

# Request For Proposal

## CEQA Analysis for Wildwood Canyon State Park Fuels Treatment Project

February 1, 2024



**Deadline for Proposal Submission:**

**February 23, 2024**

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## I. Summary

The Inland Empire Resource Conservation District (IERCD), in partnership with California State Parks and CAL FIRE San Bernardino Unit, requests proposals from professional consultant firms to perform California Environmental Quality Act (CEQA) analysis and prepare associated documentation for a multi-benefit fuels treatment project at Wildwood Canyon State Park in the City of Yucaipa. Tasks must be completed by December 31, 2024.

## II. Contact and Timeline

### **Project Contact**

Melanie Garcia, [mgarcia@iercd.org](mailto:mgarcia@iercd.org), (760) 565-2905

### **RFP Timeline**

<b>Activity</b>	<b>Date</b>
Release of RFP	February 1, 2024
Registration Deadline	February 8, 2024
Pre-Bid Tour (Optional)	February 12, 2024 (Week of)
Proposal Submission Deadline	February 23, 2024
Notice of Contract Award (Tentative)	March 4, 2024
Contract Executed (Tentative)	March 14, 2024
Project Start Date (Tentative)	March 14, 2024

## III. Project Background

Wildwood Canyon State Park (Park) is owned and operated by California State Parks. The Park is located off Wildwood Canyon Drive within the City of Yucaipa. The Park is approximately 840 acres in size. It is bordered by homes to the south, private undeveloped property to the west, and a combination of private undeveloped and U.S. Forest Service property to the north and east.

The Park is proposed for a variety of multi-benefit fuels treatments. The goal of the proposed treatments is to influence the quantity, arrangement, and distribution of vegetation found within the Park to moderate fire behavior and reduce fire intensity in the event of a wildfire, which will help protect the natural, cultural, and recreational resources the Park provides to the local community and the State Parks system overall. Review the full description of proposed treatments, Park resources, and other project considerations, included as **Attachment 1** of this Request for Proposal (RFP). The development of treatments is not included as part of the scope of services in this RFP.

This is a collaborative effort between State Parks, CAL FIRE, City of Yucaipa, and IERCD. IERCD administers Regional Forest and Fire Capacity (RFFC) block grant funding and has allocated a portion of the funding to perform CEQA analysis for this project. CAL FIRE will be the designated lead agency for CEQA purposes.

## IV. Scope of Services

The scope of work below describes the services to be completed by the selected consulting firm (Consultant). IERCD reserves the right to modify the scope of services at their discretion, including curtailment of some activities, to meet budget constraints and project deadline.

### **Task 1: Project Management**

Consultant will execute project management activities, including:

- Facilitation of one project kick-off meeting with IERCD and partners.
- Facilitation of project check-in meetings with IERCD and partners as needed, but at least bi-monthly.
- Incorporate review periods for all deliverables. These review periods should allow for IERCD and partners to provide comments on all products and the contractor to make subsequent updates.
- Electronic delivery of all project data and deliverables to IERCD.

### **Task 2: CEQA Process**

Consultant will execute all required steps in the CEQA process, including:

- CEQA Documentation
  - Determine CEQA document required, dependent upon results of field studies and research, i.e. Notice of Exemption (NOE), Negative Declaration (ND), Mitigated Negative Declaration (MND), or California Vegetation Treatment Program (CalVTP).
  - Develop a CEQA document that includes a full assessment of natural resources including silviculture, archaeology, biology, soils, air quality, hydrology, and aesthetics for the California State Clearinghouse notice.
  - Work with lead agency after completion of CEQA analysis and documentation to ensure that final deliverables meet the lead agency's standards and expectations.
- Field Surveys
  - Conduct pre-survey database searches for regulated species known to occur within and near the project area.
  - Conduct archaeological/historical site identifications and subsequent required protection measures.
  - Conduct site surveys for habitat and presence of regulated wildlife and botanical species that may occur in the project areas. Consultant will not be tasked to perform botanical surveys as IERCD has prepared a general inventory and identification of sensitive biological resources for the project area. IERCD will provide this data and potential avoidance and mitigation measures to consultant.
  - Determine classification and descriptions (CA Forest Practices Act, current forest practice rules) of all wetlands and stream courses in the project area.

- Conduct all other surveys, database searches, and data collection required for CEQA analysis.
- Initial Study (if NOE is not used)
  - Required consultations with responsible and trustee agencies
  - Notice of Intent
  - Public and agency review and comment
  - If no significant impacts, prepare a Negative Declaration. If mitigation is required to reduce an impact, prepare a Mitigated Negative Declaration.
  - If impacts may be significant, prepare an Environmental Impact Report.
  - All required surveys and reports (biological, botanical, wetland/stream, archaeological)

Proposed treatments are already prepared. Development of treatments is not part of this scope of services, but the proposed treatments may be altered to reduce or avoid potential impacts identified during the CEQA analysis.

