



**CITY OF VICTORVILLE
CALIFORNIA**

REQUEST FOR BID

FOR

ANNUAL SERVICE AGREEMENT

PEST CONTROL SERVICES

PROJECT # CC15-064

BIDS DUE DATE

APRIL 14, 2015

AT

2:00 P.M.

CITY OF VICTORVILLE, CALIFORNIA

NOTICE INVITING BIDS

**ANNUAL SERVICE AGREEMENT
PEST CONTROL SERVICES – CC15-064**

- A-1 NOTICE IS HEREBY GIVEN - Bids will be received by the Purchasing Agent of the City of Victorville, California, for **ANNUAL SERVICE AGREEMENT – PEST CONTROL SERVICES – CC15-064**, as described in the specifications.
- A-2 BIDS DUE DATE - Notice is hereby given that the bids will be received by the Purchasing Section of the Administrative Services Dept. **until 2:00 p.m. April 14, 2015 at which time the bids will be open** for the work to be done as described in the document entitled Specifications and Contract Documents for **“PEST CONTROL SERVICES –CC15-064.”** All bids submitted shall be on the Bid Proposal Form provided by the City of Victorville. Bids can be either email to cmcalderon@victorvilleca.gov (if awarded original documents will be requested) or mail to the City of Victorville – PO Box 5001, Victorville, CA 92393 Attn: Celeste Calderon.
- A3. OBTAINING BID PROPOSAL FORMS - The Bid Proposal Form, together with a copy of this Notice Inviting Bids, the Instructions to Bidders, and the City of Victorville Specifications for the item(s) to be furnished, may be obtained from the Purchasing Section of the Administrative Dept., City of Victorville, 14343 Civic Drive, Victorville, California, 92392, or by calling Celeste Calderon at (760) 955-5082.

The City of Victorville Web Page at <http://ci.victorville.ca.us> under the heading “Purchasing Bids” will contain a copy of this document as well as a summary of any/all applicable addenda that can be downloaded.

Dated: March 26, 2015

Marcie Wolters, Deputy City Clerk

CITY OF VICTORVILLE

INSTRUCTIONS TO BIDDERS

**ANNUAL SERVICE AGREEMENT
PEST CONTROL SERVICES – CC15-064**

1. GENERAL INFORMATION/BIDDER INSTRUCTIONS:

The City of Victorville is requesting bids to provide Pest Control Services in various City of Victorville offices.

No bidder shall withdraw their bid for a period of thirty (30) working days after the bid opening date.

ALL bids shall be signed with the firm's name and by an officer or employee of the firm who is duly authorized to sign Bid Proposals.

Bids shall be firm offers, subject to acceptance or rejection within forty-five (45) working days of bid opening. Pricing shall remain firm for a period of one (1) year from the date of award. Prices may be renegotiated after the original six (6) months time frame with a cap of three percent (3%) or C.P.I. as listed in the Wall Street Journal, whichever is less.

No contract will be awarded except to responsible bidders capable of performing the class of work contemplated. Before the award of contract, any bidder may be required to show that they have the necessary facilities, experience, ability, and financial resources to perform the work in a satisfactory manner and within the time stipulated.

The City reserves the right to inspect the bidder's facility and to perform such investigation as may be deemed necessary to insure that competent personnel and management will be utilized in the performance of the contract.

2. PROHIBITED INTEREST

No member, officer, or employee of the City of Victorville or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

Furthermore, the parties hereto covenant and agree that to their knowledge no board member, officer or employee of the City of Victorville has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the contracting party other than the City of Victorville, and that if any such interest comes to the knowledge of either party at any time, a full and complete disclosure of such information will be made in writing to the other party or parties, even if such interest would not be considered a conflict of interest under Article 4 (commencing with Section 1090) or Article 4.6 (commencing with Section 1120) of Division 4 of Title I of the Government Code of the State of California.

3. BIDS DUE DATE

Bids are due to the City of Victorville at **2:00 p.m. APRIL 14, 2015 at which time the bids will be open** for the work to be done as described in the document entitled Specifications and Contract Documents for **“PEST CONTROL SERVICES – CC15-064.”** City hereby gives notice to all bidders that bids received after the time/date stated **will not be accepted and will be returned unopened to the bidder.**

4. EVALUATION OF BIDS

The City of Victorville reserves the right to accept or reject any and all bids and to award a contract to the bidder who best meets its requirements. Relevant factors which shall be considered in evaluating the bids are: completeness and accuracy of bid; past performance, ability to complete the work in the specified time with the specified quality of workmanship; as well as the lowest and best price.

5. AWARD OF CONTRACT

The City of Victorville reserves the right to reject any and all bids and waive any irregularities or informalities in any bid or in the bidding process. The City of Victorville further reserves the right to award the contract to other than the lowest Bidder if such action is deemed to be in the best interest of the City of Victorville. The award of the contract, if awarded, will be made within forty-five (45) working days after closing date. The bidder's signature on the Bid Proposal Form shall constitute a commitment on the part of that Bidder to furnish the service as set forth in the Bid Proposal Form, the Specifications, and the Notice Inviting Bids. The Notice Inviting Bids, the Bid Proposal Form, together with the specifications of the **ANNUAL SERVICE AGREEMENT – PEST CONTROL SERVICES** proposed to be furnished, shall all be considered as part of the contract between the City and the Bidder to whom a Purchase Order is issued.

6. TERM OF CONTRACT

The term of this contract shall begin July 2015 and will expire on June 30, 2016 (the end of the City's fiscal year). The Director of Community Services, reserves the right, at its sole option, and upon satisfactory completion of the initial contract term by the successful bidder, to renew this agreement for four (4) additional, consecutive, one (1) year periods (based on past performance). Such renewal shall be contingent on a mutual agreement between the City and the Contractor. Either the City or the Contractor may decline to confirm the renewal of the contract for any and/or no reason whatsoever, and such declination shall render the renewal option null and void.

7. TERMINATION FOR CONVENIENCE

The City of Victorville may, by written notice, terminate this contract in whole or in part, when deemed in the City's interest. Upon termination of this contract, the City of Victorville shall only be liable for payment under the payment provisions of this contract for services rendered or supplies furnished prior to the effective date of termination.

8. TERMINATION FOR DEFAULT

The City of Victorville, may, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

1. Deliver the supplies or to perform the services within the time specified in this contract or any extension; or
2. Make progress, so as to endanger performance of this contract; or
3. Perform any of the other provisions of this contract.

The City's right to terminate this contract may be exercised if the Contractor does not cure such failure within five (5) working days, after receipt of the written notice from the City of Victorville. Upon termination of the contract with the successful bidder, the City of Victorville may award the

contract to the second lowest responsible bidder, if it is deemed to be in the best interests of the City of Victorville.

