

Morongo Band of Mission Indians Request for Proposal (RFP)

MORONGO
BAND OF
MISSION
INDIANS



A SOVEREIGN NATION

Title: Morongo Flood Damaged Roads

I. Introduction and Purpose

The Morongo Band of Mission Indians (“MBMI”) is soliciting proposals from qualified, licensed and responsive companies for professional engineering and construction services related to the removal and replacement of an asphalt road, 150 linear feet long by 24 feet wide, 4” thick, with new compacted aggregate (gravel) base, and to repair damaged side embankments. The asphalt road is utilized by utility vehicles and heavy equipment and was severely damaged during a rain storm in February, 2019.

In addition, successful bidder shall repair three (3) damage drainage channels by infilling with approved back-fill and compaction. Top of backfill shall be level with the existing finish elevation grade of street. Approximate damage of each drainage channels are 20 feet wide by 50 feet long and 3 to 4 feet deep. All channels are located on the southern side of Verdugo Road. An existing pressurized water pipe was slightly exposed and shall be protected-in-place during construction.

Additional bidding shall also be priced to repair damage drainage channel along the northern and southern edge of Chino Road. Repair consist of infilling channels with approved backfill and compaction. Similar to Verdugo Road, finish grade of backfill shall be level with the existing finish elevation grade of street. Approximate repair is 25 feet by 50 feet long along each side of Chino Road.

II. Background and Project Description

The MBMI Reservation is in the Banning Pass area in Riverside County, California; between the San Gorgonio and San Jacinto Mountain ranges. In February 2019 an asphalt road on the MBMI Reservation primary used for utility vehicles and heavy equipment was severely damaged. MBMI intends to rebuild and mitigate the existing road with a replacement designed and built to avoid repeated failure. The Reservation consists of approximately 35,000 acres, however the planned removal and replacement of the asphalt road is in Section 10 to the north of Interstate-10 (rendering included in the attachments).

MBMI requires that all components of the responsive bids to this RFP be included in submitted bids, but if a bidder envisions an alternate approach it may be considered. The services shall be completed and managed by a licensed general contractor.

III. Scope of Work - The successful bidder (“Contractor”) shall be responsible for providing the following, but not limited to:

1. Demolition Plan for removal of the damaged road way, spoils and excessive soil build-up.

2. Precise Grading Plan.
3. Embankment details (rip-raps) and designs sufficient to prevent future soil erosion or damage from backflow to be incorporated.
4. Construction Drawings and Specifications.
5. Project and Construction Management and Coordination.
6. Project Schedule.
7. Coordination with MBMI's Cultural Heritage and Environmental Departments.
8. Coordination with and obtaining permits from Morongo Environmental and Cultural Heritage Departments.
9. Providing Tribal Cultural Monitor during all phases of construction.
10. Staging of equipment and material storage plan.
11. Mitigation of haz-mat spoils from equipment.

The Contractor must provide detailed engineering drawing and calculations for designs of the road. Contract price must include, at a minimum, all items listed above. It is anticipated these requirements will entail coordination efforts by the bidder/vendor and should include such costs in their proposed contract price.

Estimated width, length and thickness of finished, replaced road is 150 linear feet long by 24 feet wide, 4" thick. The project will also include repair of damaged side embankments.

As required by all applicable federal, state or local law and regulation, all elements of the Project shall promote a safe working environment and compliance with all State and Federal OSHA requirements.

Contractor must provide remediation action to insure haz-mat material does not come into contact with soil while equipment is stored.

Other Considerations

Project must be designed to prevent injury to personnel and to prevent property damage to the roads, pedestrians, all business and customer/personal property. Extreme weather considerations must be considered.

Due to location of project site, successful bidder must coordinate mobilization and laydown area with MBMI's Environmental Department and to minimize disturbance to Morongo residents, staff and guests. Inclusive, but not limited to delivery of materials and equipment.

Access roads are limited and will necessitate coordination with MBMI's Environmental staff to avoid damage to surrounding environment, flora and fauna. All proposed access paths shall be approved prior to commencement of construction.