## V. Proposal Guidelines and Requirements

### **Registration and Clarifications**

All interested firms must register with IERCD via email to Melanie Garcia at [mgarcia@iercd.org](mailto:mgarcia@iercd.org) by **5:00 p.m. on February 8, 2024**.

Direct all questions regarding this RFP to the contact listed above by **5:00 p.m. on February 8, 2024**. Clarifications will be emailed to all registered firms and published electronically on <https://www.iercd.org/> under the Publications and Disclosures tab by **5:00 p.m. on February 13, 2024**. Interested firms must be registered with IERCD in order to receive RFP clarifications.

### **Pre-Bid Tour**

An optional pre-bid tour will be held at the project site during the **week of February 12, 2024**. Interested firms must be registered with IERCD in order to receive details about the pre-bid tour.

### **Proposal Requirements**

Proposals must include the following information:

- Cover Sheet
  - Title of proposal
  - Name and address of firm
  - Contact name, email address, and phone number
- Project Approach
  - Provide a clear statement of project understanding.
  - Describe the proposed team's approach to work, including communication process, project management, and quality control.

- Provide a detailed description of project approach, including description of all tasks needed for successful project completion. This shall follow the general outline provided in the Scope of Services sections above. Recommended optional tasks may be listed for consideration.
- Provide members of the proposed project team and define their role in the project.
- **Qualifications and Experience**
  - Provide resumes for all key project personnel. Indicate number of years each person has been employed by the firm. Resumes should highlight relevant qualifications for this project.
  - Provide concise descriptions of at least three (3) comparable projects in progress or completed within the last five (5) years for which members of the proposed team provided similar services. These descriptions should demonstrate the team's experience relevant to the project described in this RFP. List members of the proposed team who worked on the project(s) and their role. Include contact information for client references.
- **Proposed Budget and Fees**
  - Provide a proposed budget for the Scope of Services described in this RFP. The proposed budget must include hourly rates and hours to complete the project, including sub-consultants, and any other costs for project completion. The level of effort and associated costs are to be easily understood by IERCD. The proposal must include a complete and fixed price. If the Scope of Services requires modification during the course of work, IERCD will determine whether to amend the current agreement or to issue a subsequent RFP for additional services.
  - IERCD accepts no responsibility for costs incurred by any individual or firm submitting a proposal pursuant to this RFP.
- **Proposed Project Timeline**
  - Submit a basic project schedule incorporating milestones with completion of each task required, subdivided as necessary. The start date of the schedule should be **March 14, 2024**. The actual start date will be established after the contract is awarded, and may be earlier or later than the proposal schedule. The project shall be complete by **December 31, 2024**. The proposed project schedule should fit within these start and completion dates.

**Proposal Submission**

Submit the proposal as a single electronic PDF file by **5:00 p.m. on February 23, 2024** via email to Melanie Garcia at [mgarcia@iercd.org](mailto:mgarcia@iercd.org). Any proposals received after the due date and time will not be considered. There is no proposal page limit, however, please keep it to a minimum and include only the necessary information. No paper submittals will be accepted, and IERCD's office

is not open for deliveries. The offer in each proposal shall remain open for ninety (90) days after the submission deadline. There will be no public opening of proposals.

### **Proposal Acceptance**

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

IERCD reserves the right to withdraw this RFP at any time without prior notice, and IERCD makes no representations that any contract will be awarded to any proposer responding to this RFP.

IERCD reserves the right to postpone proposal review for its own convenience.

IERCD reserves the right to require confirmation of information furnished by proposer, or to ask the proposer for additional evidence of qualifications to perform the work, or to obtain information from any source that has the potential to improve the understanding and evaluation of the proposals.

Issuance of this RFP and receipt of proposals does not commit IERCD to award a contract. IERCD expressly reserves the right to postpone the RFP process for its own convenience, to accept or reject any or all proposals received in response to this RFP, to negotiate with more than one proposer concurrently, or to cancel all or any part of this RFP.

IERCD reserves the right to negotiate any price or provision, task order or service, accept any part or all of any proposals, waive any irregularities, and to reject any and all, or parts of any and all proposals, whenever, in the sole opinion of IERCD, such action shall serve its best interests and those of the tax-paying public. The proposers are encouraged to submit their best prices in their proposals, and IERCD intends to negotiate only with the proposer(s) whose proposal most closely meets IERCD's requirements at the lowest estimated cost. The contract award, if any is awarded, will go to the Proposer whose proposal best meets IERCD's requirements.

Proposals received by IERCD become public information and will be made available to the public upon request after award.

Proposals submitted are not to be copyrighted.