9. NON-COLLUSION AFFIDAVIT

All bids must be accompanied by a signed and notarized Non-Collusion Affidavit per the Public Contract Code Section 7106.

10. INSURANCE

The Contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work here under by the Contractor, their agents, representatives, employees or subcontractors.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001)
- b. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, Code I (any auto)
- c. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance

Course of Construction /Inland Marine Insurance for Work on Site. The Contractor shall purchase and maintain insurance to the full contract and insurable value thereof, commonly referred to a Course of Construction, Builders' Risk, or an Inland Marine policy that offers "Installation" coverage.

Minimum Limits of Insurance

Contractor shall maintain limits no less than:

a. Comprehensive General and Automobile Liability Insurance

Contractor shall procure and maintain at its own expense, during the term of this Agreement, comprehensive general liability insurance, of not less than One Million Dollars (\$1,000,000.00) per occurrence, and Two Million Dollars (\$2,000,000.00) in the aggregate, for bodily injury, personal injury, death, loss, or damage resulting from the wrongful or negligent acts by the Contractor or its officers, employees, servants, volunteers, and agents, and independent contractors. Contractor shall further procure and maintain, at its own expense, during the Term of this Agreement, Commercial Vehicle Liability Insurance covering person injury and property damage, of not less than One Million Dollars (\$1,000,000.00) combined single limit, covering any vehicle utilized by Contractor or its officers, employees, servants, volunteers, or agents and independent contractors in performing the services required by this Agreement.

b. Workers' Compensation Insurance

1. Contractor shall procure and maintain at its' own expense, during the Term of this Agreement, Workers' Compensation Insurance, providing coverage as required by the California State Workers' Compensation Law.
2. If any class of employees employed by the Contractor, pursuant to this Agreement is not protected by the California State Workers' Compensation Law, Contractor shall provide adequate insurance for the protection of such employees to the satisfaction of the City.
3. Course of Construction/Inland Marine Insurance Completed Value of the project including owned, leased and rented equipment. This insurance shall include the interest of the City, its officers, officials, employees, agents and volunteers. Contractor and subcontractors and will cover their Work at the site and all materials, supplies, equipment, machinery and apparatus entering into the construction of the Work site.

Deductibles and Self-Insured Retention

Any deductibles or self-insured retention must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retention that pertains to the City, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. Notwithstanding any inconsistent statement in any required insurance policies or any subsequent endorsements attached thereto, the protection offered by all policies, except for Workers' Compensation coverage, shall bear an endorsement whereby it is provided that, the City and its officers, employees, servants, volunteers, and agents and independent contractors, including, without limitation, the City Attorney, are named as Additional Insured's. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents or volunteers.
2. Contractor shall require the carriers of all required insurance policies to waive all rights of subrogation against the City and its officers, volunteers, employees, contractors, and subcontractors.
3. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
4. Any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.

5. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days prior written notice, by certified mail return receipt requested, has been given to the City. In the case of non-payment, ten (10) days' advance written notice shall be given.

Acceptability of Insurers

Insurance is to be placed with insurers that have a current A.M. Best's rating of no less than A:VII.

Verification of Coverage

Contractor shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

Subcontractors

The Contractor shall include all subcontractors as insured under the policies, or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

11. ATTORNEY'S FEES

Should any litigation, specifically including but not limited to, arbitration and other non-judicial resolution of disputes be commenced between the parties to this agreement concerning this agreement or the rights and duties of either in relation thereto, the parties prevailing in such litigation or other proceeding shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for attorney fees in such litigation where the proceeding which, if not agreed upon by the parties, shall be determined by the court or other entity in which such litigation or other proceeding is brought.

12. LICENSES

The contractor and subcontractor shall obtain all necessary licenses and permits to accomplish the work. A City of Victorville Business License and other required licenses to fulfill the obligations per State requirements.

13. INDEMNIFICATION

Notwithstanding the limits of any insurance, Contractor shall indemnify the City, its officials, officers, agents, volunteers and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising or alleged to arise out of or in

connection with the negligent performance of the work, operations or activities of Contractor, its agents, employees, subcontractors, or invitees, provided for herein, or arising or alleged to arise from the negligent acts or omissions of Contractor hereunder, or arising or alleged to arise from Contractor's negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, but excluding such claims or liabilities or portion of such claims or liabilities arising or alleged to arise from the negligence or willful misconduct of the City its officials, officers, agents, volunteers or employees, and in connection therewith:

1. Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;
- (b) Contractor will promptly pay any judgment rendered against the City, its officials, officers, agents or employees for any such claims or liabilities arising or alleged to arise out of or in connection with Contractor's (or its agents', employees', subcontractors' or invitees') negligent performance of or failure to perform such work, operations or activities hereunder; and Contractor agrees to save and hold the City, its officials, volunteers, officers, agents, and employees harmless therefrom;
- (c) In the event the City, its officials, officers, agents, volunteers or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising or alleged to arise out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor shall pay to the City, its officials, volunteers officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees for counsel acceptable to City.
- (d) Contractor's duty to defend and indemnify as set out in this Section shall include any claims, liabilities, obligations, losses, demands, actions, penalties, suits, costs, expenses or damages or injury to persons or property arising or alleged to arise from, in connection with, as a consequence of or pursuant to any state or federal law or regulation regarding hazardous substances, including but not limited to the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Resource Conservation and Recovery Act of 1976 ("RCRA"), the Hazardous and Solid Waste Amendments of 1984, the Hazardous Material Transportation Act, the Toxic Substances control Act, the Clean Air Act, the Clean Water Act, the California Hazardous Substance Account Act, the California Hazardous Waste Control Law or the Porter-Cologne Water Quality Control Act, as any of those statutes may be amended from time to time.

The Contractor's indemnification obligations pursuant to this Section shall survive the termination of this Agreement. Contractor shall require the same indemnification from all subcontractors.

14. PREFERENCE TO LOCAL VENDORS

The City Council, in awarding bids pursuant to Section 2.28.140 of the Municipal Code, may at its discretion grant qualified local vendors a bidding preference of three percent. Such preference, however, shall not exceed aggregate sum of one thousand dollars for any contract awarded under this project, a "local vendor" is defined as any individual, partnership or corporation which regularly maintains a place of business and an inventory of merchandise for sale within the corporate limits of the city.

