

REQUEST FOR QUOTE BM21-044



City of Victorville
14343 Civic Drive
P.O. Box 5001
Victorville, CA 92393-5001

DATE: September 23, 2020
TO: Prospective Bidders
FROM: Purchasing Division - Bruce Miller, Buyer (760) 955-5085,
Fax (760) 269-0045, email: bmiller@victorvilleca.gov

QUOTE DUE DATE

Quotes will be received by the above **until 2:30 p.m. PST, WEDNESDAY, OCTOBER 7, 2020** for the work to be done as described in this document. Quotes may be submitted by mail, fax, email, or in person to Bruce Miller (City of Victorville, 14343 Civic Drive, Victorville, CA 92392). There will be no public opening of quotes received. ***However, please be informed that the selected vendor will be required to submit all original signed documents prior to formal award.***

PROJECT NAME

RE-BID FOR PORTABLE TOILET SERVICES, PROJECT BM21-044

GENERAL INFORMATION

*****THIS IS A RE-BID OF PROJECT BM20-119. THE ORIGINAL BID DOCUMENT INCLUDED AN INCORRECT BID PROPOSAL FORM.*****

The City of Victorville's Park Division is seeking proposals for portable toilet rental services at park sites for daily public use. Portable units would remain at park locations 24 hours, 7 days a week, everyday of the year (including holidays). Vendor shall furnish and place portable toilets at various locations as directed by the Parks Division. Occasionally, extra cleaning services may be required for the portable toilets. Vendor shall provide the unscheduled cleaning services and bill the City in accordance to the bid pricing. Vendor must provide all personnel, equipment, tools, supplies, materials, and other items necessary for rental and service of portable toilets in the City.

Currently, five park sites require long-term portable rental services and are the following:

PARK	ADDRESS
Brentwood Park	14026 Hook Blvd., Victorville, CA
Eagle Ranch Park	12587 Eagle Ranch Parkway, Victorville, CA
Grady Trammel Park	17184 Stoddard Wells Road, Victorville, CA
Hollyvale Park	12773 Sycamore Street, Victorville, CA
WestWinds Ball Field	18241 George Blvd, Victorville, CA

In addition to the listed park sites above, we also require the option to add or remove a park site for these services including one-time use for events. Furthermore, the Parks Division reserves the right to upgrade a standard portable unit to an ADA/Title 24 Compliant portable unit accessibility. All portable toilet rental units requested by the Parks Division are to be supplied with no wheels.

If Vendor is a corporation, Vendor certifies that corporation is in good standing to “do business” in California. Doing business is defined by Revenue and Taxation Code 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. If Vendor is awarded the Contract and found to have an invalid corporate status with the California Secretary of State’s Office, award will be voided unless the Vendor can provide validity of corporate status within five (5) working days of notification of award.

Any Contract awarded as a result of this RFQ will be awarded without discrimination based on race, color, religion, age, sex, sexual orientation, or national origin.

PROPOSAL REQUIREMENTS AND CONDITIONS

A bid proposal form is included herein. Additional bid proposal forms may be obtained from the Purchasing Section in the Finance Division of the Administrative Services Department, City of Victorville. The City shall not be deemed liable for any costs incurred by bidder in the preparation, submittal, or presentation of their bids.

Bid documents are available via the City’s website at <https://www.victorvilleca.gov/government/city-departments/administrative-services/finance/purchasing/bids>, as well as being posted at www.ebidboard.com.

Please reference "**Request for Quote BM21-044**" when contacting the City regarding this solicitation. Inquiries regarding this solicitation should be directed to:

Bruce Miller, Buyer
Phone (760) 955-5085, Fax (760) 269-0045
Email: bmiller@victorvilleca.gov

Any prospective bidder desiring an explanation or interpretation of the solicitation must request it in writing to the Administrative Services Department, Finance Division, Purchasing Section. Oral explanations or instructions given before the award of a Contract will not be binding. Any information given a prospective bidder concerning a solicitation will be furnished promptly to all prospective bidders as an addendum to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders.

CONTRACT TERMS AND CONDITIONS

1. AWARD OF CONTRACT

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, to include acknowledgement of any released addenda; past experiences of the City with the bidder; references from other cities, developers, or municipalities regarding past work done by the bidder; as well as the lowest and best price.