In submitting a proposal in response to this RFP, the proposer is certifying that it takes no exceptions to this RFP including, but not limited to, IERCD's Professional Services Agreement ("Agreement"), which is included here as **Attachment 2** and made a part hereof by this reference. If any exceptions are taken, such exceptions must be clearly noted in the proposal and may be reason for rejection of the proposal. As such, the proposer is directed to carefully review the attached Agreement and, in particular, the insurance and indemnification provisions therein.

## VI. Proposal Evaluation and Selection

### **Evaluation and Selection**

Selection will be based on demonstrated competence and qualifications for the services to be performed at fair and reasonable prices. Proposed deviations from the RFP requirements will be noted and taken into consideration. The information provided in response to the RFP requirements will be the basis for evaluation. Failure to provide this information or the inclusion of any conditions, limitations, or misrepresentations may adversely affect the evaluation of your proposal.

IERCD reserves the right not to award any contract or to award multiple contracts.

Proposals will be evaluated using the following criteria:

- Demonstrated experience of the consultant team in relation to the services required.
- Demonstrated experience, technical competence and availability of key personnel in relation to the services required.
- Recommendations of prior clients.
- Capability of the project team to provide the services desired in a timely manner.
- Value offered considering capabilities and experience of the project team.

### **Cancellation of RFP**

IERCD reserves the right to cancel this RFP at any time prior to contract award without obligation in any manner for proposal preparation, interview, fee negotiation or other marketing costs associated with this RFP.

### **Notification of Contract Award**

Proposals will be reviewed within 1-2 weeks, and IERCD may request interviews at their convenience. Every effort will be made to adhere to the stated schedule, but it may be modified as needed without prior notice.

All entities submitting responses to this RFP will tentatively be notified of final decision award of contract by **5:00 p.m. on March 4, 2024**.

## VII. Attachments

Attachment 1 – Wildwood Canyon State Park Treatment Unit Descriptions

Attachment 2 – Professional Services Agreement



## **Attachment 1**

# **Wildwood Canyon State Park Treatment Unit Descriptions**

**WILDWOOD CANYON STATE PARK**  
**TREATMENT UNIT DESCRIPTIONS**  
**DECEMBER 2023**

Wildwood Canyon State Park (the Park) is being proposed for a variety of multi-benefit fuels treatments. The Park is located off Wildwood Canyon Road within the limits of the City of Yucaipa (the City). The Park is approximately 840 acres in size. It is bordered by homes to the south, private undeveloped property to the west, and a combination of private undeveloped and US Forest Service property to the north and east. There are several known historic structures within the Park. The Inland Empire Resource Conservation District (IERCD) is in the process of developing a Fire Management Plan for the Park. Their analysis has already identified several occurrences of rare plants.

The goal of the proposed treatments is to influence the quantity, arrangement, and distribution of vegetation found within the Park to moderate fire behavior and reduce fire intensity in the event of a wildfire, which will help protect the natural, cultural, and recreational resources the Park provides to the local community and the State Parks system overall. While some aspects of fire behavior can be predicted based on fuel, terrain, and local weather patterns, it is impossible to know exactly where a fire may occur in or around the Park and how fire may impact the Park’s resources. The proposed treatments utilize a variety of treatment methods in a variety of locations around the Park which will help reduce potential impacts to the Park’s resources when a wildfire impacts the Park, as well as improve conditions of natural and cultural resources in the Park independent of wildfire considerations. Additionally, utilization of prescribed fire will provide training opportunities for State Parks staff and project collaborators including CAL FIRE and IERCD. When implementing the prescribed fire components of the project, State Parks staff will have the first right of refusal for ignition responsibilities.

The treatments proposed for the Park tie into other fuels work proposed and already completed by the adjacent community and the City. The adjacent community recently became a National Fire Protection Association-recognized Firewise community (Wildwood Watchers) and a 501(c)3 fire safe council (Wildwood Watchers Fire Safe Council). As a Firewise community and fire safe council, Wildwood Watchers has implemented community chipping projects and is in the process of developing a Community Wildfire Protection Plan. The City, in conjunction with the IERCD, is in the process of acquiring a tow-behind chipper and implementing the Oak Glen Corridor fuel reduction project which will include portions of Wildwood Canyon Road near the Park.

The table below, in conjunction with the attached maps, identifies the various treatment units, the treatment types for each unit, and the area of each treatment unit. Below the table is a more detailed description of each treatment type.

