laws.

7.1 Consultant must comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Sections 1090 et seq. and 81000 et seq. of the California Government Code.

7.2 If Consultant is providing financial or engineering services, then Consultant (if a person) or one or more of its agents or employees may be a "**Designated Person**" under IRWD's Conflict of Interest Code. A Designated Person includes any person who "makes" or "participates" in a governmental decision.

A. A consultant "makes" a governmental decision if they authorize or direct any action, or obligate or commit IRWD to any course of action, or enter into any contractual agreement on behalf of IRWD.

B. A consultant "participates" in a governmental decision when they provide information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review.

7.3 Consultant shall ensure that each Designated Person completes and files with the IRWD District Secretary an FPPC Form 700 (Statement of Economic Interests) within 30 days from the Effective Date of this Agreement, and annually by the due date set by the FPPC, and within 30 days of the end of the Agreement, unless IRWD's General Manager, or designee, determines that Consultant is exempt by signing the exemption approval below:

**CHECK ONE BOX BELOW. EXEMPTION APPROVAL REQUIRES SIGNATURE OF
GENERAL MANAGER OR DESIGNEE**

- Consultant is not providing financial or engineering services and is not required to comply with the Form 700 reporting requirements.
- Consultant is providing financial or engineering services or otherwise subject to reporting under the Conflict of Interest Code, and therefore any agent or employee of the Consultant who “makes” or “participates” in a governmental decision for IRWD must comply with the Form 700 reporting requirements described above.

EXEMPTION APPROVAL

- Consultant is providing financial or engineering services, but has been determined to be exempt from Form 700 reporting requirements because in the scope of performing this Agreement, the Consultant and any of its employees or agents will not be “making” or “participating” in a governmental decision, as described above, because IRWD staff will be providing significant intervening substantive review.

I hereby determine that the Consultant is exempt from Form 700 Reporting for IRWD pursuant to the Conflict of Interest Code.

Date: **INSERT DATE (down arrow)**

Signature: _____

Name: Paul A. Cook or Designee Name: **Print Name**

Title: General Manager/Designee

8. Consultant’s Role, Representations and Warranties

8.1 Consultant is an independent contractor and not an agent or employee of IRWD, and Consultant has no authority to act as an agent of IRWD or to enter into any agreement for or on behalf of IRWD. In performing this Agreement, the Parties are not the agents, employees, partners, joint venturers or associates of one another.

8.2 Consultant is free from the control and discretion of IRWD in connection with the performance of the Services and Scope of Work. Consultant alone will determine the method, details and means of performing the Services, as described in the Scope of Work.

8.3 Consultant represents that by virtue of its experience and training, it is qualified to perform the Services identified in the Scope of Work, and available to provide the personnel, tools, equipment, materials, and facilities necessary to accomplish the required Services as provided by this Agreement.

8.4 Consultant represents and warrants that it is customarily engaged in an independently established business of the same nature involved in the provision of the Services, it contracts with other businesses to provide the same or similar services and maintains a clientele without restrictions from IRWD, and it advertises and holds itself out to the public as available to perform the same or similar type of Services as those being provided to IRWD.

8.5 If the work done in connection with the Services and Scope of Work is performed in a jurisdiction that requires the Consultant to have a business license or business tax registration, Consultant represents and warrants that it has the appropriate business license or business tax registration throughout the duration of this Agreement.

8.6 Consultant represents that it carries all applicable licenses, certificates, insurance, and registrations in current and good standing that may be required to perform the Services, and that it shall retain all such licenses, certificates, insurances, and registrations in active status throughout the duration of this Agreement and shall provide them to IRWD upon request.

9. Prohibition on Subcontracting and Subconsulting. Except as specifically identified in the Scope of Work or any variance, the Consultant shall not subcontract or subconsult any portion of the Scope of Work without IRWD's prior written approval, and any attempt to do so will be void and have no effect. Any subconsultants, subcontractors, or other party brought onto or involved in the project/service by Consultant (collectively "**subcontractor**"), must meet the same minimum insurance coverage and endorsements required of Consultant, and provide proof of that insurance to IRWD if requested. Consultant shall monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Section. Consultant shall submit to IRWD, upon request, all agreements with subcontractors. Consultant shall indemnify, defend, and hold harmless IRWD from any claims made by any subcontractor arising out of or relating to this Agreement or the Services. IRWD may immediately terminate this Agreement for the Consultant's failure to comply in any respect with this Section 9.