The City further reserves the right to award the Contract to other than the lowest Bidder or to award to one or more bidders if such action is deemed to be in the best interest of the City.

2. TERM OF CONTRACT

The term of this Contract shall begin within five (5) days after issuance of Notice to Proceed (the “Commencement Date”) and shall terminate June 30, 2021 (the “Termination Date”) unless sooner terminated in accordance with the provisions of the General Services Agreement.

3. **CONTRACT EXECUTION**

The successful bidder shall execute a Contract with the City for the services to be provided. A sample Contract is provided at the end of this Bid Document.

4. **PAYMENT**

On or about the first of each calendar month, the Vendor shall request payment for the work performed prior to such date.

5. **TRESPASS**

The Vendor shall be responsible for all damage or injury which may be caused on any property by trespass of the Vendor's employees in the course of their employment whether the said trespass was committed with or without the consent or knowledge of the Vendor.

6. **SAFETY, SANITARY, AND MEDICAL REQUIREMENTS**

The Vendor and the Vendor's employees shall promptly and fully carry out the existing safety, sanitary, and medical requirements as prescribed by the Division of Industrial Safety and by County or State Health Departments to the end that proper work shall be done, and the safety and health of the employees and of the community may be conserved and safeguarded. In case such regulations and orders are not observed by the Vendor, they may be enforced by the Director of Community Services at the Vendor's expense.

7. **PROTECTION OF EXISTING UTILITIES**

The Vendor is responsible for the protection of any utilities and for any damage to any such utility during the prosecution of the work. Any damage to a utility shall be repaired to the satisfaction of the organization owning the facility. City of Victorville reserves the right, if so requested by the owning utility, to permit the owning utility to repair such damage, and all expenses of whatever nature arising from such damage shall be borne by the Vendor.

8. **COMMERCIAL GENERAL AND AUTOMOBILE LIABILITY INSURANCE**

a. Vendor 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 Vendor or its officers, employees, servants, volunteers, and agents and independent Vendors.

b. Vendor 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 Vendor or its officers, employees, servants, volunteers, agents and independent Vendors in performing the services required by this Agreement.

WORKERS' COMPENSATION INSURANCE

a. Vendor 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 Vendor pursuant to this Agreement is not protected by the California State Workers' Compensation Law, Vendor shall provide adequate insurance for the protection of such employees to the satisfaction of the City.

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 City and its officers, employees, servants, volunteers, agents and independent Vendors, including, without limitation, the City Attorney, as Additional Insureds.

WAIVER OF SUBROGATION RIGHTS

Vendor shall require the carriers of all required insurance policies, with exception to Professional Liability, to waive all rights of subrogation against the and its officers, employees, servants, volunteers, agents, and independent Vendors. Each policy of insurance shall be endorsed to reflect such waiver.

PROOF OF INSURANCE COVERAGE; REQUIRED ENDORSEMENTS

a. Vendor 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 District 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, Vendor's coverage shall be primary with respect to the District. Any insurance maintained by the City shall be in excess of Vendor's insurance and shall not contribute with it."

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

9. 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 best interest. Upon termination of this Contract, the City of 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.

10. TERMINATION FOR DEFAULT

The City may, by written notice of default to the Vendor, terminate this Contract in whole or in part if the Vendor 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.

11. HIRING OF UNDOCUMENTED IMMIGRANTS PROHIBITED

Vendor 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.

12. PROHIBITED INTEREST

No member, officer, or employee of the City of Victorville engaged in the selection, award, or administration of this Contract shall have any prohibited conflict of interest, whether real or apparent, in this Contract or the proceeds thereof.

Furthermore, the parties hereto covenant and agree that to their knowledge no member, officer, or employee of the City 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, and 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 conflict of interest under Article 4 (commencing with Section 1090) or Article 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the Government Code of the State of California.

13. DISPUTES

Except for such claims as defined in and covered by California Public Contract Code section 9204 any controversy or claim arising out of or relating to the provisions of any Construction Contract awarded for this project, 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.

14. ENTIRE AGREEMENT

This Contract, including any attachments hereto, constitutes the sole and only agreement between the parties. It correctly sets forth the obligations of the parties to each other in respect to any such matters as of this date. Any agreements, discussions, statements, or representations of any kind between the parties respecting any such matters, not expressly set forth, in this agreement are null and void.