<b><u>Unit Name</u></b>	<b><u>Treatment Type</u></b>	<b><u>Acres</u></b>
MAN1	Manual treatment with track chipper and/or pile burning & prescribed fire follow-up	3
MAN2	Manual treatment with track chipper and/or pile burning & prescribed fire follow-up	3.9
MAN3	Manual treatment with track chipper and/or pile burning & prescribed fire follow-up	5.4
MAN4	Manual treatment with track chipper and/or pile burning & prescribed fire follow-up	9.1
MAN5	Manual treatment with track chipper and/or pile burning & prescribed fire follow-up	2.7
MAN6	Manual treatment with track chipper and/or pile burning & prescribed fire follow-up	5.6
MAN7	Manual treatment with track chipper and/or pile burning & prescribed fire follow-up	3.7
	<b>TOTAL</b>	<b>33.4</b>
MIP1	Manual infrastructure protection	7.8
MIP2	Manual infrastructure protection	1.6
	<b>TOTAL</b>	<b>9.4</b>
RSP1	Prescribed fire with manual or mechanical site preparation	18.1
	<b>TOTAL</b>	<b>18.1</b>

RXF1	Prescribed fire	5
<b>Unit Name</b>	<b>Treatment Type</b>	<b>Acres</b>
RXF2	Prescribed fire	1.3
RXF3	Prescribed fire	6.4
RXF4	Prescribed fire	31.5
RXF5	Prescribed fire	12
RXF6	Prescribed fire	1.5
RXF7	Prescribed fire	11.5
RXF8	Prescribed fire	4.1
RXF9	Prescribed fire	9
RXF10	Prescribed fire	4.6
RXF11	Prescribed fire	6.7
RXF12	Prescribed fire	2.1
RXF13	Prescribed fire	4.3
	<b>TOTAL</b>	<b>100</b>
	<b>TOTAL AREA TREATED</b>	<b>160.9</b>

#### Manual treatment with track chipper and/or pile burning & prescribed fire follow-up (MAN)

This treatment type is identified for the chaparral and/or oak woodland vegetation types found near the southern end of the park, adjacent to homes. The purpose of this treatment will be to manage understory fuels to reduce fire severity and provide the opportunity to utilize prescribed fire as an on-going management tool. This treatment will protect the adjacent community from a fire burning through the Park as well as protect the Park from a fire starting within the community.

- No thinning of oaks will occur.
- Branches will be pruned to a height of 6 feet above the ground or half of the tree's height for trees under 10 feet tall, utilizing International Society of Arboriculture (ISA) pruning standards. No scaffold branches will be cut.
- Dead material will be removed from trees to the extent possible (e.g., reachable from the ground with a pole saw).
- Dead, dying, and diseased plants and trees will be removed, retaining at least 1 mature snag per acre for wildlife habitat.
- Any oak tree infested by goldspotted oak borer will be removed and disposed of appropriately.
- Perennial vegetation or annual vegetation that could act as a ladder fuel within the dripline of any tree will be removed.
- Areas of brush with little to no tree cover will have 50% of vegetation removed. To better mimic natural vegetation patterns, vegetation will be removed to achieve large contiguous patches of vegetation separated by large contiguous patches of open/treated areas.
- All vegetation removal in these units will focus initially on non-native species and expand to native species to accomplish the treatment objectives previously identified.
- Vegetation removed during implementation of this treatment will either be chipped on-site utilizing a track chipper or piled and burned, depending on site-specific conditions.
- Once initial treatments have been implemented to reduce fuel-loading, and at the discretion of State Parks personnel, prescribed fire may be implemented to maintain reduced fuel loading.

- Implementation of prescribed fire may require construction of handline to establish control lines.
- Handline construction will consist of removal of vegetation approximately 4' wide to bare mineral soil.

#### Manual infrastructure protection (MIP)

This treatment type is identified around existing structures in the Park, adjacent to which are heavier fuel loads and denser vegetation. Implementation of this treatment will bring the structures into compliance with the defensible space/hazard reduction standards identified in Public Resources Code 4291, Yucaipa Municipal Code 87.1160, and Yucaipa Municipal Code Chapter 8.20.

