

**VICTORVILLE WATER DISTRICT
REQUEST FOR PROPOSALS (RFP)**



**CC20-063
RISK AND RESILIENCE
ASSESSMENT/EMERGENCY RESPONSE
PLAN**

SUBMITTAL DUE DATE:

JANUARY 8, 2020 @ 2:00 P.M.

**VICTORVILLE WATER DISTRICT
RFP CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY
RESPONSE PLAN**

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SECTION I

NOTICE INVITING PROPOSAL

VICTORVILLE WATER DISTRICT

**RFP CC20-063 RISK AND RESILIENCE ASSESSMENT/EMERGENCY RESPONSE
PLAN**

NOTICE INVITING PROPOSAL

- I. **INTRODUCTION:** The Victorville Water District (District) is requesting proposals from qualified firms to provide professional services for the development of a Risk and Resilience Assessment and a corresponding Emergency Response Plan in compliance with the American Water Infrastructure Act (AWIA) (S.3021, Law 115-270).
- II. **PROPOSALS DUE** - Proposals will be received by the Purchasing Agent at 14343 Civic Drive, Victorville, California, 92392, until, **JANUARY 8, 2020 at 2:00 p.m.**, PST, in the Finance Division of the Administrative Services Department, located in City Hall, 2nd floor.
- III. **OBTAINING PROPOSAL FORMS** – Complete bid documents may be obtained from the Purchasing Section of the of Administrative Services, City of Victorville, California, 14343 Civic Drive, Victorville, California, 92392, or by calling Celeste Calderon at (760) 955-5082.

The City of Victorville Web Page, <http://victorvilleca.gov> under the heading "Purchasing Bids" will contain a copy of this document as well as a summary of any/all applicable addenda and Ebidboard.com.

Date: December 13, 2019



/s/ Marcie Wolters, Assistant City Clerk

SECTION II

TERMS AND CONDITIONS

**VICTORVILLE WATER DISTRICT
CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN**

SECTION II - TERMS AND CONDITIONS

NOTE: IT IS THE PROPOSER'S RESPONSIBILITY TO EXAMINE THE "REQUEST FOR PROPOSAL" SOLICITATION IN ITS ENTIRETY PRIOR TO SUBMITTING A PROPOSAL

TERMS AND CONDITIONS

A. **Waiting Period**

Proposals shall be Consultant offers, subject to acceptance or rejection for a period of up to ninety (90) days per "Request for Proposal" from the date of the proposal opening until proceedings are completed and an award is made. Proposer shall assume full responsibility for the effect of the waiting period on all proposal fees and terms.

B. **Insurance:**

COMMERCIAL GENERAL AND AUTOMOBILE LIABILITY INSURANCE

a. Consultant shall be required to procure and maintain at its own expense, during the Initial Term of this Agreement (and during the Option Period, if applicable), Commercial 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 Consultant or its officers, employees, servants, volunteers, and agents and independent contractors.

b. Consultant shall further be required to procure and maintain, at its own expense, during the Initial Term of this Agreement, (and during the Option Period, if applicable), Commercial Vehicle Liability Insurance covering personal injury and property damage, of not less than One Million Dollars (\$1,000,000) combined single limit, covering any vehicle utilized by Consultant or its officers, employees, servants, volunteers, agents and independent contractors in performing the services required by this Agreement.

WORKERS' COMPENSATION INSURANCE

a. Consultant shall be required to procure and maintain at its own expense, during the Initial Term of this Agreement (and during the Option Period, if applicable), Workers' Compensation Insurance, providing coverage as required by the California State Workers' Compensation Law.

b. If any class of employees employed by the Consultant pursuant to this Agreement is not protected by the California State Workers' Compensation Law, Consultant shall provide adequate insurance for the protection of such employees to the satisfaction of the District.

PROFESSIONAL LIABILITY INSURANCE

Professional Liability Insurance or Errors and Omissions insurance as appropriate to Consultant's profession shall be required and written on a policy form specifically designed to provide coverage for and protect against the negligent acts, errors and omissions of the

Consultant in the performance of the services required by this Agreement. A minimum limit of \$1,000,000 per claim and in the aggregate must be provided.

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 and Professional Liability, shall be endorsed to name the District, the City of Victorville and their officers, employees, servants, volunteers, agents and independent contractors, including, without limitation, the District Legal Counsel, as Additional Insureds.

WAIVER OF SUBROGATION RIGHTS

Consultant shall require the carriers of all required insurance policies, with exception to Professional Liability, to waive all rights of subrogation against the District, the City of Victorville and their officers, employees, servants, volunteers, agents, and independent contractors and subcontractors. Each policy of insurance shall be endorsed to reflect such waiver.

PROOF OF INSURANCE COVERAGE; REQUIRED ENDORSEMENTS

a. Consultant 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 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 District 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 District 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 during the Option Period, if applicable), of this Agreement.

e. The Commercial General Liability and Vehicle Liability policies shall be endorsed to contain the following provision: "For any claims related to this Agreement, Consultant's coverage shall be primary with respect to the District. Any insurance maintained by the District shall be in excess of Consultant's insurance and shall not contribute with it."

Consultant shall review the sample agreement, attached hereto, for additional required insurance criteria.

C. Proposal Preparation Costs

The District is not, nor shall be, deemed liable for any costs incurred by the Consultant in the preparation, submittal, or presentation of their proposals.

D. **Proposal Inclusions**

Fully completed by the Consultant. All Consultants are encouraged to review and Consultant that their proposal includes and specifically addresses all of the proposal requirements prior to submitting as outlined elsewhere in this document.

E. **Withdrawal of Proposal Before Closing**

Any Consultant may request the withdrawal of their submitted proposal, by written request, at any time **prior** to the scheduled closing date and time. Upon receiving the written request to withdraw any proposal, the City of Victorville will consider the Consultant's proposal null and void, and return the proposal to the Consultant unopened. Withdrawal of Consultant's proposal will not prejudice Consultant's re-submittal for this or any future proposal(s).

F. **Mistake in Proposal**

Any Consultant may withdraw their proposal after the proposal opening, subject to the time restrictions indicated below, **only** if the Consultant can establish to the District's satisfaction, that a mistake was made in preparing the proposal.