15. DRUG-FREE WORKPLACE REQUIREMENTS

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

16. NON-COLLUSION AFFIDAVIT

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

17. INDEMNIFICATION

Notwithstanding the limits of any insurance, Vendor shall indemnify the City of Victorville, 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 Vendor, its agents, employees, or invitees, provided for herein, or arising or alleged to arise from the negligent acts or omissions of Vendor hereunder, or arising or alleged to arise from Vendor'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:

- (a) Vendor 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) Vendor 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 Vendor's (or its agents', employees', or invitees') negligent performance of or failure to perform such work, operations or activities hereunder; and Vendor agrees to save and hold the City of Victorville, 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 Vendor 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 Vendor hereunder, Vendor 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 the City.
- (d) Vendor'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 Vendor's indemnification obligations pursuant to this Section shall survive the termination of this Agreement. Vendor shall require the same indemnification from all Vendors.

**CITY OF VICTORVILLE
RE-BID FOR PORTABLE TOILET SERVICES, PROJECT BM21-044**

SUBMISSION CERTIFICATION

I hereby submit to the City of Victorville the following bid proposal for work outlined in plans and specifications entitled **“RE-BID FOR PORTABLE TOILET SERVICES, PROJECT BM21-044”** All of the following documents (check below) are completed, fully executed, and included in my bid as required in the bid document:

- _____ Submission Certification
- _____ Bid Proposal Form
- _____ Proposer Identification
- _____ Signature Authorization
- _____ References
- _____ Questionnaire
- _____ Non-Collusion Declaration
- _____ Exception Form
- _____ Workers Compensation
- _____ Acknowledgement Pages for all Bid Addenda

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

Business Name

Authorized Signature

Printed Name and Title

Date Signed

Telephone Number

**CITY OF VICTORVILLE
RE-BID FOR PORTABLE TOILET SERVICES, PROJECT BM21-044**

BID PROPOSAL FORM

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

The undersigned declares they have carefully examined the scope of work, deliverable requirements, locations of the proposed work, and Contract Documents; and being familiar with all of the conditions surrounding the work. All of the aforementioned shall be done in accordance with said Bid Document and all applicable addenda.

Item	Description	Qty	Billing Cycle	\$ Amount
1	Brentwood Park ADA Portable Toilet Unit Rental 2 Cleaning Services per Week	1	Monthly	
2	Eagle Ranch Park ADA Portable Toilet Unit Rental 2 Cleaning Services per Week	1	Monthly	
3	Grady Trammel Park ADA Portable Toilet Unit Rental 1 Cleaning Services per Week	1	Monthly	
4	Hollyvale Park ADA Portable Toilet Unit Rental 2 Cleaning Services per Week	1	Monthly	
5	West Winds Ball Field ADA Portable toilet unit Rental 1 Cleaning Service per week	1	Monthly	
	OPTIONAL SERVICES AS NEEDED			
6	Standard Portable Toilet Unit Rental 1 Service per Week	1	Monthly	
7	Standard Portable Toilet Unit Rental	1	Day Use	
8	Handicap Accessible Portable Toilet Unit Rental 1 Service per Week	1	Monthly	
9	Handicap Accessible Portable Toilet Unit Rental	1	Day Use	
10	Hand Wash Station Rental	1	Each	
11	Unscheduled Cleaning Service	1	Each	
12	Adding an Additional Cleaning Service to Existing Long-Term Portable Rental	1	Each	

Company Name: _____

Address: _____

Email Address: _____

Phone: _____ Fax _____

Print name: _____

Signature: _____

**CITY OF VICTORVILLE
RE-BID FOR PORTABLE TOILET SERVICES, PROJECT BM21-044**

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
RE-BID FOR PORTABLE TOILET SERVICES, PROJECT BM21-044**

SIGNATURE AUTHORIZATION

FIRM: _____

- A. I hereby certify that I have the authority to offer this Bid Proposal to the City of Victorville 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. _____ 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.