Contractor must carry a line item allowance for damage caused to any existing areas.

Contractor must coordinate construction activities with Morongo Public Works Department to ensure activities do not hinder or conflict with any other scheduled work. In addition, Contractor must clearly delineate and secure construction zone to prohibit any vehicles/pedestrians to enter construction zone.

Construction zone shall be properly identified and delineated 24 hours a day, especially during any trenching activities. If any equipment is to be mobilize on-site for any duration, Contractor must identify site/area and take any and all steps to insure oil, gas, or any containments do not pollute any immediate soil below or surrounding soil. All soiled material shall be removed at Contractor's cost.

General contractor must notify MBMI, Reservation Patrol, Water Department, Public Work and Fire Departments of the proposed duration of the street closure during construction. In the event of a temporary detour path is necessitated for life safety access, MBMI will coordinate location of such a detour with Cultural and Environmental departments.

Legal/Process/Policy

By responding to this RFP, bidders are preemptively agreeing to some terms of a future contract if they become the Contractor. The following clauses are standard for all MBMI Services Agreements. All references in the following to “the Tribe” shall be deemed to be references to MBMI:

1. **Independent Contractor.** Contractor shall at all times remain an independent contractor and not an employee of the Tribe.
 - a) Contractor shall not have, and shall not represent to any third party that Contractor has, the authority to bind the Tribe in connection with any matter for which Contractor provides services to the Tribe under this Agreement.
 - b) The Tribe may direct Contractor with respect to what work is to be done and in what order and the Tribe may provide Contractor with completion dates for certain projects within the scope of work to be performed by Contractor, but the Tribe shall not be responsible for, and may not, direct the means whereby Contractor performs the work or otherwise interfere with Contractor's day-to-day performance or the specific methods, tools, techniques or procedures used by Contractor to perform services pursuant to this Agreement.
2. **Conflicts of Interest.** Contractor shall take reasonable steps to avoid any conflict of interest between Contractor's performance of services pursuant to this Agreement and Contractor's performance of services for any other client of Contractor. In the event Contractor becomes aware of any such conflict of interest or the potential for such a conflict of interest, Contractor shall notify the Tribe immediately and explain the nature of the circumstances that have resulted, or that may result, in the existence of adverse, hostile or incompatible positions between the Tribe and any other client of Contractor.
3. **Ownership of Work Product.** All work product, including but not limited to reports, maps, compilations of data, diagrams, plans, specifications, statistics, photos, digital record and supporting records and/or drawings, produced, compiled or prepared by

Contractor or any employee(s) or agent(s) of Contractor in the course of performance of services pursuant to this Agreement, and all rights thereto, shall belong to the Tribe, and each such item of work product shall be deemed to be a work made for hire.

Notwithstanding the foregoing, Contractor shall be deemed to have an unpaid, non-exclusive license to use such work product for the purpose of performing services pursuant to this Agreement.

4. **Insurance.** Contractor shall maintain, at Contractor's sole cost and expense, appropriate automobile, medical, disability and general liability insurance according to the requirements of law. Contractor acknowledges and agrees that he will not qualify for any benefit or consideration through the Tribe's Worker's Compensation Insurance program, under any circumstances.
5. **Warranty.** Contractor represents and warrants that all services performed by Contractor pursuant to this Agreement shall be performed in accordance with any applicable standards and in any event no less professionally and no less competently than services of a similar nature provided by a competent professional experienced in the area(s) and field(s) in which Contractor performs services pursuant to this Agreement.
6. **Termination.**
 - a) **Termination for Convenience.** Notwithstanding any other provision of this Agreement, the Tribe may terminate this Agreement at any time upon thirty (30) days' written notice, and Contractor may terminate this Agreement at any time upon sixty (60) days' written notice. In the event either party terminates this Agreement for convenience, the Tribe agrees to pay, within thirty (30) days of termination, for all services performed by Contractor pursuant to this Agreement up to the date of termination.
 - b) **Termination for Breach.** Either party may terminate this agreement upon ten (10) days' written notice in the event of a breach by the other party that is not cured within that ten (10) day period.
 - c) **Effect of Termination on Claims.** Any termination of this Agreement shall be without prejudice to any claim that either party may have against the other.
7. **Compliance with Laws and Regulations.** When performing services pursuant to this Agreement, Contractor shall at all times comply with all applicable Tribal, federal, state and local laws, regulations, ordinances, codes and standards.
8. **Indemnification.** Contractor agrees to indemnify, defend and hold the Tribe and its employees, volunteers and agents, harmless to the extent allowed by law against any and all loss, injury, claims, damage or liability (including reasonable attorney fees, expenses and costs) caused by, arising out of, or in any way connected with activities under this Agreement.
 - a) Both parties agree to give the other immediate notice of any claim, action or suit in any way connected with activities under this agreement.
 - b) Both parties agree to maintain insurance coverage during the course of this agreement.