10. Documents and Records

10.1 Confidentiality of Information. The Consultant shall hold all information provided to it by IRWD as IRWD's confidential information, and hold any of IRWD's confidential information in confidence, exercising all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees and agents of the Consultant as necessary to accomplish the Services. The Consultant must not disclose confidential information without IRWD's prior written consent. IRWD will grant such consent if disclosure is legally required. Upon request, all IRWD information must be returned to IRWD upon the termination or expiration of this Agreement.

10.2 Right to the Work Product. All original drawings, concepts, specifications, calculations, estimates, studies, reports, memoranda, records, reference materials, data, charts, renderings, computations, compilations, submittals and any other documents developed or compiled for IRWD under this Agreement, whether hard copy or electronic ("**Work Product**") are and will remain the property of IRWD, without restriction upon their use or dissemination by IRWD, with the exception of any intellectual property rights contained therein, owned or created by Consultant prior to the Effective Date of the Agreement and disclosed to IRWD when the Work Product is transferred to IRWD. IRWD will be entitled to copy and access the Work Product during the progress of the work. Consultant may make and retain copies of the Work Product for its records as desired, but Consultant shall not make the Work Product the subject of a copyright application by Consultant. The Consultant represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or

both) and that all materials prepared under and Services provided under this Agreement do not and will not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual property or proprietary right of any third party.

10.3 Public Records

A. Public Records Act Acknowledgment. Consultant acknowledges that IRWD is a public agency subject to the Public Records Act (“**PRA**”). Consultant consents to the public disclosure of this Agreement, including exhibits and attachments, its proposal, and any other information provided to IRWD unless that material is conspicuously marked as confidential, and Consultant waives all claims against IRWD, its directors, officers, employees, and agents, for the disclosure of such information. If IRWD receives a request to disclose information that was provided to IRWD by Consultant in the course of performing this Agreement and that was designated by Consultant as “confidential information,” IRWD will notify Consultant of that request. If Consultant objects to the disclosure, Consultant shall expeditiously, at its sole expense, seek a court order to prevent the disclosure, and absent the granting of such an order, IRWD will release the information as required by applicable law.

B. PRA Action Indemnity. Consultant shall indemnify, defend, and hold harmless IRWD, its directors, officers, employees, and agents, from any and against all damages (including but not limited to attorneys’ fees), and pay any and all costs and expenses, including attorneys’ fees, related to the withholding of the records designated as confidential by Consultant. If Consultant fails to accept a tender of a defense, IRWD reserves the right to resolve all claims at its sole discretion, without limiting any rights stated in the Agreement.

10.4 Data Protection and Security. If the Consultant will be receiving, using, or creating any personal identifying information or security, financial, or other confidential information of IRWD, Consultant shall abide by all terms in the Data Protection and Security Addendum (Exhibit D).

- | |
|---|
| <ul style="list-style-type: none"><input type="checkbox"/> Consultant will be receiving, using, or creating information requiring compliance with the Data Protection and Security Addendum, Exhibit D.
<input type="checkbox"/> Consultant will not be receiving, using, or creating information requiring compliance with the Data Protection and Security Addendum and the Addendum is excluded from the Agreement. |
|---|

11. Notice. Any notice, communication or instrument required or desirable to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, registered or certified, postage prepaid, with a courtesy copy via electronic mail, and will be effective upon receipt. The Parties may change their own notice address upon notice to the other Party. Notices must be addressed to:

IRWD:

Irvine Ranch Water District
15600 Sand Canyon Avenue
Irvine, CA 92618-3102
Attn: Name
CC by email to: Email Address

Consultant:

Consultant Name
Address
City, State, Zip
Attn: Name
CC by email to: Email Address

12. Miscellaneous

12.1 No Obligation to Other Parties. IRWD has no obligation under this Agreement to any party other than Consultant.

12.2 Successors and Assigns. This Agreement and all its terms, conditions, and provisions inure to the benefit of and are binding upon the Parties, and their respective successors and assigns; provided, however, that no assignment of this Agreement may be made without written consent of the Parties. Any attempt by Consultant to assign or otherwise transfer any interest in this Agreement without the prior written consent of IRWD is void.