1. A Consultant declaring a mistake must provide a written notice to the District within five (5) calendar days following the scheduled closing date, specifying in detail how the mistake occurred, and how the mistake made the proposal materially different than it was intended.
2. Withdrawal of the proposal will **only** be permitted for mistakes made in the completion of the proposal. A Consultant who claims a mistake shall be **prohibited** from submitting further proposals on the Project on which the mistake was claimed. (*Public Contract Code 5105*).

G. **Submittal Location, Closing Date and Time**

To be considered, proposals must be received by the Purchasing Agent of the City of Victorville, at 14343 Civic Drive, Victorville, CA 92392, on or by **JANUARY 8, 2020 at 2:00 p.m. PST**, in the Finance Division of the Administrative Services Department in City Hall. Proposals received after the due date and time will not be accepted and will be returned unopened. **Proposer shall submit one original and three (3) hard copies of the Submittals.**

E-mailed and faxed bids will not be accepted.

H. **Proposal Labeling**

The entire proposal shall be submitted in a sealed envelope with all original pages intact. Proposal envelopes must be plainly marked and submitted as follows:
"CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN"

THE COST PROPOSAL FORM ITSELF SHALL BE IN A SEPARATELY SEALED ENVELOPE, PLAINLY LABELED "COST PROPOSAL FOR CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN" SECTION IV FORMS PAGE 23

I. **Written Questions and Answers**

Any proposal received prior to the date and time specified for the receipt of proposals maybe withdrawn or modified by written request. All questions must be in writing and submitted via mail, fax, or email to:

Address: City of Victorville
Admin Services Dept/Purchasing Section
14343 Civic Drive
Victorville, CA 92392-2399

Email: cmcalderon@victorvilleca.gov
Attention: Celeste Calderon, Finance Specialist
Phone: (760) 955-5082
FAX: (760) 269-0045

In order for all competing Consultants to receive the same information, no response shall be given to verbal questions submitted by telephone or in person. Personal and/or telephone contact with District staff in regard to this RFP is prohibited. The District may reject the proposal of such Consultant.

J. **Proposal Submittal**

All proposals delivered in an express courier package shall be sealed in a separate envelope within the courier package. **Any proposal found to be illegible or incomplete shall be considered for rejection.** Whether sent by courier, mail, or by means of personal delivery, Proposers assume full responsibility for having their proposal deposited at the proper address and not later than the scheduled closing time. **Faxed or e-mailed proposals or modifications will not be considered.** More than one (1) proposal from an individual, Consultant, Partnership, or Corporation under the same or different names, will not be considered.

K. **Proposal Acceptance**

The District reserves the right to accept or reject any and all proposals and waive any irregularities or informalities in any proposals or in the proposal process. The District further reserves the right to award the contract to other than the lowest Proposer if such action is deemed to be in the best interest of the District.

L. **Interpretation of Documents**

During the proposal solicitation period, should a Consultant find discrepancies or omissions in any part of the RFP, or should the Consultant be in doubt as to their interpretation, the Consultant shall immediately notify the contact indicated in Section 3, Paragraph I, entitled "Written Questions and Answers". Should it be found necessary, an addendum will be sent to all Consultants. Any addenda issued prior to the scheduled proposal closing date and time, shall form a part of this solicitation and shall become a part of the submitted proposal. Exceptions to this RFP: Any changes from the provisions of this RFP, which may be desired by the Proposer, shall be specifically noted on the form provided in Section 4 - EXCEPTION FORM.

M. **Understanding of the Project**

The proposal shall contain a detailed explanation of the scope of work. Do not reiterate the contents of the RFP. The information offered should be a compendium of the Consultant's knowledge of the scope provided.

N. **Evaluation and Ranking of Bids, Awards, and Execution of Contract**

The District reserves the right to accept or reject any and all bids, to waive any irregularities or informalities in any proposal, and to award a contract to the proposer who best meets its requirements. Relevant factors include completeness and accuracy of proposal; past experiences of the District with the proposer (if applicable); references from other owners, developers, or municipalities regarding past work done by the proposer; customer service record and experience of the proposed staff; ability to complete the job in the specified time.

Proposals may not be withdrawn for a period of ninety (90) days after date set for opening thereof, unless otherwise required by law. The award of the contract, if awarded, will be made within forty-five (45) days after opening of the Proposals. The Consultant's signature on the Cost Proposal form shall constitute a commitment on the part of the Consultant to perform the work in a workmanship manner as set forth in the Proposal Form, the Terms and Conditions, Technical Provisions, and the Request for Proposal. The Consultant to whom the contract is awarded shall be notified upon approval of the contract by the Purchasing Section of the Administrative Services Department. The Proposal Form, the Terms and Conditions, Scope of Work, the Request for Proposal, and all applicable addenda, together with any plans and/or attachments, shall all be considered as part of the contract between the District and the Consultant to whom a Purchase Order is issued.

The District further reserves the right to award the contract to other than the lowest Consultant and the right to split the order if such action is deemed to be in the best interest of the District.

O. **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 Consultant must identify, in writing, all copyrighted material, trade secrets or other proprietary information the Consultant claims are exempt from disclosure pursuant to the California Public Records Act. The Consultant who claims such an exemption must also state in the proposal that, "The Consultant 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 District for its refusal to disclose such material, trade secrets or other proprietary information to any party."

P. **Acceptance and Payment**

Consultant's invoice(s) shall include reference to the Purchase Order number issued for the services, and be accompanied by detailed supporting documentation, to include information on services rendered. The city shall pay the Consultant's properly executed invoice, subject to approval by the Project Manager, within thirty (30) days following receipt of the invoice. Total payment for each phase of the work will not exceed 95% (5% retention) of the estimated cost of that phase until all work under that phase is completed to the District's satisfaction. Total payment for all work shall not exceed the sum of the estimated cost of all

completed phases plus the partial payments for partially completed phases. Payment will be withheld for any services which do not meet or exceed District requirements or have proven unacceptable until such services are replaced, resubmitted and accepted by the District.

Q. **Federal, State and Local Laws**

The Consultant and all subcontractors shall comply with all applicable federal, state, local laws, rules, and regulations.

R. **Retention of and Access to Records**

At all reasonable times during the term of this contract and for a minimum of three (3) years following final settlement, the District, and any designated representative, shall have access to all records related to work performed under this contract and the Consultant and all subs shall make such records available for inspection, audit, copying excerpts and transcriptions.

S. **Drug-Free Workplace Requirements**

The Consultant and all subcontractors shall comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Sections 8350 et seq.).