9. **Confidentiality.** Contractor agrees and acknowledges that the Non-Disclosure Agreement is incorporated as part of the Contractor Agreement.
10. **Miscellaneous Terms.**
- a) **Governing Law.** This Agreement shall be governed by (and thus interpreted in accordance with) the laws and ordinances of Tribe. In the event there is no applicable law or ordinance of the Tribe, then this Agreement shall be governed by federal law, and in the event no federal law is applicable then this Agreement shall be governed by the laws of the State of California.
 - b) **Venue.** The parties agree that any dispute or claim arising from this agreement will be resolved in the Morongo Tribal Court.

An overview of the Morongo Tribal Court is available at the following web address:
<http://www.morongonation.org/content/tribal-court>.

IV. Desired Qualifications

1. Qualified firms must have a record of OSHA and EPA compliance.
2. Qualified firms must have familiarity with the federal Resource Conservation Recovery Act (RCRA).
3. Qualified firms must have been operating in substantially the same form and scope of business for more than 10 years, and have references for the most recent 5 years for construction of bridge/culvert structures.
4. Qualified firms must be licensed in California and primary office location must be listed.
5. All bids must include process for delivering the project including, but not limited to, planning phase, schematic design phase, design permitting services, and construction services.
6. Supply appropriate references for all qualifications cited above and current professional resumes of all key individuals proposed to provide services to MBMI.

V. Proposal Requirements and Submittal Process

Clarifications, Exceptions or Deviations: All bidders shall describe any exception or deviation from the requirements of the RFP. Each clarification, exception or deviation must be clearly identified. If your firm has no clarifications, exceptions or deviations a statement to that effect shall be included in this section.

Contractor will have ten (10) days to produce the required insurances, including a certified endorsement naming MBMI as an additional insured.

Do not purchase additional insurance until this bid has been awarded.

Provide a copy of current business license or other applicable licenses.

Cost Proposal: Cost proposal must fully describe all costs and charges to MBMI for completion of the project. Bidders must provide fully inclusive blended rates which are inclusive of all the bidder's project-related or supported expenses. Bidders may also include additional documents to further display the proposed costs.

Hourly rate must be an all-inclusive rate to include administration, travel, training and operating costs.

MBMI reserves the right to negotiate final fees with the selected Contractor.

MBMI will be seeking FEMA reimbursement to repair roads. FEMA has requirements for our request to be considered including separate REBUILD and MITIGATION cost proposals and TRIBAL MONITORING.

Due to these requirements MBMI respectfully requests that all bidders submit two separate construction costs for REBUILD and MITIGATION approaches under same cover as well as include TRIBAL MONITORING costs in both. Please note that the MITIGATION construction cost will be reviewed for complete scope of work tasks. Only MITIGATION pricing will be used for the basis/defining scope of work for the award of this contract.

Process for FEMA application requires two separate estimates:

1. To REBUILD the roads to their original condition.
Provide and submit construction cost estimates to rebuild/reconstruct structure to its original condition. Quote to include 4-inch thick asphalt over compacted soils with appropriate slope for drainage.
2. A MITIGATION approach to build the roads in a manner to avoid a repeated failure.
Provide and submit construction cost estimates to replace existing damaged road to mitigate a repeat of the consequential damage caused by excessive rains. New road to include the removal and replacement of an asphalt road 150 linear feet long by 24 feet wide, 4" thick, with new compacted aggregate (gravel) base, and to repair damaged side embankments.