15. PUBLIC RECORD

Be advised that **all** information contained in proposals submitted in response to this solicitation **shall** become a matter of public record upon contract award, and be made available upon request, unless otherwise marked. The Bidder must identify, in writing, all copyrighted material, trade secrets or other proprietary information the Bidder claims are exempt from disclosure pursuant to the California Public Records Act and Government Codes regarding public records. The Bidder who claims such an exemption must also state in the proposal that, "The Bidder agrees to indemnify and hold harmless the City and its officers, employees and agents from any claims, liability, or damages against the city and to defend any actions brought against the City for its refusal to disclose such material, trade secrets or other proprietary information to any party."

16. PROHIBITION OF ASSIGNMENT

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of the City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of the City.

17. INDEPENDENT CONTRACTOR

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its subcontractors, agents or employees, performs the services required herein, except as otherwise set forth herein. The City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, subcontractors, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of the City and shall remain at all times as to the City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its subcontractors, agents or employees are agents or employees of the City. The City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venture or a member of any joint enterprise with Contractor.

18. SEVERABILITY

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

19. HIRING OF ILLEGAL ALIENS PROHIBITED

Contractor shall not hire or employ any person to perform work within the City of Victorville or allow any person to perform work required under this Agreement unless such person is properly documented and legally entitled to be employed within the United States.

20. WAIVER

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

21. WORK NOT LISTED IN PROPOSAL

It is the intent of the plans, specifications, and contract documents to provide for the construction of complete finished facilities and work of improvement unless otherwise specifically provided. Except for authorized changes in the work, payment for said complete finished facilities and works of improvement will be made only on the basis of the contract items of work stated in the proposal. All other work, including the labor, materials, tools, equipment, and incidentals, provided for in the plans, specifications and contract documents, or required for the proper completion of the work as a whole, for which no separate payment has been provided shall be a supplementary obligation of the contractor and payment therefore shall be considered included in the prices paid for the various contract items of work listed in the proposal.

Each change order shall have the written approval of the Director of Community Services Department, prior to beginning the work referenced by said change order. Work shall not begin until the issuance of a notice to proceed in the form of a purchase order.

22. DISPUTES

Any controversy or claim arising out of or relating to the provisions of this Agreement or the breach thereof shall be settled by arbitration, in accordance with the Rules of the American Arbitration Association, unless the parties agree, in writing, to some other form of alternative dispute resolution.

23. REQUEST FOR BID QUESTIONS

Any prospective bidders desiring an explanation or interpretation of the RFB, specifications, etc., must make request in writing to the Purchasing Division. **All requests must be received on or before APRIL 7, 2015**, in order to allow a reply to reach all prospective bidders before the submission due date of their proposals. Any information requested by a prospective bidders concerning the RFB will be furnished promptly to all prospective bidders as an amendment to the RFB, assuming that the information is necessary in submitting proposal or the lack of it would be prejudicial to prospective bidders. **PLEASE NOTE: Oral explanations or instructions, or explanations given by personnel other than purchasing staff or the designee are not valid and will not be binding.**

24. CONTRACTOR'S RESPONSIBILITIES

The contractor shall be responsible for safe, efficient, and adequate methods and equipment during the process of the work in order to secure the safety of the workmen, the quality of work required, and the stipulated rate of progress. It shall be the contractor's responsibility to perform the work strictly in accordance with the Scope of Work and any revisions as may be made therein by the Director of Community Services, or the designee, from time to time in the form of revised contract scope or written change orders issued.

The contractor shall be liable for any damage or injury that occurs as a result of employees and/or equipment working on City property. The contractor shall take all necessary precautions for the safe operation of his equipment and the protection of the public from injury and damage from such equipment.

The contractor shall be responsible for the custody of any material furnished him for the care of all work until its completion and final acceptance, and he shall, at his own expense, replace damaged or lost material and repair damaged parts of the work, or the same may be done at his expense by the City.

During the progress of the work, the contractor shall keep the premises, occupied by him, in a neat and clean condition, and free from any unsightly accumulation of rubbish by use of appropriate trash receptacles, as approved by the Director of Community Services, or his designee. He shall remove from the vicinity of the completed work all plant, building, rubbish, unused materials, concrete forms, and equipment belonging to him or used under his direction during services and a safe handling of pesticides and appropriate disposal of empty pesticides bottles shall be discard in an authorized container. In the event of his failure to do so, the same may be removed by the City at the expense of the contractor.

The quantities stated in the Bid Proposal are approximate. The Contractor is responsible for verifying the quantities and shall bid the quantity determined by their measurements. Any discrepancies should be indicated on the Bid Proposal form.

25. CONDUCT OF EMPLOYEES

All employees of the Contractor shall conduct themselves in a courteous and professional manner at all times. Abusive language or gestures shall not be tolerated and could be cause for removal from contract. Caution shall be exercised to assure that their operations do not cause any safety hazards to the general public. Whenever questions, complaints, etc., are directed to an employee of the Contractor by the public, they are to acknowledge, record, and pass on to the City's Representative if unable to reply. Awarded company is expected to have their staff in company logo attire with proper identification card when servicing the facilities.

26. AWARD TO PRIMARY AND SECONDARY LOW BIDDER

The City of Victorville has the rights to award to two pest control contractors, a primary and a secondary. Both awards will be based on the same criteria as outlined elsewhere in this document. It is the City's intent to use the secondary contract as a back-up on as-needed-basis, no minimum order amount is guaranteed.

CITY OF VICTORVILLE

ANNUAL SERVICE AGREEMENT - PEST CONTROL SERVICES PROJECT #CC15-064

1. **SCOPE OF WORK**

- a. The contractor shall be responsible for furnishing all materials, transportation, labor, equipment, any and all services and materials necessary to facilitate complete and comprehensive control of the pests, both specified and unspecified, present at various City locations.
- b. All pest control services shall be performed in accordance with Federal, State and Local rules and regulations presently established or may be established during the term of the contract. Any and all chemical product(s) used must be approved for its intended use, and applied in a manner consistent with regulations established by the State of California - Cal OSHA.
- c. The areas specified in this contract shall be inspected and services on a one-month-interior-of-building, next month-exterior-of-building basis, unless otherwise noted.
- d. The Contractor must perform a thorough detection program during every service, including, but not limited to crack and crevice inspection and use of a functional flashlight. Following each scheduled service, the contractor must submit a written report to the building's designated individual listing any and all areas that remain inaccessible for pest control service such as lockers, rooms, closets, etc.

Should the scheduled services not be totally effective, or interrupt institutional activities, the Contractor shall be required to provide necessary services at alternate times agreeable to the City facility, at no additional cost. Complaints and service requirements, including recall work required between scheduled services visits, must be handled within 24 hours after notification and will be at no additional cost to the City. It is suggested that this be handled by an individual(s) other than regular service person so as to not interfere or delay the scheduled service.