12.3 Governing Law and Venue. This Agreement will be governed by the laws of the State of California. Any action regarding the interpretation or enforcement of this Agreement must be filed in the County of Orange, California.

12.4 Attorney's Fees. If a Party commences an action against any other Party to enforce its rights or obligations arising from this Agreement, the prevailing Party, in addition to any other relief and recovery awarded by the court, will be entitled to recover all costs plus a reasonable amount of attorney's fees.

12.5 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 will not be construed to be a waiver of any succeeding breach or any other covenant unless specifically and explicitly stated in such waiver.

12.6 Construction of Agreement. 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 the remaining provisions of this Agreement will remain in full force and effect.

12.7 Conflicting Provisions. If a conflict arises between the terms of the body of this Agreement (all pages leading up to and including the signature page) and any proposal, term, or condition furnished by the Consultant, the terms of the body of this Agreement will prevail and control over any conflicting terms.

13. Public Works Requirements

13.1 Application of Requirements. If the Scope of Work includes work to be performed during the design, preconstruction or post-construction phases of construction, including, but not limited to, geotechnical, surveying or inspection work, or any other work that has been determined by the California Director of Industrial Relations to constitute “public work,” that portion of the Scope of Work is subject to the following provisions.

13.2 Labor. The requirements of this Section apply to the public works portion of the Scope of Work, if it is more than \$1,000 (Labor Code 1771). The requirements apply to geotechnical, surveying and inspection work.

A. Compliance Monitoring; Registration; Notices. The project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Qualification to engage in the performance of any of the work requires that Consultant and its subcontractors maintain their current registration to perform public work pursuant to Labor Code Section 1725.5. Consultant shall post on the jobsite all notices as prescribed by law or regulation.

B. Prevailing Wage Requirements. Under the provisions of the California Labor Code, the Director of the Department of Industrial Relations has determined the prevailing rate of wages for the locality in which the Scope of Work is to be performed and IRWD has adopted that prevailing rate of wages. A copy of the prevailing wage rates can be found online at <http://www.dir.ca.gov/dlsr/pwd>. A copy of those prevailing wage rates must be posted at the jobsite by Consultant. Consultant and its subcontractors must comply with Labor Code Section 1775 regarding the payment of prevailing wages. Consultant shall forfeit as a penalty to IRWD \$25 for each worker employed in the execution of the Scope of Work by Consultant or any subcontractor under it for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one (1) calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, in particular, Section 1810 to Section 1815 thereof, inclusive, except that work performed by employees of Consultant in excess of eight (8) hours per day and forty (40) hours during any one (1) week shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one half (1½) times the basic rate of pay as provided in Section 1815.

C. Payroll Records. Consultant and each of its subcontractors shall keep an accurate payroll record, containing the information, prepared in a format, verified by written declaration, made available for inspection and marked to prevent disclosure of individual worker information upon making it available for inspection, and shall inform IRWD of the location of payroll records and any change in location, all in accordance with the requirements of Labor Code Section 1776 and subject to penalties to be forfeited to IRWD as provided therein. The payroll records shall be submitted monthly to IRWD and directly to the Labor Commissioner.

D. Apprentices. If the Public Works portion of this Agreement is \$30,000 or more, Consultant and any of its subcontractors shall comply with the requirements of Sections 1777.5 and 1777.6 of the Labor Code in the employment of apprentices. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Department of Industrial Relations. Willful violations of Section 1777.5 will result in forfeiture of one hundred dollars (\$100) for each calendar day of noncompliance, or up to three hundred dollars (\$300) for each calendar day of noncompliance for second and subsequent violations within a three-year period that result in apprenticeship training not being provided as required by the Labor Code, and may also result in debarment sanctions in the case of violations, as determined by the Labor Commissioner pursuant to Section 1777.7. Section 1777.7 also imposes requirements that, if not observed by Consultant, will result in Consultant's liability for subcontractor violations of Section 1777.5.