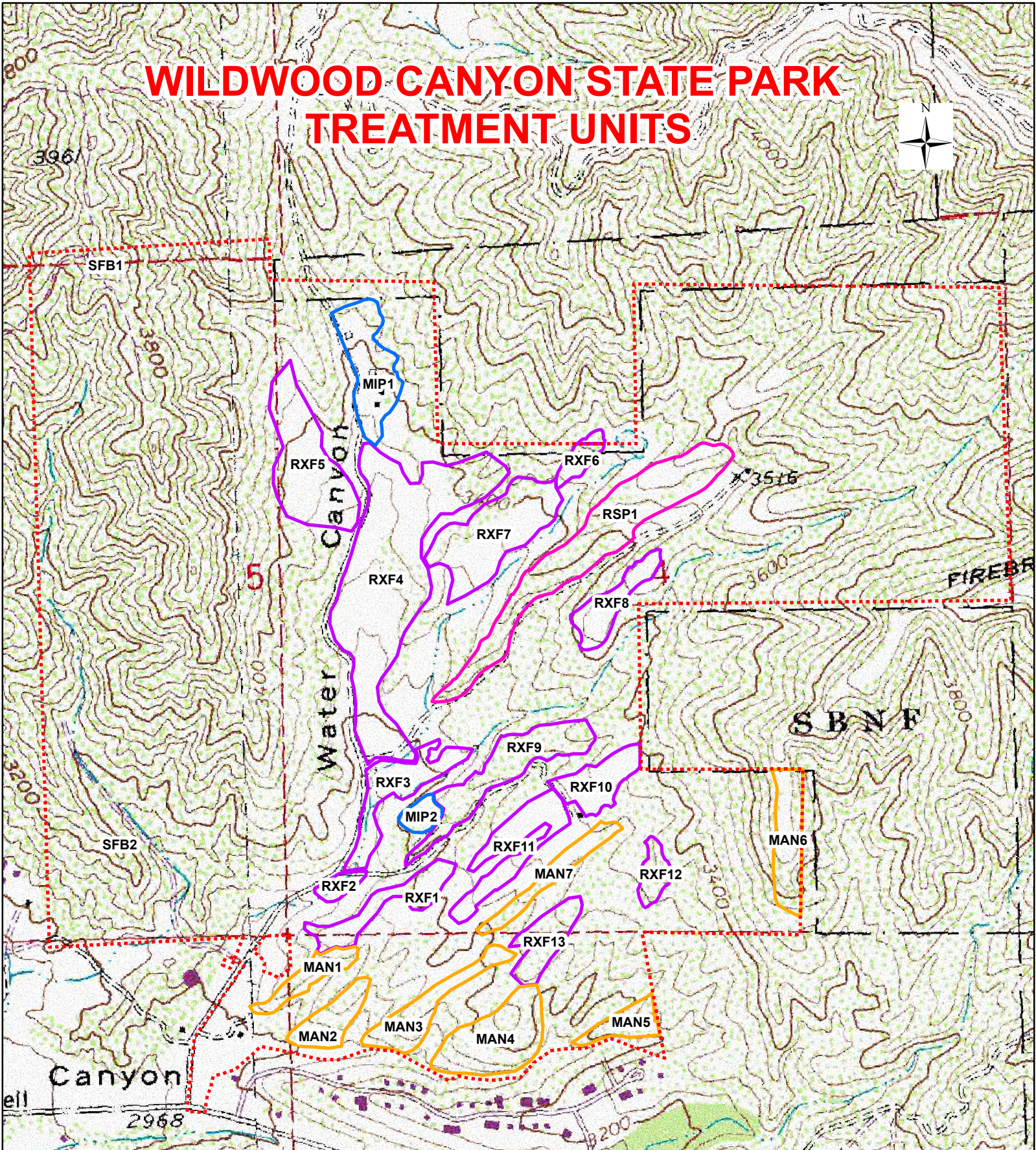
#### Prescribed fire with manual or mechanical site preparation (RSP)

Fuel loads in this treatment unit are greater than in the other prescribed fire treatment units and will require some amount of site preparation/fuel reduction prior to prescribed fire treatments. Site preparation may consist of mastication or manual treatments utilizing a track chipper or pile burning. The treatment unit perimeter takes advantage of existing roads and/or trails. Prior to implementation of prescribed fire treatments, mowing and/or masticating will occur along the roads and trails that serve as the unit boundaries on the side of the road within the perimeter, to strengthen control lines.






#### Prescribed fire (RXF)

The treatment unit perimeters take advantage of existing roads and/or trails. Prior to implementation of prescribed fire treatments, mowing and/or masticating will occur along the roads and trails that serve as the unit boundaries on the side of the road within the perimeter, to strengthen control lines. Where treatment unit perimeters do not occur on existing roads or trails, control lines will be established through a combination of handline construction, mowing, or mastication. Handline construction will consist of removal of vegetation approximately 4' – 6' wide to bare mineral soil.