- e. Monthly service for all locations shall include treatment for ants and spiders; and rodent extermination on an as-needed basis.
- f. It is requested that City staff sign and receive copy of proof of delivery at each site. Arrangements shall be made with the Facilities Division in advance to access locked buildings.

2. **PERFORMANCE REQUIREMENTS**

- a. The Contractor is to use the proper equipment and material to render the services to ensure safety for all human life, livestock and the environment. It is to be clearly understood that the equipment and chemicals used by the Contractor for this contract are to be within safe and legal guidelines.
- b. Before an application is made, the Contractor shall notify the building designee of any precautionary actions, if any, that may need to be taken.

- c. All chemicals used shall be non-flammable, secured when unattended, and registered by the US Environmental Protection Agency and the State of California.
- d. The Contractor shall be responsible for removing and disposing of all excess and/or unneeded chemicals, materials or equipment after the application is completed. The Contractor may not store chemicals or equipment on the facility site at any time.

3. **EMERGENCY CALL NUMBERS AND CALL-OUTS**

The contractor shall have the capability to receive and to respond immediately to calls of an emergency nature at any time. Calls of an emergency nature received by the City shall be referred to the contractor for immediate disposition.

- a. The contractor shall be available twenty-four (24) hours a day, seven (7) days a week to respond to all emergency calls within two (2) hours of notification. Failure to respond in such time shall result in a \$200.00 penalty for each occurrence.
- b. In the event that emergency work is required, the contractor shall notify the City Authorized Representative or his designee by telephone in advance before any emergency work is commenced. Non-emergency maintenance work requires written approval before the work is performed.
- c. In situations involving emergencies, the contractor shall dispatch qualified personnel and equipment to reach the site within one (1) hour. Contractor's vehicle shall carry sufficient equipment to effect safe control of traffic. When the contractor arrives at the site, the contractor shall set up traffic warning and control devices, if deemed necessary, and proceed to repair the system on a temporary basis. This shall not be considered "Extra Work" as defined on item number 4, and shall be the responsibility of the contractor.
- d. The contractor shall supply the City with names and phone numbers of responsible persons representing the contractor for 24 hour emergency response. The above mentioned information shall remain current at all times. Any changes shall be forwarded to the City in writing within twelve (12) hours of any such change. Failure to maintain current emergency information shall result in a \$200.00 penalty for each occurrence.
- e. Emergency response defined:
 - As per City Authorized Representative
 - By prior agreement
 - Public health/safety mattersPublic health/safety matters include but are not limited to broken water mains, stuck valves, threat to private property resulting from the responsible contractor's operations, fallen trees, natural disasters, etc.

4. **EXTRA WORK**

In the event the contractor is requested by the City and agrees to perform extra work, the following procedure shall govern such work:

- a. Work will be executed under the direction of the City on a time and materials basis or on an agreed upon lump sum price depending upon the nature of the work.

- b. The City reserves the right to perform the work and/or to award the extra work to another company.
- c. The City will issue a work request for such extra work to be performed.
- d. Extra work will not be initiated without written authorization from the Facilities Manager.

When requested by the City's Authorized Representative, a cost estimate will be submitted for written approval prior to the work being done. If additional work is to be performed, the contractor shall be reimbursed for direct costs incurred as related to materials. The contractor shall submit expenditure reports, which includes itemized costs of labor, materials, equipment rental, and other related items. The report shall include hours worked.

5. **MATERIALS**

All materials used by Pest Control Company shall conform to state and local laws or ordinances and shall be judged acceptable by the agency. Special care shall be exercised in the using of liquid insecticides in areas having asphaltic, mastic, or linoleum floor surfaces. The vendor must provide the City of Victorville, Purchasing Division with:

- a. List of the materials and/or chemicals to be used.
- b. Material Data Safety Sheet (MSDS) for each chemical, which will be used. (Additional copies of the MSDS must be provided to the personnel at each location).
- c. Any other relevant technical information such as rate of dilution, dispersal amount, etc.

6. **PROJECT INSPECTIONS**

Upon request, the contractor or his representative will walk the project with the City Authorized Representative for the purpose of determining compliance with the Specifications or to discuss required work. Contractor representative must be authorized to sign documents and effect changes to the job.

7. **THE CITY'S RIGHT TO DO WORK**

The City reserves the right to do work as required within the contract area. If such alterations affect the provision of this agreement, the contractor will be asked to submit a cost as a result of the alterations.

8. **REPORTS AND SCHEDULES**

The contractor, as part of this agreement, will submit reports and schedules monthly, as requested, at a date & time specified by the City. They include but are not limited to:

- a. Copies of reports of all monthly summaries of State Form PR-ENF-060 for Pesticide use.
- b. Maintenance schedules. The City must receive notification of change in

scheduled work at least twenty four (24) hours prior to the schedule time of the work.

- c. Pesticide use report.
- d. Hazard reports, due within twenty-four (24) hours of incident or discovery.

9. **PROTECTION OF EXISTING FACILITIES AND STRUCTURES**

The contractor shall exercise due care in protecting from damage all existing facilities, structures, and utilities both above surface and underground on the City's property. Any damage to City property deemed to be caused by the contractor's negligence shall be corrected or paid for by the contractor at no cost to the City.

If the City requests or directs the contractor to perform work in a given area, it will be the contractor's responsibility to verify and locate any hazardous conditions and underground systems, i.e., utility lines. Any damage or problems shall be corrected or repaired at the contractor's expense and reported immediately to the City.

10. **SUPERVISION AND SPECIAL SKILLS**

The contractor shall notify the City of the Authorized Representative responsible for the supervision and duration of this contract. The contractor's Authorized Representative shall be responsible of notifying the City's Authorized Representative of any changes as soon as possible.

11. **ADDITIONS/DELETIONS TO CITY GENERAL MAINTENANCE SPECIFICATIONS**

The City reserves the right to make additions, deletions, revisions, and/or otherwise modify the Pest Control Services Specifications. Any changes in the Specifications that cause the contractor to incur/suffer additional expenses shall be reviewed and reconsidered upon written justification.

12. **ACCIDENTS REPORTS**

The Contractor will immediately report, in person, all accidents whatsoever arising out of and/or in conjunction with the performance of the work, whether on and/or adjacent to the City facility which has caused death, personal injury and/or property damage, giving full details and statements of witnesses to the City designee.

CITY OF VICTORVILLE

SUBMISSION CERTIFICATION

ANNUAL SERVICE AGREEMENT FOR PEST CONTROL SERVICES

I hereby submit to the Victorville Water District the following bid proposal for work outlined in specifications entitled “**CC15-064 PEST CONTROL SERVICES**”. All of the following documents (check below) are completed, fully executed, and included in my bid as required in the bid document:

- _____ Submission Certification (16)
- _____ Bid Proposal Form (17-20)
- _____ Proposer Identification (21)
- _____ Customer References (22)
- _____ Worker’s Compensation (23)
- _____ Addenda Acknowledgment (24)
- _____ Non-Collusion Affidavit (25)

My signature on this Submittal Certification is affirmation that all items listed above are fully completed and executed and are hereby submitted with the proposal as required. I understand that failure to complete and/or submit any of the required documents may be cause for rejection of my bid proposal.