T. **Americans with Disabilities**

The Proposer and all subcontractors shall comply with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.) which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

U. **Conflict of Interest**

No member, officer, or employee of the District or of a local public body during his tenure or for one (1) 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 District has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the contracting party other than the District, 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.

V. **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.

W. **Non-Collusion Declaration**

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

X. **License**

The awarded Consultant and any subcontractors shall obtain a **City of Victorville Business License** prior to commencing work for the District.

Y. **Termination for Convenience**

The District may, by written notice, terminate this contract in whole or in part, when deemed in the District's interest. Upon termination of this contract, the District 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.

Z. **Termination for Default**

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

1. Deliver 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.

AA. **Ownership of Materials and Documents/Confidentiality**

The District retains ownership of any and all partial or complete reports, drawings, plans, notes, computations, lists, and/or other materials, documents, information, or data prepared by the Consultant and/or the Consultant's subcontractor(s) pertaining to this document. Said materials and documents are confidential and shall be available to the District from the moment of their preparation, and the Consultant shall deliver same to the District whenever requested to do so by the Project Manager and/or the District. The Consultant shall provide the city with an electronic version of all project-related documents, including all text documents and drawings. The Consultant agrees that same shall not be made available to any individual or organization, private or public, without the prior written consent of the District.

BB. **Confidentiality**

Before the award of the contract, all proposals will be designated confidential to the extent by permitted by the California Public Records Act. After award of the contract (or if not awarded, after rejection of all proposals), all responses will be regarded as public records and will be subject to review by the public. Any language purporting to render all or portions of the proposals confidential will be regarded as non-effective and will be disregarded.

CC. **Amendments and Requests**

The District reserves the right to amend the Request for Proposals by addendum before the final proposal submittal date.

DD. **Non-Commitment of the Water District**

This Request for Proposals does not commit the District to award contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract these services. All products used or developed in the execution of any contract resulting from this Request for Proposals will remain in the public domain at the completion of the contract.

EE. **General Compliance with Laws**

The Consultant shall be required to comply with all federal, state and local laws and ordinances applicable to work

FF. **Affirmative Action:**

The District hereby notifies all bidders that it will affirmatively ensure that minority business enterprises will be afforded full opportunity and consideration when submitting bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, creed, or national origin when reviewing the bid proposals for award of contract.

GG. **Hiring of Illegal Aliens Prohibited:** Consultant shall not hire or employ any person to perform work within the District 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.

SECTION III

SCOPE OF SERVICES

**VICTORVILLE WATER DISTRICT
CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN**

SECTION III – SCOPE OF SERVICES

INTRODUCTION: The Victorville Water District (District) is requesting proposals from qualified firms to provide professional services for the development of a Risk and Resilience Assessment and a corresponding Emergency Response Plan in compliance with the American Water Infrastructure ACT (AWIA) (S.3021, Law 115-270). Per Section 2013 of Title II, the AWIA requires utilities to conduct a Risk and Resilience Assessment (RRA) of their community water systems and develop a corresponding Emergency Response Plan (ERP). Upon completion of the RRA and the ERP, the utility is to submit self-certification to the U.S. Environmental Protection Agency (USEPA) showing compliance with each portion of the federal mandate.

POPULATION SERVED	RISK ASSESSMENT	EMERGENCY RESPONSE PLAN (ERP)
≥100,000	March 21, 2020	September 30, 2020

*ERP certifications are due six months from submittal of the risk assessment certification. Date shown above are based on a utility submitting a risk assessment on the final due date. Penalties for missing deadlines is up to \$25,000 per day.

BACKGROUND:

- Formed in August of 2007 by the LAFCO merger of the Victor Valley Water District, Baldy Mesa Water District and the City of Victorville
- Population is over 100,000
- Over 35 potable Ground Wells, 4 non-potable Aquifer Storage and Recovery Wells (ASR), 2 non-potable Golf Course Wells and 1 non-potable Submersible Well
- 2 Ion Exchange Treatment plants and 2 Coagulation Filtration Treatment Plants
- 26 Potable Reservoirs and 1 Recycled Water Reservoir
- 8 Potable Boosters and 2 Recycled Water Boosters
- 2 Supplemental Water Connections with Mojave Water District (R-Cubed Project)
- 700 miles of water pipe
- 440 miles of sewer pipe

THE MINIMUM INFORMATION REQUIRED IN THE PROPOSAL INCLUDES:

- General statement of the understanding of the scope;
- An approach to the work and ability to meet the strict timeline;
- The firm’s experience of the proposed project manager and key individuals;
- A proposed task list and level of effort for each task;
- Approach to managing and completing the project; and
- Approach to communicating with District.

SCOPE OF WORK:

Consultant will conduct a new Risk and Resilience Assessment (RRA) in accordance with AWIA Section 2013, and develop an Emergency Response Plan (ERP) that incorporates the findings from the RRA.

At the completion of the RRA, the Consultant shall provide the RRA and recommendations report and prepare an RRA certification for submission to the EPA within the specified timeframe mandated by AWIA Section 2013 of Title II.

THE SELECTED CONSULTANT WILL BE REQUIRED TO PROVIDE THE FOLLOWING SERVICES:

- Subject Matter Expertise
- Data Collection
- Conduct Risk and Resilience Assessment
- Develop Emergency Response Plan
- Executive Management/Board Presentations

PHASE A

Task 1 – Data Collection and Gap Analysis

Consultant shall assess the District's potential compliance with the AWIA requirements based on current documents, policies, plans, procedures and assessments it already has in place. This should include a method to indicate to what degree those current concepts meet the AWIA compliance, including completeness, currency (less than 5 years old), intent, etc.

The Consultant is expected to follow all current regulations of the EPA, as well as supporting guidance documents provided by the American Water Works Association including the following: AWWA G300, AWWA G430, AWWA G440, AWWA J100, AWWA M19, etc. The Consultant shall continuously check with the EPA for any AWIA changes to the RRA and ERP requirements.