# WILDWOOD CANYON STATE PARK TREATMENT UNITS



## Wildwood Canyon State Park

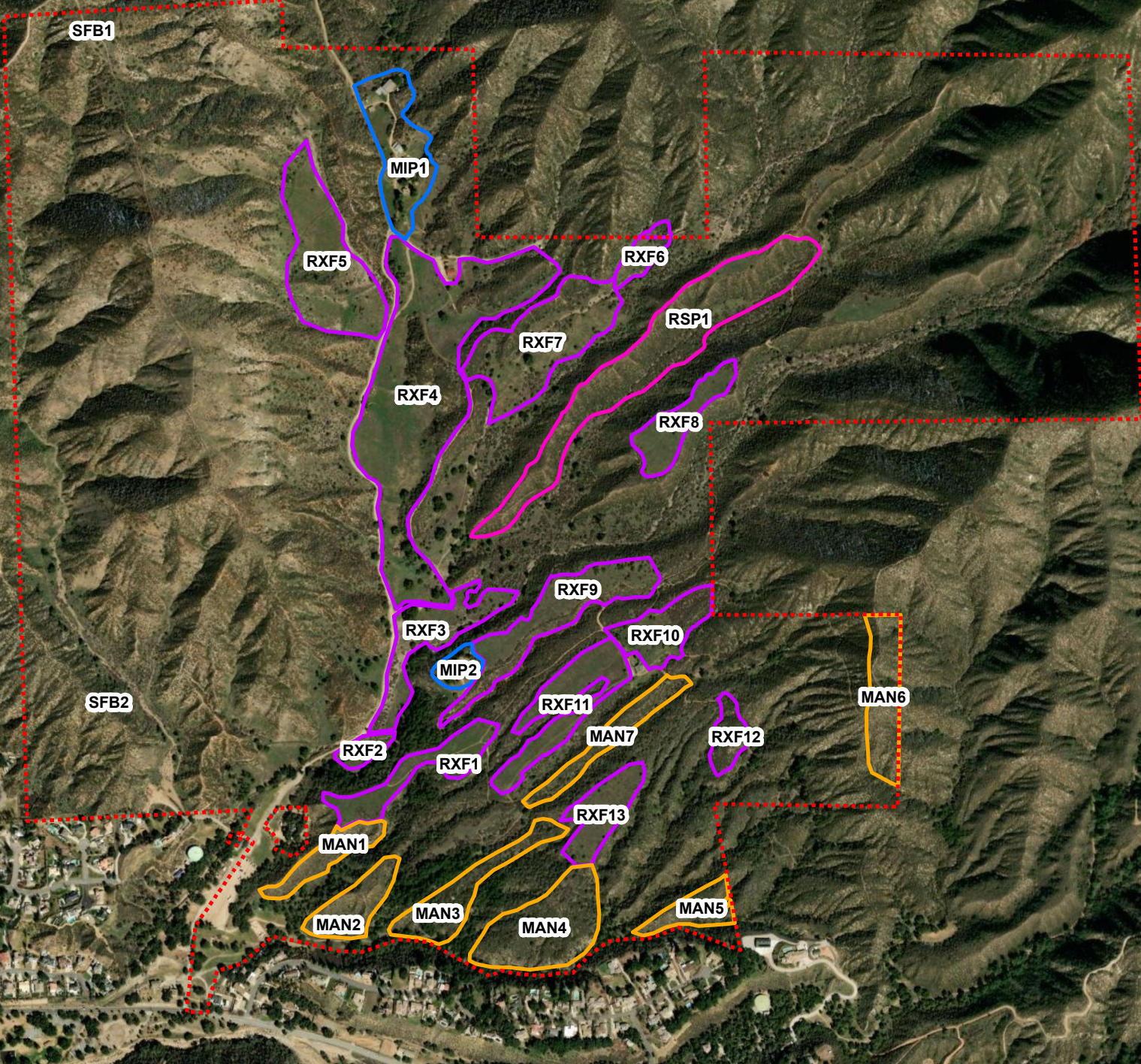
-  Wildwood Canyon SP
-  Prescribed fire
-  Prescribed fire w/ manual or mechanical site preparation
-  Manual infrastructure protection
-  Manual w/ track chipper and/or pile burn & prescribed fire follow-up

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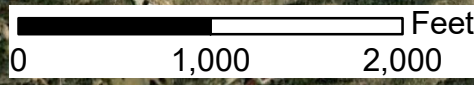


Map created by D. Haas on 10/12/2023

# WILDWOOD CANYON STATE PARK TREATMENT UNITS



1:12,000



**Wildwood Canyon State Park**

- Wildwood Canyon SP
- Prescribed fire
- Prescribed fire w/ manual or mechanical site preparation
- Manual infrastructure protection
- Manual w/ track chipper and/or pile burn & prescribed fire follow-up

Map created by D. Haas on 10/12/2023

## **Attachment 2**

# **Professional Services Agreement**

**PROFESSIONAL SERVICES AGREEMENT**  
**BETWEEN**  
**INLAND EMPIRE RESOURCE CONSERVATION DISTRICT**  
**AND**  
**XXX**

**1. PARTIES AND DATE.**

This Agreement is made and entered into this \_\_\_\_ day of \_\_ 2024, by and between the Inland Empire Resource Conservation District, a governmental special district ("IERCD") and **XXX**, a California corporation ("Consultant"). IERCD and Consultant are sometimes individually referred to as "Party" and collectively as "Parties."

**2. RECITALS.**

2.1 Consultant. Consultant desires to perform and assume responsibility for the provision of certain professional services required by IERCD on the terms and conditions set forth in this Agreement, the scope of which is outlined in Attachment A of this agreement. Consultant represents that it is a professional consultant, experienced in providing **(describe type of consulting service)** consulting, is licensed in the State of California, and is familiar with the plans of the **XXX** Project.

2.2 Project. IERCD desires to engage Consultant to render such **(Describe Services)** ("Project") as set forth in this Agreement.