Authorized Signature

Printed Name and Title

Date Signed

Telephone Number

CITY OF VICTORVILLE

BID PROPOSAL FORM

TO THE CITY COUNCIL OF THE CITY OF VICTORVILLE, CALIFORNIA:

The undersigned hereby agrees to Pest Control Services item(s) listed below in accordance with the specifications (which have been carefully examined and are attached hereto) on file in the Office of the Administrative Services Dept.

The listed locations and sizes are provided as a best estimate of usage by the City of Victorville. These quantities do not constitute an offer to purchase. They are provided as a parameter for bidders to formulate their quotations. The City of Victorville does not guarantee any quantities of purchase, and reserves the right to change quantities as required during the course of this contract. In accordance with the terms of this contract, unit pricing provided shall remain firm for the term of this contract regardless of quantity changes.

All prices should include sales tax, and/all available discounts.

PEST CONTROL TREATMENT LOCATIONS

LOCATIONS	ADDRESS	COMMENTS	SIZE/S Q FT.	COST PER SQ. FT.	EXTENDED COST
ACTIVITIES CENTER	15075 HESPERIA RD	ALTERNATE INTERIOR/EXTERIOR MONTHLY	12,373		
BAD NEWS BEAR DEN #1 - KIDS KLUB	14227 AUSTIN RD	EXTERIOR ONLY MONTHLY	1,418		
BAD NEWS BEARS DEN #2	14243 AUSTIN RD	EXTERIOR ONLY MONTHLY	1,160		
CITY HALL	14343 CIVIC DR	EXTERIOR ONLY MONTHLY	38,148		
FACILITIES YARD	15622 & 15628 EIGHTH ST	INTERIOR/EXTERIOR MONTHLY	1,800		
SHAY RD HOUSE #A & #B	18401 SHAY RD	INTERIOR/EXTERIOR MONTHLY	2,500 & 786		
MOJAVE VISTA CONCESSION	16260 BURWOOD AVE	INTERIOR/EXTERIOR MONTHLY	2,132		
HOOK PARK COMMUNITY CENTER	14973 JOSHUA ST	BOTH INTERIOR AND EXTERIOR (INCLUDING GYM, SNACK BAR AND	24,372		

		LOCKER ROOMS) MONTHLY. CONTACT REC. STAFF TO OPEN SNACK BARS (OUTSIDE SNACK BAR ALTERNATE INTERIOR/EXTERIOR			
LIBERTY PARK SNACK BAR	13016 AMETHYST RD	INTERIOR/EXTERIOR MONTHLY	2,132		
MCART YARD – PUBLIC WORKS	14177 MCART RD	INTERIOR/EXTERIOR MONTHLY	4,779		
PEBBLE BEACH PARK DUPLEX	UNIT 1: 14265 AUSTIN RD UNIT 2: 14269 AUSTIN RD	EXTERIOR ONLY EXTERIOR ONLY MONTHLY	1,422 1,422		
TRANSPORTATION CENTER	16838 “D” STREET	EXTERIOR ONLY MONTHLY	3,136		
WESTWINDS SPORTS CTR	18241 GEORGE BLVD.	EXTERIOR ONLY MONTHLY	23,151		
ROCKVIEW NATURE CENTER	17800 NATIONAL TRAILS	EXTERIOR ONLY MONTHLY	1,566		
PEBBLE BEACH PARK & REC	16300 PEBBLE BEACH DR	INTERIOR/EXTERIOR MONTHLY	18,230		
SUNSET RIDGE COMM CTR & CONCESSION	12808 EUCALYPTUS ST.	BOTH INT/EXT MONTHLY (INC. GYM, SNACK BAR, & LOCKER ROOMS) CONTACT REC. STAFF TO OPEN SNACK BARS (OUTSIDE SNACK BAR ALT. INT/EXT MONTHLY	3,000		
WESTWINDS ACTIVITIES CTR	18040 GEORGE BLVD.	EXTERIOR ONLY MONTHLY	9,393		
BLDG. 999 SCLA	13911 MONTANA	MONTHLY	3,800		
POLICE DEPT.	14200 AMARGOSA RD	INTERIOR/EXTERIOR MONTHLY	650 LINEAR FT.		
CENTER FOR THE ARTS	15615 8 TH ST.	QUARTERLY ONLY – EXTERIOR	21,300		

CYE	14206 AMARGOSA RD.	ALTERNATE INTERIOR/EXTERIOR MONTHLY	21,164		
LIBRARY	15011 CIRCLE DR	INTERIOR/EXTERIOR MONTHLY	8,208		
MESA LINDA CONCESSION	13151 MESA LINDA	INTERIOR/EXTERIOR MONTHLY	2,132		
AIRPORT DEPT.					
BLDG 728 SCLA	18374 PHANTOM	MONTHLY INTERIOR/EXTERIOR WHEN NEEDED	18,848		
BLDG. 551	13235 POL ACCESS RD.	INTERIOR/EXTERIOR MONTHLY	3,480		

Bidder: _____

Address: _____

Phone: _____ Fax _____ Email: _____

Name Printed: _____

SIGNATURE Title: _____

CITY OF VICTORVILLE
PROPOSER IDENTIFICATION

1. Legal name of Proposer: _____
2. Street Address: _____
3. Mailing Address: _____
4. Business Telephone: _____
5. Facsimile Telephone: _____
6. Email Address: _____
7. Type of Business:
 Sole Proprietor Partnership Corporation Other: _____
If corporation, indicate State where incorporated: _____
8. Business License number issued by the City where the Proposer's principal place of business is located.
Number: _____ Issuing City: _____
9. Federal Tax Identification Number: _____
10. Proposer's Project Manager: _____

CITY OF VICTORVILLE
CUSTOMER REFERENCES

Proposer: _____

LIST THREE AGENCIES YOU HAVE DONE BUSINESS WITH WITHIN THE LAST THREE YEARS	
1.	Name of Agency
	Address
	Contact Person Name:
	Contact Person Phone:
2.	Name of Agency
	Address
	Contact Person Name:
	Contact Person Phone:
3.	Name of Agency
	Address
	Contact Person Name:
	Contact Person Phone:

CITY OF VICTORVILLE

WORKERS' COMPENSATION CERTIFICATE

The Proposer shall execute the following form as required by the California Labor Code, Sections 1860 and 1861:

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 on behalf of my firm, I will comply with such provisions before commencing the performance of the services of any contract entered into.