E. Subcontracting. Consultant is prohibited from performing any of the work with a subcontractor who is ineligible to perform such Work pursuant to Section 1777.1 or 1777.7 of the Labor Code. Consultant agrees that in accordance with Public Contract Code Section 6109, a subcontract with an ineligible subcontractor is void as a matter of law, amounts paid to the subcontractor shall be returned to IRWD, and Consultant is responsible for paying wages of the subcontractor's employees if the subcontractor is allowed to perform any part of the work.

F. Certificate Regarding Workers' Compensation. Pursuant to Labor Code Section 1861, Consultant must certify as follows: "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract.

13.3 Excavation Plans for Worker Protection. To the extent that the Public Works portion of the Scope of Work exceeds \$30,000 and involves excavation of any trench five feet or more in depth Consultant shall submit to IRWD for acceptance, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches five (5) feet or more in depth. The plan shall be prepared by a registered civil or structural engineer who is licensed by the State of California. As a part of the plan, a note shall be included stating that the registered civil or structural engineer certifies that the plan complies with the CAL OSHA Construction Safety Orders, or stating that the registered civil or structural engineer certifies that the plan is not less effective than the shoring, bracing, sloping, or other provisions of the safety orders.

13.4 Miscellaneous.

A. Audit. If this Agreement exceeds \$10,000, then pursuant to Government Code Section 8546.7, this Agreement, and Consultant and IRWD as the contracting parties, are subject to the examination and audit of the California State Auditor, at the request of IRWD or as part of any audit of IRWD, for a period of three years after the final payment under the Agreement.

B. License. Consultant shall require that its subcontractors for geotechnical, surveying, inspection or similar work performed as part of Consultant’s Scope of Work possess a State of California license for the contracting class(es) applicable to that work.

14. Integration; Amendment. This Agreement represents the entire understanding between IRWD and Consultant with respect to the Services. No prior oral or written understanding has any force or effect with respect to those matters. Except as stated in Section 3.4 of Exhibit D, this Agreement may not be modified or altered except in writing signed by both Parties.

15. Counterparts. This Agreement may be executed in any number of counterpart copies, all of which shall constitute one and the same Agreement and each of which shall constitute an original. Electronic or digital signatures will be accepted as well as wet-signed originals. A signed copy of this Agreement delivered by electronic transmission will have the same legal effect as delivery of a wet-signed original of this Agreement.

CONSULTANT (ADD NAME):

By: _____
Print Name
Title
Date:

IRVINE RANCH WATER DISTRICT:

By: _____
Print Name
Title
Date:



Exhibit A Scope of Work



Exhibit B Compensation Schedule



Exhibit C Variance Forms

Exhibit D
Data Protection and Security Addendum

1. Confidentiality and Protected Information

1.1 Confidentiality. Consultant shall hold in confidence all information and materials disclosed, collected or created by or on behalf of IRWD which includes Protected Information as defined below, and use that information only for purposes expressly set forth in this Agreement. Protected Information may only be disclosed to persons who have a need to know that information, and who are bound by obligations to (a) protect the confidentiality of that information and (b) not to use that information other than for the purposes expressly set forth in this Agreement. Consultant shall require and instruct all persons to whom that information is disclosed to abide by confidentiality terms no less stringent than those set forth in this Data Protection and Security Addendum.

1.2 Definition of Protected Information: All of the following is “**Protected Information**”:

- A. Logins,
- B. Passwords, and
- C. Personal identification including, but not limited to:
 - 1) End-user data (i.e., date of birth, home address, mother’s maiden name, personal/cell phone, email address, etc.);
 - 2) Credit or debit card information;
 - 3) Bank and other financial account information;
 - 4) Other payment information;
 - 5) Social Security numbers;
 - 6) Driver’s license or government-issued identification card numbers;
 - 7) Biometric data; and
 - 8) Security questions and/or answers, and any other data protected by the laws of California and federal law of the United States whether belonging to IRWD or end-users of the Services (“**Users**”), or used in connection with the Services.
- D. Confidential information including other sensitive financial, employee health and technical operational data.