**3. TERMS.**

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to IERCD all labor, materials, tools, equipment, services and incidental and customary work necessary to fully and adequately supply the consulting services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. Services shall include, but not be limited to, any duties and responsibilities assigned by the IERCD District Manager. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations. The terms of the Agreement prevail over any conflicting or contradictory term in any exhibit to the Agreement.

3.1.2 Term. The term of this Agreement shall be from the date first specified above to **XXX**, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines.



### 3.2 Responsibilities of Consultant.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. IERCD retains Consultant on an independent contractor basis and Consultant is not an employee of IERCD. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall not be employees of IERCD and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

3.2.2 Statement of Work. Consultant shall provide the Services expeditiously, within the term of this Agreement, and in accordance with the Statement of Work set forth in Exhibit "A" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical expertise and personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the schedule, IERCD shall respond to Consultant's submittals in a timely manner. Upon request of IERCD, Consultant shall provide a more detailed schedule of anticipated performance to meet the Statement of Work.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of IERCD.

3.2.4 IERCD's Representatives. IERCD hereby designates its District Manager, Mandy Parkes, or her designee, to act as its representative for the performance of this Agreement. All invoices for Consultant shall be submitted to the District Manager. The District Manager shall be responsible for directing Consultant's activities pursuant to this Agreement. The District Manager shall have the power to act on behalf of IERCD for all purposes under this Agreement. Consultant shall not accept direction or orders from any person other than the District Manager or her designee.

3.2.5 Substitution of Key Personnel. Consultant has represented to IERCD that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence and experience upon written approval of IERCD. In the event that IERCD and Consultant cannot agree as to the substitution of key personnel, IERCD shall be entitled to terminate this Agreement for cause, pursuant

to provisions of Section 3.5.1 of this Agreement. The key personnel for performance of this Agreement are as follows: XXX

3.2.6 Consultant's Representative. Consultant hereby designates XXX, or their designee, to act as its Representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his or her best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Consultant shall work closely and cooperate fully with IERCD's Representative and any other agencies which may have jurisdiction over, or an interest in, the Services. Consultant's Representative shall be available to the IERCD staff at all reasonable times.

3.2.7 Coordination of Services. Consultant agrees to work closely with IERCD staff in the performance of Services and shall be available to IERCD's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform the Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from IERCD, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein and shall be fully responsible to IERCD for all damages and other liabilities arising from the Consultant's errors and omissions. Any employee of the Consultant or its sub-consultants who is determined by IERCD to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to IERCD, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA

requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to IERCD, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold IERCD, its officials, directors, officers, employees, consultants, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

### 3.2.10 Insurance.

3.2.1.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to IERCD that it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to IERCD that the subcontractor has secured all insurance required under this section.

3.2.1.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *If Consultant has employees, Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage; and (3) If Consultant has employees, Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease.

3.2.1.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$2,000,000 per claim, and shall be endorsed to include contractual liability.

3.2.1.4 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall be endorsed to state that: (1) IERCD, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects IERCD, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by IERCD, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(B) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) IERCD, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects IERCD, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by IERCD, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(C) Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against IERCD, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to IERCD; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to IERCD, its directors, officials, officers, employees, agents and volunteers.

3.2.1.5 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to IERCD, its directors, officials, officers, employees, agents and volunteers.

3.2.1.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by IERCD. If IERCD does not approve the deductibles or self-insured retentions as presented, Consultant shall guarantee that, at the option of IERCD, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects IERCD, its directors, officials, officers, employees, agents and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.2.1.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to IERCD.

3.2.1.8 Verification of Coverage. Consultant shall furnish IERCD with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to IERCD. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by IERCD before work commences. IERCD reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.11 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

### 3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "A" attached hereto and incorporated herein by reference. The Total

Compensation shall not exceed **\$0.00 (Write out total)** without written approval of IERCD's District Manager. Extra Work may be authorized, as described below, and, if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Consultant shall submit to IERCD itemized statements, on a mutually agreed upon schedule, which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. Said compensation shall be paid in accordance with an invoice submitted to IERCD by Consultant within fifteen (15) days from the last day of each calendar month, and IERCD shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by IERCD.

3.3.4 Extra Work. At any time during the term of this Agreement, IERCD may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by IERCD to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from IERCD's Representative.

3.3.5 Prevailing Wages. By execution of this Agreement, Consultant certified that it is aware of the requirements of California Labor Code Sections 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold IERCD, its directors, officials, officers, consultants, employees, volunteers and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.3.6 Employment of Apprentices. This Agreement shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the work performed hereunder solely on the

ground of race, creed, national origin, ancestry, color or sex. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed and shall be employed only in the craft or trade to which he or she is registered.