TRIBAL MONITORING – Attached you will find the MBMI 2019 Cultural Monitoring Contract which includes the current fee schedule for monitoring services. Please include this fee schedule in your bid as a separate item.

MBMI Contact Information: Please send all questions regarding the RFP via email at RFPRresponse@morongo-nsn.gov.

Schedule of Events:

Issue of the RFP	August 30, 2019
Question/Clarification Period	August 30, 2019 through September 25, 2019
Mandatory On-Site Meeting	September 6, 2019 at 9:00 am The meeting will start at the Morongo Community Center at 13000 Malki Road, Banning, CA 92220 then proceed to the site locations.
Questions Answered	No Later Than September 27, 2019
Proposals Due	October 2, 2019 at 10:00 am
Bid Award	To Be Determined

Submission Deadline and Submittal Location: All proposals are due not later than 10:00 am on October 2, 2019 and should be emailed to: RFPResponse@morongo-nsn.gov. A sealed envelope containing three (3) hard copies of the proposal and two (2) thumb drives each with an electronic copy of the proposal must be received by that time at the Morongo Administration Building at 12700 Pumarra Road, Banning, CA 92220:

Morongo Band of Mission Indians
Attention: Titu Asghar -- Tukwet RFP
12700 Pumarra Road
Banning, CA 92220

Attachments:

Exhibit A: Location Map

Exhibit B: Photos of Some of the Damaged Areas

Exhibit C: MBMI 2019 Cultural Monitoring Contract/Current Fee Schedule

Exhibit A

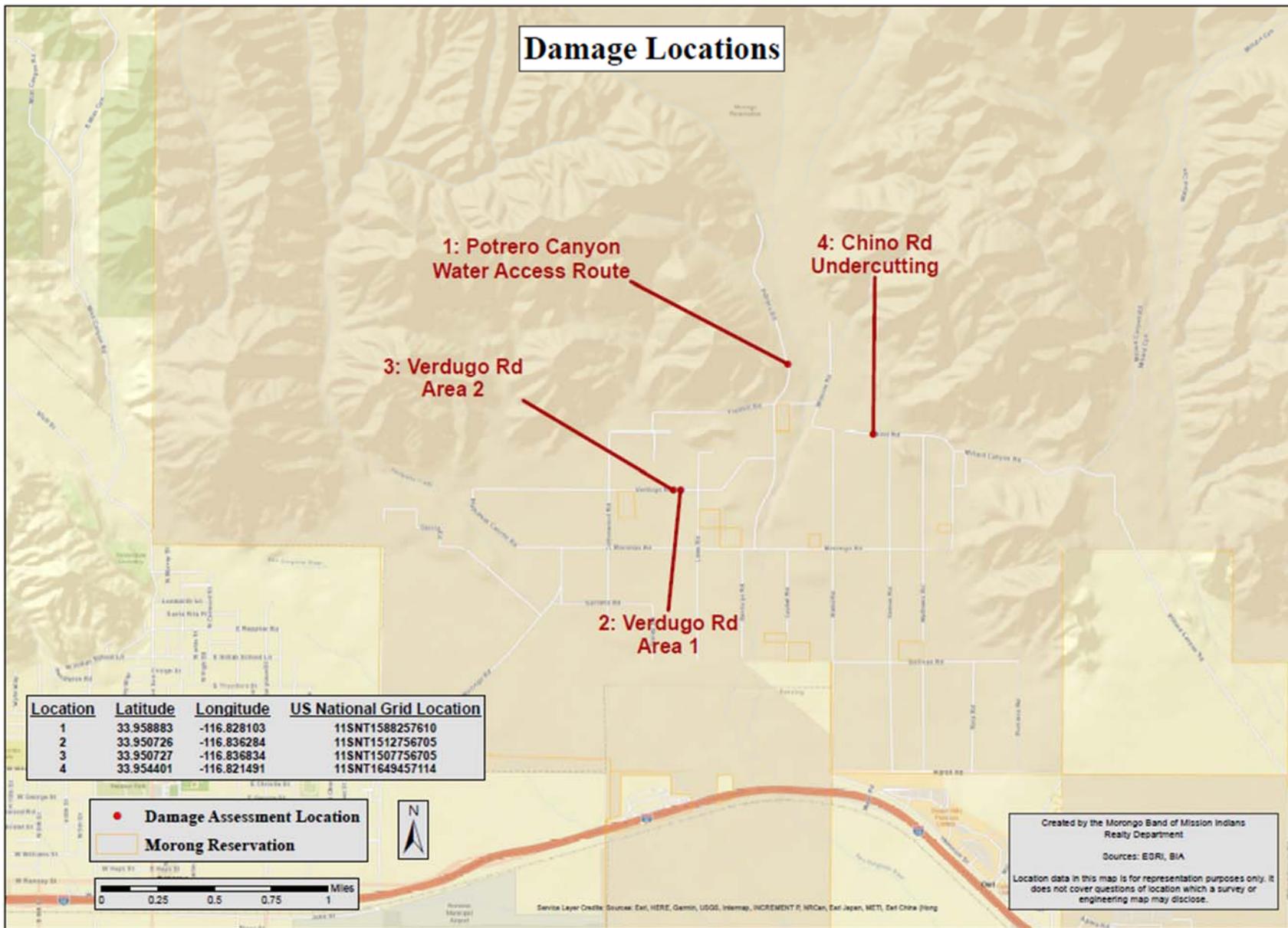


Exhibit B



Exhibit C

Morongo Cultural Heritage Department

Tribal Monitoring Services Agreement

This Agreement dated Click or tap to enter a date., is entered into between the Morongo Band of Mission Indians (“TRIBE”), Cultural Heritage Department (“CONSULTANT”), and _____ (“CLIENT”) hereinafter referred to as (“PARTIES”).

This Agreement shall govern CONSULTANT’s performance of professional services (“Work” or “Services”) on the Project as more fully described hereunder pursuant to the terms of this Agreement.

1. **TERM:** The term of the Agreement between the PARTIES is from _____ to _____ and may be extended by mutual written agreement of the parties.
2. **SCOPE OF WORK:** This Agreement anticipates the Work as contained in the attached Exhibit 1 – the Scope of Work and Exhibit 2 - Map of Project APE (Area of Potential Effect).
3. **PAYMENT AND BILLING:**
 - 3.1. As compensation for the Services to be performed by CONSULTANT, CLIENT will pay CONSULTANT in accordance with the rates defined in Exhibit 1. Reimbursement for all reasonable and documented mileage expenses will be at the current Federal Travel Regulation mileage rate. CLIENT shall not have any liability for any other expenses or costs incurred by CONSULTANT, unless approved by CLIENT in writing. Invoices submitted by CONSULTANT will describe the amount owed, Services rendered during the invoice period, including hours and dates of performance, identify reasonable mileage expenses and provided available documentation of the same.
 - 3.2. CLIENT will pay CONSULTANT for any “show up” time as described in Section 4 of this Agreement. All hours billed for “show up” time shall be consistent with the rates defined in Exhibit 1.
 - 3.3. CLIENT will pay CONSULTANT within thirty (30) calendar days following CLIENT’s receipt of payment for the Scope of Work by the subject developer _____. Failure by CLIENT to pay within this limitation will subject CLIENT to a penalty of 10% interest per annum until payment in full is received.
4. **COORDINATION BY CLIENT:** CLIENT shall be the administrator of all services for the Project and shall facilitate the manner, sequence and timing of all services and the exchange of information. CONSULTANT and CLIENT shall fully cooperate with each other to facilitate the timely and proper completion of the Services, including the coordination of construction activities and scheduling on a weekly basis.
 - 4.1. CLIENT shall provide CONSULTANT with notification of any changes to construction schedules no less than 24 hours prior to the next scheduled work day start time.
 - 4.2. Failure of CLIENT to notify CONSULTANT within this timeframe will result in the automatic billing of 4 hours of “show up” time as referenced in Section 3.2 of this Agreement.
 - 4.3. Except as otherwise designated by CLIENT, CONSULTANT shall have no obligation for communication regarding the Project with any party other than CLIENT. The PARTIES agree that the TRIBE and the Lead Agency have a separate and distinct government-to-government relationship which does not involve CLIENT. To that extent, nothing in this Agreement shall inhibit or impede upon TRIBE’s communications with the Lead Agency in that capacity.