1.3 Consultant’s Duty Regarding Protected Information: Consultant will safeguard Protected Information to ensure that there is no unauthorized access to Protected Information. IRWD will not be liable for loss of any Protected Information described above from Consultant’s possession.

2. Protection of Data

2.1 Legal Compliance. Consultant shall comply with applicable data privacy laws and regulations, including, but not limited to, the California Consumer Privacy Act, and all other statutes and regulations of United States and territories regarding protection of Protected Information, and applicable international laws during the term of this Agreement.

2.2 Safeguard of Data. Consultant represents and warrants that reasonably appropriate technical, physical and administrative safeguards are in place to secure Protected Information against any “**Data Incident.**” Data Incident is defined as any privacy breach or security breach, whether intentional, accidental, negligent, unauthorized or unlawful, and/or the loss, destruction, acquisition, alteration, disclosure, access, use, reproduction, distribution or breach of the security of Protected Information. Data Incident includes, but is not limited to an incident involving Consultant, Consultant’s subcontractors and Consultant’s customers.

2.3 Information Security Program. Consultant will implement, maintain and periodically update as necessary a written information security program, and will process, handle, store in place, and otherwise interact with IRWD data in accordance with that program. Consultant’s written information security program must contain reasonable administrative, technical, and physical safeguards to ensure the ongoing integrity, confidentiality, and availability of IRWD data, as appropriate to the nature and scope of Consultant’s activities and Services, and as reasonably requested by IRWD. IRWD, upon reasonable notice, may audit the program to confirm compliance with this Agreement. Without limiting the foregoing, such written information security program will include:

- A. A written privacy and information security policy;
- B. Organizational, technical and administrative safeguards, including without limitation ensuring the ongoing resilience of systems and services interacting with IRWD data;
- C. Secure development and change management program. Consultant must ensure that any software it develops or maintains for IRWD follows a defined Software Development Lifecycle (SDLC) process and is free of any known “critical” or “high” priority security vulnerabilities as defined by industry standard tools;
- D. Risk management and change management program;

- E. Regular human resources privacy and information security training. Personnel must be properly trained for the type of data systems and information assets Consultant interacts with including appropriate technical training (e.g. PCI, HIPAA, etc.);
- F. Maintenance of a security awareness program to address the evolving non-technical security threats introduced by human behavior. At a minimum, this program must include:
 - 1) Identifying a role responsible for awareness training activities;
 - 2) Training for each employee based on their role;
 - 3) Providing current and relevant training content for key threats such as phishing, use of privileged access and social engineering; and
 - 4) Conducting annual security awareness training;
- G. Physical and environmental security;
- H. Access control, penetration testing conducted at least annually, and vulnerability scans conducted at a minimum quarterly;
- I. Information security incident management and response;
- J. Business continuity management and disaster recovery; and
- K. Data protection policies, procedures, and impact assessments that comply with applicable privacy rules.

2.4 Physical Security, Access Control, and U.S. Servers. All Protected Information must be stored in a physically and logically secured environment that protects it from unauthorized access, acquisition, modification, theft, misuse, exfiltration, exposure and destruction. In addition to the general standards set forth above, Consultant shall ensure that the level of physical security controls over any facility in which Protected Information is kept or accessed are reasonably established and maintained to prevent breach of the secure environment, which controls may include, but are not limited to, (as appropriate) alarm systems, fire suppression, access controls (including off-hour controls) which may include visitor access procedures, security guard force, video surveillance, and staff egress searches. Further, Consultant shall establish and maintain sufficient data security controls to reasonably prevent breach of the secure environment including, but not limited to, logical access controls, data password protection controls, accountability tracking, anti-virus software, restricted data download capabilities, secured printers, and a provision for system backup. All Protected Information must be stored on servers located in the United States.

2.5 Termination for Cause. IRWD may terminate this Agreement if Consultant breaches its obligations to protect and maintain the confidentiality of Protected Information in accordance with this Agreement, and that breach results in a Data Incident. In that event, Consultant shall promptly retrieve and/or deliver all Protected Information to IRWD in a format reasonably requested by IRWD.