Task 2 – Conduct and Develop Risk and Resilience Assessment (RRA)

The Consultant shall conduct a District-wide all-hazard Risk and Resilience Assessment, which follows the guidelines given in Section 2013 of the America's Water Infrastructure Act, which amended Section 1433 of the Safe Drinking Water Act. Tasks should include, but are not limited to:

1. Risk and Resilience Assessment including the assessment of:
 - a) Risk to the system from malevolent acts and natural hazards (i.e. all hazards);
 - b) Resilience of water facility infrastructure (including pipes and constructed conveyances, physical barriers, source water, water collection and intake, pretreatment, treatment, storage and distribution facilities, electronic, computer or other automated systems (including the security of such systems) utilized by the system;
 - c) Monitoring practices of the system;
 - d) Financial infrastructure of the system (e.g., billing systems);
 - e) Use, storage, or handling of various chemicals by the system;
 - f) Operation and maintenance of the system;
 - g) Unintentional human caused risks, such as hazardous chemical spills, incorrect system operation, critical component failure, etc.;
 - and
 - h) Dependency hazards, to include utility interruptions (including power outages, communications outages), supply chain, employee staffing issues (illness, strike), customers, transportation, proximity, etc.

2. An evaluation of capital and operational needs for risk and resilience management for the system. Consultant shall coordinate with the team that is responsible for the District Capital Improvement and Facilities Plan.
3. Recommendation report.
4. Prepare required certification to be send to EPA to verify that the District has conducted an assessment encompassing the requirement of the RRA.
5. Additional tasks deemed necessary by Consultant.

Additionally, in an effort to keep the District's ERP focused on response concepts, the following sections of AWIA SEC. 2013 "(b) Emergency Response Plan" should be incorporated into Task 2:

- "strategies and resources to improve the resilience of the system, including the physical security and cyber security of the system";
- "actions, procedures, and equipment which can obviate or significantly lessen the impact of a malevolent act or natural hazard on the public health and the safety and supply of drinking water provided to communities and individuals, including the development of alternative source water options, relocation of water intakes, and construction of flood protection barriers"; and
- "strategies that can be used to aid in the detection of malevolent acts or natural hazards that threaten the security or resilience of the system."

The following reference documents shall be considered by the Consultant during the RRA and ERP process. The list is not meant to be all-inclusive and the Consultant should identify what primary materials and reference documents they will utilize:

- AWWA M19. Emergency Planning for Water and Wastewater Utilities, Fifth Edition. 2018
- ANSI/AWWA G440-17. Emergency Preparedness Practices. 2017
- AWWA Process Control Sytem Security Guidance for the Water Sector. 2017
- ANSI/AWWA J100-10 (R13). Risk and Resilience Management of Water and Wastewater Systems (RAMCAP). 2013.
- ANSI/AWWA G430-14. Security Practices for Operation and Management. 32104
- AWWA Water & Wastewater Mutual Aid & Assistance Resource Typing Manual. 2008.
- AWWA Utilities Helping Utilities: An Action Plan for Mutual Aid and Assistance Networks for Water and Wastewater Utilities. 2006.
- National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cyber security. 2018.
- NIST Special Publication 800-82 Rev 2, Guide to Industrial Control Systems (ICS) Security. 2015.
- NIST Special Publication 800-184, Guide for Cybersecurity Event Recovery. 2016.
- ANSI/ISA-62443-2-1 (99.02.01). Security for Industrial Automation and Control Sytems: Establishing an Industrial Automation and Control Systems Security Program. 2009.
- FEMA Local Mitigation Planning Handbook. 2013.
- FEMA Developing and Maintaining Emergency Operations Plans, Comprehensive Preparedness Guide (CPG) 101. 2010.

The above documents are meant to be for reference only. The District may or may not adhere to these reference documents as pertinent to District business.

PHASE B

Task 3 – Develop/Update Emergency Response Plan

Develop/update an Emergency Response Plan, which incorporates finding from Task 2 above. The ERP should include, but is not limited to, the following:

1. Plans and procedures that can be implemented, and identification of equipment that can be utilized, in the event of a malevolent act or natural hazard that threatens the ability of District's system to deliver an adequate supply of safe drinking water; and
2. Actions, procedures, and equipment which can be obviate or significantly lessen the impact of a malevolent act or natural hazard in the public health and safety and supply of drinking water provided to communities and individuals, including the development of alternative source water options, relocation of water intakes, and construction of flood protection barriers.

ADDITIONAL WORK

The Consultant is encouraged in its proposal to identify any additional work that is not specified in this Scope of Work that be, in its opinion necessary or of benefit to complete the Project as defined herein. If identified, this Additional Work must be included and separated out in the Consultant's Proposal and Fee Schedule.

VALUE ADDED WORK

The Consultant is encourage to identify any additional work, not identified in this Scope of Work that would be of benefit to complete the Project as defined and can be provided as part of the proposal at no additional cost to the District.

Note that District may be working with other contractors/consultants on similar but related efforts during the project period, in particular, in the area of cyber security. The selected Consultant is expected to work professionally and positively with District and other vendors representing the District.

PROJECT APPROACH

Explain in detail how the Consultant will accomplish the items specified in each task of the Scope of Work. Include in the project approach description:

- Which assessment tools, systems, and guidance documents will be used;
- Expected resources and/or documentation to be provided by the District;
- Meetings, workshops or trainings proposed to accomplish tasks; and;
- Estimated amount of time to complete phases and tasks.

Risk and Resiliency Analysis for various aspects of the RRA can be completed utilizing guidance documents, crosswalks, excel sheets, computerized analysis tools, etc. The Consultant should include in their Project Approach which analysis tools they propose should be used for each area of analysis identified in Task 2 in the Scope of Work. Any documents, analyses, calculations, etc. shall become the property of the District. If there is a fee or license associated with any of the tools proposed, the Consultant should note the cost of those tools, including: if the cost is a one time, annual or otherwise reoccurring fee. The Project Manager will work with the selected Consultant to review the proposed tools and approve the final methods during the contract negotiation.

With regard to any software proposed to be used for data collection, analysis and maintenance of risk and vulnerability assessments, the Consultant shall keep in mind the intended goal is for the District to be able to independently update and maintain its RRA and ERP on a 5-year basis. If it is agreed to utilize software, the following shall apply:

1. The Consultant shall use and maintain the selected software for data collection in accordance with the standards included in this RFP.
2. The Consultant shall provide all copies, licenses and data for the selected software to the District at the conclusion of the project. (All software licenses should be in the District's name, Victorville Water District.)
3. No copies of purchased licenses, software or data shall be retained by the Consultant without prior written permission from the District.