_____ Signature	_____ Company Name
_____ Printed Name	_____ Business License Number
_____ Title	_____ Date

CITY OF VICTORVILLE
ADDENDA ACKNOWLEDGMENT

The undersigned acknowledges receipt of the following ADDENDA:

ADDENDUM NO. _____ DATED _____

NAME OF BIDDER _____

ADDRESS _____

TELEPHONE NO. _____

By: _____
Signature Title

SAMPLE SERVICE AGREEMENT

**GENERAL SERVICES PROVIDER STANDARD AGREEMENT
BY AND BETWEEN
THE CITY OF VICTORVILLE
AND
(NAME OF PROVIDER)
FOR
PEST CONTROL SERVICES**

THIS GENERAL SERVICES PROVIDER STANDARD AGREEMENT (hereinafter "Agreement"), is made and entered into by and between the City of Victorville, a municipal corporation located in the County of San Bernardino, State of California, hereinafter referred to as the "City", and (NAME OF PROVIDER), hereinafter referred to as "Service Provider." City and Service Provider are sometimes hereinafter referred to individually as a "Party" and collectively referred to as the "Parties."

RECITALS:

WHEREAS, the City requires PEST CONTROL AT VARIOUS LOCATIONS WITHIN THE CITY OF VICTORVILLE CITY LIMITS, and;

WHEREAS, in light of the facts set forth above, the City desires to retain the services of a qualified service provider to provide, on an independent contractor basis, PEST CONTROL.

NOW THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED HEREIN AND FOR SUCH OTHER GOOD AND VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. RECITALS

The Recitals set forth above are true and correct and are hereby incorporated into this Agreement by this reference, as though set forth fully herein.

Section 2. RESERVED

Section 3. COMPENSATION

The City shall pay a total amount not to exceed **BID AMOUNT SPELLED OUT DOLLARS AND 00/100 (\$000.00)** for the services rendered by Service Provider pursuant to this Agreement, subject to the provisions of Section 4.

Section 4. BID PROPOSAL FORM

The City shall pay Service Provider as provided in the Bid Proposal Form, attached hereto as Exhibit "A," and incorporated as part of this Agreement by this reference. The provisions of Exhibit "A" notwithstanding, in order to receive payments, Service Provider shall be required to submit to City monthly invoices detailing all services performed. Provided that services have been satisfactorily rendered, invoices shall be paid by the City approximately thirty (30) working days following receipt of Service Provider's invoice

Section 5. TERM OF AGREEMENT

This Agreement shall extend through **JUNE 30, 2016**, (the "Termination Date") unless sooner terminated in accordance with the provisions of this Agreement (the "Term"), unless

terminated earlier pursuant to Section 21 of this Agreement. From and after the Termination Date, and upon subsequent agreement by the Parties, this Agreement may continue on a month-to-month basis until terminated pursuant to Section 21 below.

This Agreement may be extended for **TBD (TBD)** additional one-year periods (hereinafter "Option Periods"), at the option of City, subject to satisfactory performance as determined by the City. City shall give Service Provider sixty (60) days advance written notice prior to the expiration the initial Term and sixty (60) days advance written notice prior to the expiration date of each subsequently exercised Option Period, if any, should the City decide to exercise its option(s) to extend. In the event City does not give Service Provider such written notice of its option to extend, this Agreement shall terminate at the end of the then-current Term or Option Period without further notice from either Party, unless terminated earlier pursuant to the provisions of Section 21 below. Should the City fail to give Service Provider the sixty (60) days written notice of its intention to exercise any Option Period, the City may, in its sole discretion, elect to exercise any Option Period at a later date, following written inquiry from Service Provider.

Section 6. INDEPENDENT CONTRACTOR STATUS

Service Provider shall at all times during the Initial Term of this Agreement, and (if applicable during any Option Periods), perform the services described in this Agreement as an independent contractor.

**Section 7. REPRESENTATIONS AND
ACKNOWLEDGMENTS REGARDING
INDEPENDENT CONTRACTOR'S STATUS OF SERVICE
PROVIDER**

a. Service Provider represents and acknowledges the following:

(1) The City is not required to provide any training or legal counsel to Service Provider or its employees in order for Service Provider to perform the services described in this Agreement.

(2) Performance of the services described in this Agreement do not have to be integrated into the daily business operations of the City.

(3) The services described in this Agreement can be performed without the use of City equipment, materials, tools, or facilities, unless otherwise provided under a separate agreement.

(4) Nothing in this Agreement shall be interpreted to imply that the City must maintain any contractual relationship with Service Provider on a continuing basis after termination of this Agreement.

(5) The City will not be requested or demanded to assume any liability for the direct payment of any salary, wage, or other such compensation to any person employed by Service Provider to perform the services described in this Agreement.

(6) Service Provider shall not at any time or in any manner represent that it or any of its officers, employees, or agents are employees of the City.

b. The City represents and acknowledges the following:

(1) Service Provider is solely responsible for determining who, under the supervision or direction of Service Provider, will perform the services set forth in this Agreement.

(2) The City will not hire, supervise, or pay any employees or assistants working for Service Provider pursuant to this Agreement. Nothing contained in this Agreement shall prevent the City from hiring Service Provider's employees or assistants after termination of this Agreement.

(3) Nothing in this Agreement shall be interpreted to imply that Service Provider must maintain any contractual relationship with the City on a continuing basis after termination of this Agreement.

(4) It is the sole responsibility of Service Provider to set the hours in which Service Provider performs or plans to perform the services set forth in this Agreement.

(5) Service Provider is not required to devote full time to the business operations of the City in order to perform the services set forth in this Agreement.

(6) Unless deemed necessary under certain circumstances, Service Provider is not required to perform the services set forth in this Agreement at City Hall or on City-owned property.

(7) Nothing in this Agreement shall be interpreted to preclude Service Provider from working for other persons or firms, provided that such work does not create a conflict of interest.

Section 8. NOT AGENT OF THE CITY

a. Nothing contained in this Agreement shall be deemed, construed, or represented by the City or Service Provider or by any third person to create the relationship of principal and agent.

b. Service Provider shall have no authority, express or implied, to act on behalf of the City in any capacity whatsoever as an agent, nor shall Service Provider have any authority, express or implied, to bind the City to any obligation whatsoever.

Section 9. LICENSES AND PERMITS

Service Provider represents that it has obtained and will maintain at all times during the initial Term, and (If Applicable, during any Option Periods) of this Agreement all business licenses, including but not limited to a City of Victorville business license, certifications, or permits necessary for performing the services described in this Agreement.