If California Labor Code Section 1777.5 applies to the Services, Consultant and any subcontractor hereunder who employs workers in any apprenticeable craft or trade shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Consultant or any sub-consultant for the employment and training of apprentices. Upon issuance of this certificate, Consultant and any sub-consultant shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

The parties expressly understand that the responsibility for compliance with provisions of this Section and with Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Consultant.

3.3.7 No Waiver. Failure of IERCD to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

3.3.8 Eight-Hour Law. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Consultant or the Services are not subject to the Eight-Hour Law. Consultant shall forfeit to IERCD as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him or her, or by any sub-consultant under him or her, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Consultant or the Services are not subject to the Eight-Hour Law.

#### 3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred and fees charged under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of IERCD during normal business hours to examine, audit, and make

transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. IERCD may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been fully and adequately rendered to IERCD through the effective date of the termination, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, IERCD may require Consultant to provide all finished or unfinished Documents and Data, and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, IERCD may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**Consultant:** Consultant  
Address  
Attn:

**IERCD:** Inland Empire Resource Conservation District  
25864-K Business Center Drive  
Redlands, CA 92374  
Attn: Mandy Parkes

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.



### 3.5.3 Ownership of Materials/Confidentiality.

3.5.3.1 Documents & Data. This Agreement creates an exclusive and perpetual license for IERCD to copy, use, modify, reuse, or sub-license any and all copyrights and designs embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data").

Consultant shall require all subcontractors to agree in writing that IERCD is granted an exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement.

Consultant represents and warrants that Consultant has the legal right to grant the exclusive and perpetual license for all such Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by IERCD.

IERCD shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at IERCD's sole risk.

3.5.4 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of IERCD, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use IERCD's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of IERCD.

3.5.5 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.6 Attorney's Fees. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and costs of such actions.

3.5.7 Indemnification. Consultant shall defend, indemnify and hold IERCD, its directors, officials, officers, agents, consultants, employees, and volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or in equity, to property or persons, including wrongful death, in any manner arising out of or incident to alleged negligent acts, omissions or willful misconduct of the Consultant, its officials, officers, employees, agents, consultants and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential damages, attorneys' fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against IERCD, its directors, officials, officers, agents, consultants, employees, and volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against IERCD or its directors, officials, officers, agents, consultants, employees, and volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse IERCD and its directors, officials, officers, employees, agents, consultants, and volunteers, for any and all legal expenses and costs, including reasonable attorney's fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by IERCD, its directors, officials, officers, agents, consultants, employees, and volunteers. Notwithstanding the foregoing, to the extent Consultant's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant. This Section 3.5.7 shall survive any expiration or termination of this Agreement.

3.5.8 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

3.5.9 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in San Bernardino County.

3.5.10 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.11 IERCD's Right to Employ Other Consultants. IERCD reserves the right to employ other consultants in connection with this Project.

3.5.12 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of IERCD. Any attempt to do so shall be null and void,

and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.13 Successor and Assigns. This Agreement shall be binding on the successors and assigns of the Parties, and shall not be assigned by Consultant without the prior written consent of IERCD.

3.5.14 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all directors, officials, officers, agents, consultants, employees, and volunteers of Consultant, except as otherwise specified in this Agreement. All references to IERCD include its directors, officials, officers, agents, consultants, employees, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.15 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.16 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.5.17 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.18 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.19 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, IERCD shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of IERCD, during the term of his or her service with IERCD, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.20 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of any IERCD programs or guidelines concerning equal opportunity employment currently in effect or hereinafter enacted.

3.5.21 Labor Certification. By its signature hereunder, Consultant certifies that it is 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 agrees to comply with such provisions before commencing the performance of the Services.

3.5.22 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.23 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.24 Subpoenas or Court Orders. Should Consultant receive a subpoena or court order related to this Agreement, the Services or the Project, Consultant shall immediately provide written notice of the subpoena or court order to IERCD. Consultant shall not respond to any such subpoena or court order until notice to IERCD is provided as required herein, and shall cooperate with IERCD in responding to the subpoena or court order.

3.5.25 Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

3.5.26 Survival. All rights and obligations hereunder that by their nature are to be performed after any expiration or termination of this Agreement shall survive any such expiration or termination.

### 3.6 Subcontracting.

3.6.1 Prior Approval Required. Consultant shall not subcontract any portion of the work or Services required by this Agreement, except as expressly stated herein, without prior written approval of IERCD. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

**[Signatures on following page]**

SIGNATURE PAGE  
TO  
PROFESSIONAL SERVICES AGREEMENT

IERCD

Consultant

By \_\_\_\_\_

By \_\_\_\_\_

Rick Gomez  
Board President

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

Title: \_\_\_\_\_

*Approved as to form:*

\_\_\_\_\_  
*IERCD General Counsel*  
Best Best & Krieger LLP

EXHIBIT "A"

SCOPE OF SERVICES