CONSULTANT MINIMUM QUALIFICATIONS

The Consultant must possess the minimum qualifications stated below. Include information in the proposal to substantiate:

- a. Experience performing services similar in nature to those requested in this RFP with water and wastewater utilities in the United States, preferably in California.
- b. Experience should include demonstrated competency in each area identified in the Scope of Work, including, but not limited to, knowledge of and documented project experience with:
 - Industry practices for enhancing emergency preparedness and resiliency of water utilities, including the standards listed in the Scope of Work.
 - Use of various risk assessment tools in conducting water utility risk assessment (e.g., Program to Assist Risk and Resilience Examination (PARRE), Vulnerability Self-Assessment Tool (VSAT), AWWA Cyber security Guidance & Use Case Tool).
 - A broad range of water utility physical, operational, fiscal and cyber vulnerability assessments and risk mitigation experience. Experience with physical security at treatment facilities is essential.
 - The Consultant must have working knowledge and experience with typical government business computer/communications and SCADA system and understanding of cyber security for water facilities.
- c. The Consultant must provide a sufficient number of qualified personnel to perform the Scope of Work within the required timeline.
- d. Certification through the AWWA's Risk and Resilience Certificate Program is desirable but not required.

DELIVERABLES (for RFP)

Submit (1) One original and three (3) printed sets of proposal. There is no maximum number of pages, but *please be concise* (consideration will not be given for bulk).

Submit one (1) cost proposal in a separate sealed envelope; identify as "Cost Proposal" on Section IV FORMS PAGES 23

METHOD AND CRITERIA FOR SELECTION

A consultant selection committee will be appointed at the beginning of the consultant selection process. The committee will review each written proposal submitted by consultants to determine if they meet the requirements of this RFP. Failure to meet the essential requirements for this RFP may be cause for rejection of the proposal. The committee will make independent random checks of the consultant’s references as well as major sub-consultants. The following criteria will be used to rank consultants:

MAXIMUM POINTS	CRITERIA
25	Understanding of the scope.
25	Qualifications and Experience of Team Leader.
25	Staff experience with similar kinds of work.
25	Ability to provide the requested services in a responsive and timely manner (demonstrated through project references).
100	TOTAL

Consultant(s) shall be selected on the basis of demonstrated competence and professional qualifications to provide the requested services. Cost will not be used as a primary basis for selecting consultant, however if two final consultants are considered as equally-qualified, then cost can be considered as a decisive factor. The selection committee will rank the responding consultants’ proposals and will develop a short list of qualified consultants. At the conclusion of the ranking process, the sealed fee proposal for the top-ranked consultants will be opened. Subsequently, the District will enter into negotiations with the top-ranked consultant, with the goal of agreeing on a final contract that will deliver to the District the services and/or products required at a reasonable and fair compensation. If a fair and reasonable compensation cannot be negotiated with the top-ranked consultant, a new negotiation will be started with the next highest-ranked consultant. If this new negotiation fails, the process will be repeated until a contract is negotiated successfully.

The District may exercise the **option** of inviting the top-ranking consulting Consultants for an interview/presentation. The team representing the consulting Consultant in the interview/presentation must consist of those individuals who will be directly involved in the project. In that case, the final selection of a consultant will be based on the interview/presentation.

The prospective consultant is advised that, should this Proposal result in award of a contract, the contract will not be in force until it is approved and fully executed by the District.

SECTION IV

SUBMITTAL FORMS

**VICTORVILLE WATER DISTRICT
CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN**

SECTION 4 - PROPOSAL DOCUMENTS

SUBMISSION CERTIFICATION

I hereby submit to the Victorville Water District the following cost proposal for work outlined in plans and specifications entitled “**RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN**”. All of the following documents (check below) are completed, fully executed, and included in my proposal as required in the RFP documents:

- Submission Certification
- Cost Proposal Form
- Proposer Identification
- Customer References
- Exception Form
- Worker's Compensation
- Signature Authorization
- PCC 10162 Questionnaire
- Non-Collusion Declaration
- Debarred Certificate Acknowledgement
- Acknowledgement Pages for all Bid Addenda

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 cost proposal.

Authorized Signature

Printed Name and Title

Date Signed

Telephone Number

**VICTORVILLE WATER DISTRICT
CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN**

COST PROPOSAL FORM

[Staff] _____ . \$ _____ per hour \$ _____ x _____ hours \$ _____

[Staff] _____ . \$ _____ per hour \$ _____ x _____ hours \$ _____

[Staff] _____ . \$ _____ per hour \$ _____ x _____ hours \$ _____

[Staff] _____ . \$ _____ per hour \$ _____ x _____ hours \$ _____

TOTAL FOR TASK \$ _____

ADDITIONAL CHARGES (SPECIFY) _____

The District will not pay any separate costs for travel, lodging, per diem, printing, shipping, etc.
(Feel free to add additional sheets as needed).

Consultant's Name: _____

Address: _____

Email Address: _____

Phone: _____ Fax _____

SIGNATURE: _____

**NOTE: COST PROPOSAL SHEETS (PAGE 23) NEED TO BE SUBMITTED SEPARATELY IN
A SEALED ENVELOPE CLEARLY IDENTIFIED AS : CC20-063 RISK AND RESILIENCE
ASSESSMENT/EMERGENCY RESPONSE PLAN**

**VICTORVILLE WATER DISTRICT
CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN**

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. Contractors License number and expiration date.
Number: _____ Expiration date: _____
10. Federal Tax Identification Number: _____
11. Proposer's Project Manager: _____

**VICTORVILLE WATER DISTRICT
CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN**

REFERENCES

District requests a minimum of three (3) references where work of a similar size and scope has been completed, for public agencies.