Section 10. WARRANTY

Service Provider agrees to perform all services required by this Agreement in a workmanlike competent and satisfactory manner in accordance with the standards prevalent in

the industry for such services.

Section 11. FAMILIARITY WITH WORK

Should Service Provider discover any latent or unknown conditions materially differing from those inherent in the services or as represented by the City, Service Provider shall immediately inform the City of such fact and shall not provide any services, except at Service Provider's risk, until written instructions are received from **JOHN A. McGLADE, DIRECTOR OF PUBLIC WORKS AND WATER** or his designee.

Section 12. CONFLICTS OF INTEREST

Service Provider covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of Service Provider's services under this Agreement. Service Provider further covenants that in the performance of services under this Agreement, no officer, employee or agent of Service Provider having such an interest shall be employed by it. In the event the City determines that Service Provider must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Service Provider shall file such Form 700 with the City Clerk's Office pursuant to the written instructions provided by the City Clerk.

Section 13. COMPLIANCE WITH LAWS

Service Provider shall comply with all local, state, and federal laws and regulations applicable to the services to be rendered hereunder, including any rule, regulation, or bylaw governing the conduct or performance of Service Provider or its employees, officers, or board members.

Section 14. COMPREHENSIVE GENERAL LIABILITY INSURANCE

a. Service Provider shall procure and maintain at its own expense, during the initial Term of this Agreement, and (if applicable, during any Option Periods), comprehensive general liability insurance, of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, for bodily injury, personal injury, death, loss, or damage resulting from the wrongful or negligent acts by Service Provider or its officers, employees, servants, volunteers, and agents and independent contractors.

Section 15. ADDITIONAL INSURED

Notwithstanding any inconsistent statement in any required insurance policies or any subsequent endorsements attached thereto, all insurance policies, except for the Workers' Compensation policy, shall be endorsed to name the City and its officers, employees, servants, volunteers, agents and independent contractors, including, without limitation, the City Attorney, as Additional Insureds.

Section 16. WAIVER OF SUBROGATION RIGHTS

Service Provider shall require the carriers of all required insurance policies to waive all rights of subrogation against the City and its officers, employees, servants, volunteers, agents,

and independent contractors and subcontractors. Each policy of insurance shall be endorsed to reflect such waiver.

Section 17. **PROOF OF INSURANCE COVERAGE;
REQUIRED ENDORSEMENTS**

a. Service Provider shall secure from a good and responsible company or companies authorized to transact insurance business in the State of California, the policies of insurance required by this Agreement and furnish to the City Clerk certificates of insurance evidencing the required coverage, and policy endorsements at least one (1) business day prior to the commencement of any services to be performed under this Agreement.

b. The policies and certificates of insurance shall be endorsed to provide that in the event of cancellation or amendment of any required insurance policy for any reason whatsoever, the City shall be notified by mail, postage prepaid, not less than thirty (30) days before the cancellation or amendment is effective. In the case of cancellation for non-payment, ten (10) days advance written notice shall be given.

c. Each policy and certificate of insurance shall be endorsed to provide that the policy shall not be terminated or expire without first providing thirty (30) days written notice to the City of such termination or expiration.

d. Each policy and certificate of insurance shall be endorsed to provide that the policy will be maintained throughout the Initial Term, and (if applicable during any Option Periods) of this Agreement.

e. The comprehensive general liability policy shall be endorsed to contain the following provision: "For any claims related to this Agreement, Service Provider's coverage shall be primary with respect to the City. Any insurance maintained by the City shall be in excess of Service Provider's insurance and shall not contribute with it."

Section 18. **TERMINATION OR SUSPENSION**

a. This Agreement may be terminated or suspended without cause by either Party at any time, provided that the Party initiating the termination provides the other Party at least thirty (30) days advance written notice of such termination or suspension. In the event of such termination, the City shall only be liable for payment under the payment provisions of this Agreement for satisfactory services rendered or supplies actually furnished prior to the effective date of termination.

b. This Agreement may be terminated or suspended with cause by either Party at any time, provided that the Party initiating termination provides the other Party at least ten (10) days advance written notice of such termination or suspension. In the event of such termination, the City shall only be liable for payment under the payment provisions of this Agreement for satisfactory services rendered or supplies actually furnished prior to the effective date of termination.

Section 19. **TIME OF THE ESSENCE**

Time is of the essence in the performance of this Agreement.

Section 20. INDEMNIFICATION

a. Service Provider shall defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents, from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and attorneys fees, for any personal injuries, deaths, or property damage (including property owned by the City), which may arise out of Service Provider's negligence or willful misconduct in the performance of the services described in this Agreement, unless such losses or damages are proven to be caused by the City's own negligence or willful misconduct, or that of its officers or employees.

b. The City does not and shall not waive any rights that it may have against Service Provider under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

Section 21. REPORTS

Upon request by **JOHN A. McGLADE, DIRECTOR OF PUBLIC WORKS AND WATER** or his designee, Service Provider shall prepare and submit reports to the City concerning Service Provider's performance of the services required by this Agreement.

Section 22. RECORDS

a. Service Provider shall keep such books and records as shall be necessary to perform the services required by this Agreement and enable **JOHN A. McGLADE, DIRECTOR OF PUBLIC WORKS AND WATER** or his designee to evaluate the cost and the performance of such services.

b. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles.

c. **JOHN A. McGLADE, DIRECTOR OF PUBLIC WORKS AND WATER** or his designee shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

d. Records and supporting documents pertaining to the use of funds paid to Service Provider hereunder shall be retained by Service Provider and made available to **JOHN A. McGLADE, DIRECTOR OF PUBLIC WORKS AND WATER** or his designee for purposes of performing an audit for a period of five (5) years from the date of termination of this Agreement.

Section 23. CONFIDENTIALITY

a. Any and all documents and information obtained from the City or prepared by Service Provider for the City shall be kept strictly confidential unless otherwise provided by applicable law. All City data, documents and information shall be returned to City upon termination of the Agreement.

b. Any drawings, specifications, reports, records, documents, or other materials prepared by Service Provider in the performance of services under this Agreement shall not be

released publicly without the prior written approval of **JOHN A. McGLADE, DIRECTOR OF PUBLIC WORKS AND WATER**, or as required by applicable law.

c. Service Provider shall not disclose to any other entity or person any information regarding the activities of the City, except with the prior written approval of **JOHN A. McGLADE, DIRECTOR OF PUBLIC WORKS AND WATER**, or as required by applicable law.