3. Data Security Incident Response

3.1 Notification of Incident; Vendor's Responsibility for Reimbursement to IRWD for Costs and Expenses. Consultant shall promptly notify IRWD via email at IRWDCyberAlert@irwd.com or via phone at (949) 453-5300 and in any event no later than 72 hours upon learning of any data incident impacting IRWD data. Consultant shall report to IRWD the following information: content of the data breached, the cause of the Data Incident, the measures being taken by Consultant, Consultant's affiliate and/or Consultant subcontractor to investigate the Data Incident and prevent future Data Incidents. Consultant shall cooperate with all reasonable requests of IRWD to mitigate any Data Incident and shall provide any statutorily-required notice of the Data Incident and offer statutorily-required identity monitoring service. Consultant shall reimburse IRWD for all related costs and expenses. This obligation shall be in addition to, and shall not be construed to otherwise limit, any other obligations set forth in this Agreement.

3.2 Costs Related to Incident Response. If a Data Incident involving Protected Information occurs that in any way pertains to the Services in this Agreement and is caused by or results from Consultant's platform/actions, and IRWD incurs any costs, fees or expenses as a result thereof, then Consultant shall, subject to the limitation of liability contained in the Agreement, reimburse IRWD for any reasonable documented costs, fees and/or expenses incurred by IRWD related to retaining third-party professionals to evaluate the nature and cause of the Data Incident, investigate and/or mitigate the Data Incident, as well as provide any statutorily required notice to individuals affected by the Data Incident, and Consultant shall offer identity theft protection and credit monitoring service to affected individuals, regardless of whether such services are required to be provided by law. Consultant's obligation to reimburse IRWD will be in addition to Consultant's obligations addressed in other sections of this Exhibit D. All costs, fees, and expenses described in this paragraph will be called "**Incident Response Damages.**"

3.3 Forensic Investigator. If a Data Incident involving IRWD Protected Information occur during the term of this Agreement, then Consultant will promptly engage an independent forensic investigator to provide assistance in the forensic investigation. Consultant will keep IRWD fully informed of information uncovered in the forensic investigation, and will provide IRWD with confidential reports involving IRWD Protected Information resulting from such forensic investigation.

- 3.4 Amendment for Compliance. IRWD may update and amend this Exhibit D from time to time by notice to Consultant if necessary to comply with applicable law, and Consultant will reasonably conform its obligations to comply with those updates without the need for a formal amendment to this Agreement or Exhibit D.
 - 3.5 Survival. Consultant's obligations regarding Protected Information and Data Incidents will survive the expiration or termination of this Agreement for 4 years.
 - 3.6 Evidence of Certifications. Consultant shall annually provide evidence of relevant certifications related to the service or product provided to IRWD. This includes but is not limited to the American Institute of Certified Public Accountant's System and Organization Controls (SOC) SOC 1, SOC 2 and Payment Card Industry (PCI) Level 1 Attestation of Compliance certifications. If Consultant does not provide such evidence on an annual basis, then IRWD may, consider Consultant to be in default under the terms of this Agreement for failure to provide such evidence within 14 days of IRWD's request for the evidence.
4. Insurance and Indemnity
- 4.1 Cyber Liability Insurance. Consultant represents and warrants that as of the Effective Date of the Agreement and at all times during the term of the Agreement, it has secured and shall continue to maintain a policy of insurance that provides first and third party coverage for Data Incidents, as defined above, including costs and expenses for retaining third-party vendors to investigate and evaluate and/or mitigate the incident and provide notification or other needed services related to the foregoing in an amount not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations undertaken by Consultant in this Exhibit D and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, ransomware, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines, and penalties, as well as credit monitoring expenses. If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, IRWD requires and shall be entitled to the broader coverage and/or higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified limits of insurance and coverage shall be available to IRWD.
 - 4.2 All other insurance requirements of the Agreement, including the duty to maintain any claims-made coverage for an additional three years following termination of the Agreement, applies to the cyber liability requirements of this Section.