1. Public Agency Name: _____

Brief Description of Project: _____

Completion Date: _____

Contact Person: _____

Telephone: _____ Fax: _____

Email Address: _____



2. Public Agency Name: _____

Brief Description of Project: _____

Completion Date: _____

Contact Person: _____

Telephone: _____ Fax: _____

Email Address: _____



3. Public Agency Name: _____

Brief Description of Project: _____

Completion Date: _____

Contact Person: _____

Telephone: _____ Fax: _____

Email Address: _____

**VICTORVILLE WATER DISTRICT
CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN**

EXCEPTION FORM

Should Proposer take exception to **ANY** of the terms and conditions or other contents provided in the RFB for Professional Auditing Services, list the exceptions below. **THIS COMPLETED FORM MUST BE RETURNED WITH YOUR PROPOSAL.** If no exception(s) are taken, enter "**NONE**" for the first item. *(Make additional copies of this form as necessary)*

Page Number: _____ Section Title: _____

Paragraph Number: _____ Exception Taken: _____

Page Number: _____ Section Title: _____

Paragraph Number: _____ Exception Taken: _____

Page Number: _____ Section Title: _____

Paragraph Number: _____ Exception Taken: _____

**VICTORVILLE WATER DISTRICT
CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN**

WORKERS' COMPENSATION

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 Consultant, 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

**VICTORVILLE WATER DISTRICT
CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN**

SIGNATURE AUTHORIZATION

CONSULTANT: _____

A. I hereby certify that I have the authority to offer this proposal to the District for the above listed individual or company. I certify that I have the authority to bind myself/this company in a contract should I be successful in my proposal.

Name: _____ Title: _____

Signature: _____

Date: _____

B. The following information relates to the legal contractor listed above, whether an individual or a company. Place check marks as appropriate:

1. If successful, the contract language should refer to me as:

_____ An individual.

_____ A partnership, Partners' names:

_____ A company.

_____ A corporation.

2. My tax identification number is: _____
(For individuals this number is usually the Social Security Number.)

3. _____ I am a certified small business and Small Business Preference is applicable to this proposal.
A copy of my certification from the Office of Small and Minority Business is attached.

_____ I have recently filed for Small Business Preference but have not yet received certification.

_____ I am not a Small Business.

4. _____ My business is owned by a minority whose ethnicity is: _____
_____ My business is owned by a woman.

_____ My business is owned by a disabled veteran.

C. Consultant's Information

Person and Title: _____

Address: _____

Phone Number: _____

Email Address: _____

**VICTORVILLE WATER DISTRICT
CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN**

QUESTIONNAIRE

In accordance with Government code Section 14310.5, the Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the Bidder, any officer of the Bidder, or any employee of the Bidder who has a proprietary interest in the Bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a Federal, State, or local government project because of a violation of law or a safety regulation?

Yes _____ No _____

If the answer is yes, explain the circumstances in the following space:

NOTE: This questionnaire constitutes a part of the Proposal and signature on the signature portion of this Proposal shall constitute signature of this questionnaire.

**VICTORVILLE WATER DISTRICT
CC20-063 RISK & RESILIENCE ASSESSMENT/EMERGENCY RESPONSE PLAN**

DEBARRED CERTIFICATION ACKNOWLEDGEMENT

(a)(1) The Offeror/Bidder certifies, to the best of its knowledge and belief, that—

(i) The Offeror/Bidder and/or any of its Principals—

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have not, within a three-year period preceding this solicitation, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of bids; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision;

(ii) The Offeror/Bidder has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) “Principal,” for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or Superintendent responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror/Bidder shall provide immediate written notice to the District if, at any time prior to contract award, the Offeror/Bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror’s/Bidder’s responsibility. Failure of the Offeror/Bidder to furnish a certification or provide such additional information as requested by the District may render the Offeror/Bidder nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror/Bidder is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror/Bidder knowingly rendered an erroneous certification, in addition to other remedies available to the District, the District may terminate the contract resulting from this solicitation for default.

The Consultant certifies that the foregoing is true and correct:

Consultant: _____ Federal I.D. No: _____

Address: _____

Phone: _____ Fax: _____ Email: _____

Signature: _____ Date: _____

**SAMPLE
CONSULTANT PROFESSIONAL
AGREEMENT**

SAMPLE AGREEMENT ONLY. AGREEMENT WILL BE MODIFIED TO REFLECT THE ACTUAL ASSOCIATED STIPULATIONS INDICATED IN THE SPECIAL PROVISIONS AND OTHER APPLICABLE CONTRACT DOCUMENTS

**CONSULTANT/PROFESSIONAL SERVICES PROVIDER AGREEMENT
BY AND BETWEEN
VICTORVILLE WATER DISTRICT
AND
CONSULTANT
FOR
TITLE OF PROJECT AND PROJECT NUMBER**

THIS CONSULTANT/PROFESSIONAL SERVICES PROVIDER AGREEMENT (hereinafter “Agreement”), is made and entered into by and between the VICTORVILLE WATER DISTRICT, a County water district and subsidiary district of the City of Victorville, organized and existing in the County of San Bernardino under and by virtue of the laws of the State of California, hereinafter referred to as the “District”, and [CONSULTANT], [STATE FORM OF BUSINESS], hereinafter referred to as “Consultant.” District and Consultant are sometimes hereinafter referred to individually as a “Party” and collectively referred to as the “Parties.”

RECITALS:

WHEREAS, the District requires Consultant/Professional Services Provider Agreement [DESCRIBE CONSULTANT PROFESSIONAL SERVICES] for [DESCRIBE PROJECT]; and

WHEREAS, Consultant represents that it is fully qualified to perform the consulting and/or professional services required for performance under this Agreement by virtue of its experience and the training, education and expertise of its principals and its employees; and

WHEREAS, in light of the facts set forth above, the District desires to retain the services of a qualified Consultant to provide, on an independent contractor basis, [DESCRIBE SERVICES]; and

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. **PROPOSAL (revise as applicable)**

Consultant shall provide to the District those services set forth in the **Proposal**, attached hereto as **Exhibit “A”**, and incorporated as part of this Agreement by this reference.

Section 3. **COMPENSATION**

The District shall pay to Consultant a sum not to exceed **[AMOUNT IN WORDS] AND 00/100 DOLLARS (\$000,000.00)** for faithful performance of the services to be rendered under this Agreement, subject to the **Fee Schedule** provisions of Section 4, below. No expense reimbursements, including, but not limited to, reimbursements for travel, parking, lodging, and/or meals shall be paid to Consultant unless such expense reimbursements: (i) are specifically provided for and described by nature and type in **Exhibit “B”**, below; (ii) appear on Consultant’s monthly invoices to District; (iii) are supported by the appropriate receipts and other such documentation as the District shall require; and (iv) are directly related to the Scope of Services to be performed under this Agreement. In addition, any and all reimbursements shall be made in accordance with any District policy governing same.