5. **TERMINATION:** CONSULTANT may terminate this Agreement for its convenience at any time and for any reason upon giving CLIENT written notice of termination. CONSULTANT shall be paid consistent with Section 3.3, for those Services completed through the date of receipt of the notice of termination.
6. **CONSULTANT'S DUTIES:** In addition to their other obligations under this Agreement, CONSULTANT and CLIENT shall have the following duties and obligations in performing the Services:
 - 6.1. CONSULTANT and CLIENT shall both take reasonable precautions for the job site safety of their respective agents, contractors and employees.
 - 6.2. If requested by CONSULTANT, CLIENT shall promptly render such information as may be reasonably necessary for CONSULTANT to adequately complete the services and respond to questions, claims, disputes and other matters related to work on the Project.
 - 6.3. CONSULTANT and CLIENT shall comply with any Cultural Resources Monitoring and Mitigation Plan (CRMMP), if at any time is applicable to this Project.
7. **COMPLIANCE WITH LAWS:** CONSULTANT and CLIENT shall mutually comply with applicable federal, state, tribal and local rules, regulations, laws, ordinances and rulings including those of governmental agencies having jurisdiction over the Services.
8. **DISCOVERY OF HUMAN REMAINS.** The PARTIES understand that California state law may apply and the PARTIES will take appropriate action under California Public Resources Code Section 5097.98 or successor statutes. The PARTIES understand and agree that federal law may apply and the PARTIES will take appropriate action under the Native American Graves Protection and Repatriation (NAGPRA) or successor statutes. It is understood by the PARTIES that, unless otherwise required by law, the site of any reburial of Native American human remains shall not be disclosed (California Government Code Section 6254(r)) or successor statutes.
9. **CULTURAL ITEMS.** The PARTIES agree that release of any cultural items and artifacts encountered during the Project will be negotiated on an item-by-item basis.
10. **PERFORMANCE OF STANDARDS:** All of the services shall be performed by agents of CONSULTANT who are experienced and skilled in their profession and in accordance with the standards of care in their professions. CONSULTANT's findings, recommendations and professional advice shall be based on best practices and procedures customary in its profession.
11. **INSURANCE:**
 - 11.1. Before any of the Services are performed, CONSULTANT shall obtain commercial General Liability insurance in the amount of \$1,000,000 combined single limit each occurrence and in aggregate. CLIENT shall be named as an additional insured.
 - 11.2. Insurance shall be maintained with companies authorized to do business in the State of California and rated A- or better by the A.M. Best Company, with deductibles per occurrence or claim of not greater than \$100,000 or an amount reasonably acceptable to client.
12. **CONFIDENTIALITY:** CONSULTANT agrees that all information obtained by it and related to the Project, both detailed information and the basic nature of the Project, where such is not publicly known, shall be kept strictly confidential. CONSULTANT also agrees to take appropriate measures with individuals who will be exposed to or have access to such information to insure that they understand CONSULTANT's Agreement of confidentiality.
13. **INDEMNIFICATION:** CONSULTANT and CLIENT will each indemnify and hold the other, its respective owners, agents and employees, harmless from all losses (including reasonable attorney fees, expenses and costs), damages, and injuries resulting from negligence.