Section 24. PRINCIPAL REPRESENTATIVES

a. **CONTACT NAME, TITLE**, is designated as the principal representative of Service Provider for purposes of communicating with the City on any matter associated with the performance of the services set forth in this Agreement.

b. **JOHN A. McGLADE, DIRECTOR OF PUBLIC WORKS AND WATER** shall be the principal representative(s) of the City for purposes of communicating with Service Provider on any matter associated with the performance of the services set forth in this Agreement.

c. Either Party may designate another individual as its principal representative by giving written notice of such designation to the other Party.

Section 25. MODIFICATIONS AND AMENDMENTS

This Agreement may be modified or amended only by a written instrument signed by both Parties.

Section 26. ENTIRE AGREEMENT

a. This Agreement supersedes any and all prior or contemporaneous agreements, either oral or written, between the City and Service Provider with respect to the subject matter of this Agreement.

b. This Agreement contains all of the covenants and agreements between the Parties with respect to the subject matter of this Agreement, and each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any Party, except those covenants and agreements in this Agreement.

c. No agreement, statement, or promise with respect to the subject matter of this Agreement, which is not contained in this Agreement, or in a valid modification or amendment to this Agreement, shall be valid or binding on either Party.

Section 27. AMBIGUITIES

This Agreement is in all respects intended by each Party hereto to be deemed and construed to have been jointly prepared by the Parties and the Parties hereby expressly agree that any uncertainty or ambiguity existing herein shall not be interpreted against either of them. Except as expressly limited by this paragraph, all of the applicable rules of interpretation of contract shall govern the interpretation of any uncertainty or ambiguity of this Agreement.

Section 28. NOTICES

a. Any notice to be provided pursuant to this Agreement shall be in writing, and all

such notices shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the Parties as follows:

To the City: **John A. McGlade, Director of Public Works
and Water
City of Victorville
14343 Civic Drive
Victorville, CA 92392**

To Service Provider: **Contact Name and Title
Company Name
Address
City, State, Zip**

b. Notices, payments, and other documents shall be deemed delivered upon receipt by personal service or as of the second (2nd) day after deposit in the United States mail.

**Section 29. NON-LIABILITY OF CITY OFFICERS
AND EMPLOYEES**

No officer or employee of the City shall be personally liable to Service Provider, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to Service Provider or to its successor(s), or for any breach of any obligation of the terms of this Agreement.

Section 30. REVIEW BY ATTORNEYS

Each Party hereto has had its attorney(s) review this Agreement and all related documents. Each Party hereto has consulted with its attorney(s) and has negotiated the terms of this Agreement based on such consultation.

Section 31. WAIVER

a. No waiver shall be binding unless executed in writing by the Party making the waiver.

b. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision.

c. Failure of either Party to enforce any provision of this Agreement shall not constitute a waiver of the right to compel enforcement of such provision or any of the remaining provisions of this Agreement.

Section 32. ASSIGNMENT

This Agreement shall not be assigned by either Party without prior written consent of the other Party.

Section 33. CARE OF WORK

The performance of services by Service Provider or the payment of money by the City shall not relieve Service Provider from any obligation to correct any incomplete, inaccurate, or defective work at no further cost to the City, when such incomplete, inaccurate or defective work is due to the negligence of Service Provider.

Section 34. CAPTIONS AND HEADINGS

The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.

Section 35. SUCCESSORS, HEIRS, AND ASSIGNS

Except as otherwise expressly provided herein, this Agreement shall be binding upon the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties to this Agreement and, likewise, shall inure to the benefit of the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties.

Section 36. GENDER

In this Agreement, unless the context clearly requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall include one another.

Section 37. SEVERABILITY

If any one or more of the sentences, clauses, paragraphs, or sections contained herein is declared invalid, void, or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall not affect, impair, or invalidate any of the remaining sentences, clauses, paragraphs, or sections contained herein.

Section 38. GOVERNING LAW

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the Parties under this Agreement, shall be construed pursuant to and in accordance with California law.

Section 39. DEFAULT

a. Failure or delay by any Party to this Agreement to perform any material term or provision of this Agreement shall constitute a default under this Agreement; provided however, that if the Party who is otherwise claimed to be in default by the other Party commences to cure, correct, or remedy the alleged default within fifteen (15) days after receipt of written notice specifying such default and shall diligently complete such cure, correction, or remedy, such Party shall not be deemed to be in default hereunder.

b. The Party claiming that a default has occurred shall give written notice of default to the Party in default, specifying the alleged default. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default; provided, however, the injured Party shall have no right to exercise any remedy for a default hereunder without

delivering the written default notice, as specified herein.

c. Any failure or delay by a Party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any rights or remedies associated with a default.

d. In the event that a default by any Party to this Agreement may remain uncured for more than fifteen (15) days following written notice, as provided above, the injured Party shall be entitled to seek any appropriate remedy or damages by initiating legal proceedings.

Section 40. CUMULATIVE REMEDIES

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default of any other default by the other Party.

Section 41. VENUE

All proceedings involving disputes over the terms, provisions, covenants, or conditions contained in this Agreement and all proceedings involving any enforcement action related to this Agreement shall be initiated and conducted in the applicable court or forum in San Bernardino County, California.

Section 42. ATTORNEYS' FEES

In the event any action, suit, or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement, or as a result of any alleged breach of any provision of this Agreement, the prevailing Party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorneys' fees, from the losing Party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

Section 43. EFFECTIVENESS OF AGREEMENT

This Agreement shall not be binding upon the City, until signed by the authorized representative(s) of Service Provider, approved by the City's Risk Manager, and executed by the authorized City personnel or Mayor.

Section 44. REPRESENTATIONS OF PARTIES AND PERSONS EXECUTING AGREEMENT

(a) Each of the Parties to this Agreement hereby represents that all necessary and appropriate actions of their governing bodies have been taken to make this Agreement a binding obligation of each of the Parties hereto.

(b) The persons executing this Agreement warrant that they are duly authorized to execute this Agreement on behalf of and bind the Parties each purports to represent.

Section 45. COUNTERPARTS

This Agreement may be executed by the parties in counterparts, and when executed by each of the parties, each counterpart shall be deemed to be a part of this Agreement.

[END OF THIS PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the dates written below.

THE CITY OF VICTORVILLE

(NAME OF PROVIDER)

By: _____
**Gloria Garcia,
Mayor**

By: _____
**Name,
Title**

Dated: _____

Dated: _____

ATTEST

By: _____
**Carolee Bates,
City Clerk**

Dated: _____

THE CITY OF VICTORVILLE

AS TO STANDARD FORM:

By: _____
**Chuck Buquet,
Risk Manager**

By: _____
**Andre de Bortnowsky,
City Attorney**

Dated: _____

Dated: _____

EXHIBIT A

BID PROPOSAL FORM

See Attachment