Section 4. **FEE SCHEDULE (amend as applicable)**

The District shall pay Consultant as provided in the **Fee Schedule**, attached hereto as **Exhibit “B”**, and incorporated as part of this Agreement by this reference. The provisions of **Exhibit “B”** notwithstanding, in order to receive payments, Consultant shall be required to submit to the District detailed monthly invoices which include, if applicable, a description of all services/tasks performed, the number of hours expended on each service/task, the name of the person performing the service/task, and expense reimbursement information, if any, as required by Section 3, above. Provided that services have been satisfactorily rendered, invoices shall be paid by the District approximately thirty (30) working days following receipt of Consultant’s invoice.

Section 5. **RESERVED**

Section 6. **TERM OF AGREEMENT**

This Agreement shall be for an Initial Term of **[NUMBER OF MONTHS]** commencing on **(COMMENCEMENT DATE)** (the “Commencement Date”) and expiring on **(TERMINATION DATE)** (the “Termination Date”) (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.

[IF NO OPTION PERIODS -- DELETE THIS SECTION FROM THE AGREEMENT IN IT’S ENTIRETY]-- This Agreement may be extended for **ONE (1)** additional one-year period (hereinafter “Option Period”), at the option of District, subject to satisfactory performance as determined by the District. District shall give Consultant 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 District decide to exercise its option(s) to extend. In the event District does not give Consultant 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 District fail to give Consultant the sixty (60) days written notice of its intention to exercise any Option Period, the District may, in its sole discretion, elect to exercise any Option Period at a later date, following written inquiry from Consultant.

Section 7. INDEPENDENT CONTRACTOR STATUS

It is the express intention of the Parties that Consultant is an independent contractor and not an employee, agent, joint venturer, or partner of the District. Nothing in this agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between the District and Consultant or any employee or agent of Consultant. Both Parties acknowledge that Consultant is not an employee for state or federal tax purposes or any other purpose. Consultant shall retain the right to perform services for others during the term of this agreement.

**Section 8. REPRESENTATIONS AND ACKNOWLEDGMENTS
REGARDING INDEPENDENT CONTRACTOR'S STATUS OF
CONSULTANT**

a. Consultant represents and acknowledges the following:

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

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

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

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

(5) The District 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 Consultant to perform the services described in this Agreement.

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

b. The District represents and acknowledges the following:

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

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

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

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

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

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

(7) Other than attendance at required public meetings and public hearings, and complying with the provisions of the **Fee Schedule set forth in Exhibit B** and any procedural requirements set forth by law, Consultant is not required to perform the services set forth in this Agreement in any particular order or sequence.

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

Section 9. NOT AGENT OF THE DISTRICT

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

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

Section 10. LICENSES AND PERMITS

Consultant represents that it has obtained and will maintain at all times during the Initial Term (and during the Option Period, if applicable) of this Agreement all business licenses, including but not limited to a City of Victorville business license, professional licenses or certifications, or permits necessary for performing the services described in this Agreement.

Section 11. STANDARD OF PERFORMANCE; WARRANTY

a. Consultant agrees to perform all services required by this Agreement in a professional and competent manner, in accordance with the degree of skill and diligence which is normally employed by reputable professionals performing similar services under similar

conditions in the same or similar locality. Such services shall also be performed in a manner which is reasonably satisfactory to [INSERT DEPT. HEAD NAME AND TITLE], or his designee.

- b. By executing this Agreement, Consultant warrants that it:
- (1) Has thoroughly investigated and considered the services and work to be performed;
 - (2) Has investigated the issues regarding the scope of services to be provided;
 - (3) Has carefully considered how the services and related work should be performed; and
 - (4) Fully understands the facilities, difficulties and restrictions associated with performance of the services required by this Agreement.

Section 12. FAMILIARITY WITH WORK

Should Consultant discover any latent or unknown conditions materially differing from those inherent in the services or as represented by the District, Consultant shall immediately inform the District of such fact and shall not provide any services, except at Consultant's risk, until written instructions are received from [INSERT DEPT. HEAD NAME AND TITLE], or his designee.

Section 13. CONFLICTS OF INTEREST

Consultant 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 Consultant's services under this Agreement. Consultant further covenants that in the performance of services under this Agreement, no officer, employee or agent of Consultant having such interest shall be employed by it. In the event the District determines that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Consultant shall file such Form 700 with the District **Secretary's** Office pursuant to the written instructions provided by the District **Secretary**. Acquisition or maintenance of a conflicting interest by Consultant may result in termination of this Agreement by the District.

Section 14. COMPLIANCE WITH LAWS

Consultant 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 Consultant or its employees, officers, or board members.

Section 15. COMMERCIAL GENERAL AND AUTOMOBILE LIABILITY INSURANCE

a. Consultant shall procure and maintain at its own expense, during the Initial Term of this Agreement (and during the Option Period, if applicable), Commercial 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 Consultant or its officers, employees, servants, volunteers, and agents and independent contractors.

b. Consultant shall further procure and maintain, at its own expense, during the Initial Term of this Agreement, (and during the Option Period, if applicable), Commercial Vehicle Liability Insurance covering personal injury and property damage, of not less than One Million Dollars (\$1,000,000) combined single limit, covering any vehicle utilized by Consultant or its officers, employees, servants, volunteers, agents and independent contractors in performing the services required by this Agreement.

Section 16. WORKERS' COMPENSATION INSURANCE

a. Consultant shall procure and maintain at its own expense, during the Initial Term of this Agreement (and during the Option Period, if applicable), Workers' Compensation Insurance, providing coverage as required by the California State Workers' Compensation Law.

b. If any class of employees employed by the Consultant pursuant to this Agreement is not protected by the California State Workers' Compensation Law, Consultant shall provide adequate insurance for the protection of such employees to the satisfaction of the District.

Section 17. PROFESSIONAL LIABILITY INSURANCE

Professional Liability Insurance or Errors and Omissions insurance as appropriate to Consultant's profession shall be required and written on a policy form specifically designed to provide coverage for and protect against the negligent acts, errors and omissions of the Consultant in the performance of the services required by this Agreement. A minimum limit of \$1,000,000 per claim and in the aggregate must be provided.

Section 18. 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 and Professional Liability, shall be endorsed to name the District, the City of Victorville, their officers, employees, servants, volunteers, agents and independent contractors, including, without limitation, the District Legal Counsel, as Additional Insureds.

Section 19. WAIVER OF SUBROGATION RIGHTS

Consultant shall require the carriers of all required insurance policies, with exception to Professional Liability, to waive all rights of subrogation against the District, the City of Victorville, and their officers, employees, servants, volunteers, agents, and independent contractors and subcontractors. Each policy of insurance shall be endorsed to reflect such waiver.