14. GENERAL PROVISIONS:

- 14.1. Severability.** If any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall be valid.
- 14.2. Governing Law and Venue.** This Agreement shall be governed by the laws of the State of California, without regard to its conflict of law provisions, and any applicable federal or tribal law. Venue shall be in the county of the CLIENT's location as designated on the first page.
- 14.3. Entire Agreement.** This Agreement constitutes the entire Agreement between the PARTIES pertaining to the subject matter herein, and supersedes all prior covenants, quotations, documents, correspondence, and discussions, whether oral or written, pertaining to such subject matter.
- 14.4. Assignment.** Neither of the PARTIES may assign this Agreement.
- 14.5. Agreement Amendments.** No amendments, changes or edits to this Agreement, including the attached Exhibit 1, will be effective unless in writing and signed by CLIENT and CONSULTANT.
- 14.6. Legal Counsel Consultation.** Each party represents that it has been advised to seek legal representation with reference to this Agreement. The PARTIES acknowledge that they have had the opportunity to see legal counsel with reference to this Agreement and waive any defense based on the contention that the PARTIES did not understand the content or meaning of this Agreement, or that the terms of this Agreement should be interpreted in favor of a party that did not draft this Agreement.
- 14.7. Waiver.** Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the party giving such waiver, and only in the specific instance and for the specific purpose for which it has been given. No waiver of any of the provisions of this Agreement shall constitute a continuing waiver or a waiver of any other provision (whether or not similar). No failure on the part of any party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right.
- 14.8. Invalidity.** If any of the provisions contained in this Agreement are found by a court of competent jurisdiction, to be invalid, illegal, or unenforceable in any respect, the validity, legality, or enforceability of the remaining provisions contained herein shall not be in any way affected or impaired.
- 14.9. Binding on Successors.** This Agreement shall inure to the benefit of and be binding upon the PARTIES and their respective successors and permitted assigns.
- 14.10. Authority of Signing Individual.** The persons signing on behalf of their respective PARTIES warrant their authority to commit that party to the terms and conditions of this Agreement.

[Signatures appear on the following page.]

CLIENT

Company Name

Authorized Representative Signature

Date: _____

By: _____

Title: _____

CONSULTANT

Morongo Band of Mission Indians

Authorized Representative Signature

Date: _____

By: _____

Title: Cultural Resource Specialist

TRIBE

Morongo Band of Mission Indians

Authorized Representative Signature

Title: _____

Date: _____

Exhibit 1 - SCOPE OF WORK

Consultant:	Morongo Band of Mission Indians		
Consultant Representative:		Phone:	951.755.5259
Scope of Work Dated:	Click here to enter a date.		

This form is provided to document your written authorization to proceed with the scope of work described below under the terms of our existing Morongo Cultural Heritage Department Tribal Monitoring Services Agreement. By documenting your written authorization for this scope of work we hope to avoid any misunderstanding between your organization and Morongo Band of Mission Indians Cultural Heritage Department, and to expedite our ability to immediately proceed on work as requested. All other terms and conditions of the Morongo Cultural Heritage Department Tribal Monitoring Services Agreement between Morongo Band of Mission Indians Cultural Heritage Department and _____ remain in effect, apply to this scope of work.

Project Name:	
MBMI Project No. :	
Client Name:	
Client Representative:	

SCOPE OF WORK/SCHEDULE (attach additional sheets if necessary)

CONSULTANT shall provide Native American monitor(s) for the _____ project, which encompasses approximately _____ acres and is located at _____. The Native American monitor(s) will accompany each of the project’s archaeological teams in the field and be present to assist in identifying Traditional Cultural Properties and specific areas of concern to the tribe. The Native American monitor(s) will be present on site during all ground-disturbing activities as agreed upon or required as part of the cultural resources mitigation and monitoring plan. Whenever there are simultaneous ground-disturbing construction activities occurring on separate areas of the project, one Native American monitor will be required **per** piece of construction equipment or ground-disturbing activity. CLIENT will pay the Morongo Band of Mission Indians at the rates defined below.

Native American Monitoring	\$ 85.00	hourly rate (per monitor)
Overtime	\$ 127.50	hourly rate (per monitor)
Per Diem	\$ 160.00	per day (per monitor)
Mileage	\$_0.58	per mile

Authorized Client Representative Signature:			
Name and Title:		Date:	
MBMI Cultural Heritage Department Signature:			
Name and Title:	, Cultural Resource Specialist	Date:	