Section 20. PROOF OF INSURANCE COVERAGE; REQUIRED ENDORSEMENTS

a. Consultant 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 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 District 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 District 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 during the Option Period, if applicable), of this Agreement.

e. The Commercial General Liability and Vehicle Liability policies shall be endorsed to contain the following provision: "For any claims related to this Agreement, Consultant's coverage shall be primary with respect to the District. Any insurance maintained by the District shall be in excess of Consultant's insurance and shall not contribute with it."

Section 21. 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 District 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 District 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 22. TIME OF THE ESSENCE

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

Section 23. INDEMNIFICATION

a. Except as set forth in Subsection b of this Section 23, and to the fullest extent permitted by law, Consultant shall immediately defend, indemnify, and hold harmless the District, its officers, employees, representatives, and agents (the "District Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the District (collectively "Claims") which may

arise out of Consultant's negligence or willful misconduct in the performance of the services described in this Agreement, unless such Claims are proven to be caused by the negligence or willful misconduct of the District Indemnitees.

b. The provisions of this Subsection b apply only in the event that Consultant is a design professional within the meaning of California Civil Code section 2782.8 ("Design Professional"). The term Design Professional, as defined in said section, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

(1) Notwithstanding the provisions of Subsection a above, to the extent that the services to be provided under this Agreement are those of a Design Professional, Consultant's duty to indemnify, hold harmless, and defend the District Indemnitees shall be limited to the extent that any Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, agents, employees or subconsultants in the performance of the services described in this Agreement.

(2) In no event shall the costs of defense charged to Consultant exceed the Consultant's proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection b shall be construed to require Consultant to provide indemnification for Claims caused by the active negligence or willful misconduct of the District Indemnitees.

c. The District does not and shall not waive any rights that it may have against Consultant under this Section, because of the acceptance by the District, or the deposit with the District, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section 23 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.

d. The obligation to indemnify and defend, as set forth in this Section 23, is binding on the successors, assigns, or heirs of Consultant and shall survive the expiration or any early termination of this Agreement.

Section 24. REPORTS

Upon request by [INSERT DEPT. HEAD NAME AND TITLE], or his designee, or as otherwise required by this Agreement, including but not limited to, the Scope of Services set forth in Exhibit "A", Consultant shall prepare and submit reports to the District concerning Consultant's performance of the services required by this Agreement.

Section 25. RECORDS

a. Consultant shall keep such books and records as shall be necessary to perform the services required by this Agreement and enable [INSERT DEPT. HEAD NAME AND TITLE], 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. **[INSERT DEPT. HEAD NAME AND TITLE]**, 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 Consultant hereunder shall be retained by Consultant and made available to **[INSERT DEPT. HEAD NAME AND TITLE]**, 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 26. RESERVED

Section 27. CONFIDENTIALITY; OWNERSHIP OF WORK

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

b. Any drawings, specifications, reports, records, documents, or other materials prepared by Consultant in the performance of services under this Agreement shall not be released publicly without the prior written approval of **[INSERT DEPT. HEAD NAME AND TITLE]**, or his designee, or as required by applicable law.

c. Consultant shall not disclose to any other entity or person any information regarding the activities of the District, except with the prior written approval of **[INSERT DEPT. HEAD NAME AND TITLE]**, or his designee, or as required by applicable law.

d. All original documents, reports, designs, computer files and all other materials prepared by Consultant in the course of performing the services pursuant to this Agreement, whether completed or in progress, are the property of the District and shall be surrendered to the District upon the completion of Consultant's services or when requested by **[INSERT DEPT. HEAD NAME AND TITLE]**, or his designee. Such materials may be used, reused or otherwise disposed of by the District without the permission of Consultant.

e. Consultant's covenants under this Section 27 shall survive the termination of this Agreement.

Section 28. PRINCIPAL REPRESENTATIVES

a. **[SERVICE REPRESENTATIVE]**, is designated as the principal representative of Consultant for purposes of communicating with the District on any matter associated with the performance of the services set forth in this Agreement.

b. **[INSERT DEPT. HEAD NAME AND TITLE]**, or his designee, shall be the principal representative of the District for purposes of communicating with Consultant 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 29. MODIFICATIONS AND AMENDMENTS; EXTRA SERVICES

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

b. During the Initial Term, the District may request that the Consultant perform Extra Services. As used herein, "Extra Services" means any services, which are determined by the District to be necessary for the proper completion of [TITLE OF PROJECT] but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. A written instrument signed by both Parties shall be required to authorize performance of and payment for Extra Services.

Section 30. ENTIRE AGREEMENT

a. This Agreement supersedes any and all prior or contemporaneous agreements, either oral or written, between the District and Consultant 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 31. 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.

Notwithstanding the foregoing, the Parties agree that **Exhibits "A" and "B" (change as applicable)** are attached hereto for reference purposes and to the extent there are any ambiguities, inconsistencies or conflicts between the terms of this Consultant/Professional Services Standard Provider Agreement and **Exhibits "A" and "B"** the terms of this Consultant/Professional Services Standard Provider Agreement shall control and nothing set forth in **Exhibits "A" and "B"** shall be deemed to supersede any of the provisions of this Consultant/Professional Services Standard Provider Agreement.

Section 32. 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,

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 36. ASSIGNMENT

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

Section 37. CARE OF WORK

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

Section 38. 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 39. 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 40. 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 41. 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 42. 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 43. 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 44. 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 45. 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 46. 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 47. EFFECTIVENESS OF AGREEMENT

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

**Section 48. 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 49. 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.

VICTORVILLE WATER DISTRICT

CONSULTANT

By: _____

By: _____

**(INSERT DEPT. HEAD NAME AND TITLE)
(MAYOR NAME AND TITLE IF OVER \$50K)**

**(INSERT NAME & TITLE OF
PERSON SIGNING ON BEHALF,
OF CONSULTANT)**

Dated: _____

Dated: _____

ADD ATTEST IF OVER \$50K

By: _____

**Charlene Robinson,
District Secretary**

Dated: _____

VICTORVILLE WATER DISTRICT

Approved as to Standard Form:

By: _____

By: _____

**Chuck Buquet,
District Risk Manager**

**Andre de Bortnowsky,
District Legal Counsel**

Dated: _____

Dated: _____