3. _____ 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. Firm's Information

Person and Title: _____

Address: _____

Phone Number: _____

Email Address: _____

**CITY OF VICTORVILLE
RE-BID FOR PORTABLE TOILET SERVICES, PROJECT BM21-044**

REFERENCES

Bidder: _____

LIST FOUR REFERENCES YOU HAVE DONE BUSINESS WITH WITHIN THE LAST THREE YEARS – PREFERABLY PUBLIC AGENCIES		
1.	Name of Agency	
	Address	
	Contact Person Name:	
	Contact Person Phone:	
	Email Address:	
2.	Name of Agency	
	Address	
	Contact Person Name:	
	Contact Person Phone:	
	Email Address:	
3.	Name of Agency	
	Address	
	Contact Person Name:	
	Contact Person Phone:	
	Email Address:	
4	Name of Agency	
	Address	
	Contact Person Name:	
	Contact Person Phone:	
	Email Address:	

**CITY OF VICTORVILLE
RE-BID FOR PORTABLE TOILET SERVICES, PROJECT BM21-044**

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.

**CITY OF VICTORVILLE
RE-BID FOR PORTABLE TOILET SERVICES, PROJECT BM21-044
NON-COLLUSION DECLARATION
TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID
(Public Contract Code Section 7106)**

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid. The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____ [date], at _____ [city], _____ [state].

Signature

Company Name

Printed Name

Title

**CITY OF VICTORVILLE
RE-BID FOR PORTABLE TOILET SERVICES, PROJECT BM21-044**

EXCEPTION FORM

Should Proposer take exception to **ANY** of the terms and conditions or other contents provided in the "Request for Proposal," 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: _____

**CITY OF VICTORVILLE
RE-BID FOR PORTABLE TOILET SERVICES, PROJECT BM21-044**

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 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

**SAMPLE
GENERAL SERVICES AGREEMENT**

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

**GENERAL SERVICES PROVIDER STANDARD AGREEMENT
BY AND BETWEEN
THE CITY OF VICTORVILLE
AND
NAME OF PROVIDER
FOR
RE-BID FOR PORTABLE TOILETS, PROJECT NUMBER BM21-044**

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 SERVICE PROVIDER, a (type of business)**, 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 **DESCRIBE SERVICES**; 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, **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. SCOPE OF SERVICES (amend as applicable)

Service Provider shall provide to the City those services set forth in the Scope of Services, attached hereto as Exhibit "A", and incorporated as part of this Agreement by this reference.

Section 3. COMPENSATION

The City shall pay a total amount not to exceed **SPELL OUT DOLLAR AMOUNT AND 00/100 DOLLARS (\$0.00)** for the services rendered by Service Provider pursuant to this Agreement, subject to the provisions of Section 4.

Section 4. FEE SCHEDULE

The City shall pay Service Provider as provided in the Fee Schedule, 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. 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 THE FOLLOWING PARAGRAPH FROM THE AGREEMENT IN ITS ENTIRETY*****

This Agreement may be extended for **NUMBER OF YEARS, MONTHS, ETC.** 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 7. 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 8. 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 9. 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 10. 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 11. 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 12. 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 **INSERT DEPT. HEAD NAME AND TITLE**, or his designee.

Section 13. 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 14. 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 15. COMMERCIAL GENERAL AND
AUTOMOBILE 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), 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 Service Provider or its officers, employees, servants, volunteers, and agents and independent contractors.

b. Service Provider shall further procure and maintain, at its own expense, during the initial Term of this Agreement, and (if applicable, during any Option Periods) 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 Service Provider or its officers, employees, servants, volunteers, agents and independent contractors in performing the services required by this Agreement.

Section 16. WORKERS' COMPENSATION 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), workers' compensation insurance, providing coverage as required by the California State Workers' Compensation Law.

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

Section 17. RESERVED

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 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 19. 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 20. 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 commercial general liability and vehicle liability policies 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 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 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 22. TIME OF THE ESSENCE

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

Section 23. 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 24. REPORTS

Upon request by **INSERT DEPT. HEAD NAME AND TITLE**, 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 25. RECORDS

a. Service Provider 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 Service Provider hereunder shall be retained by Service Provider 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

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 **INSERT DEPT. HEAD NAME AND TITLE**, or his designee, 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 **INSERT DEPT. HEAD NAME AND TITLE**, or his designee, or as required by applicable law.

Section 28. PRINCIPAL REPRESENTATIVES

a. **PROVIDER REPRESENTATIVE NAME AND 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. **INSERT DEPT. HEAD NAME AND TITLE**, or his designee, 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 29. MODIFICATIONS AND AMENDMENTS

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

Section 30. 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 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 **Exhibit "A"** is attached hereto for reference purposes and to the extent there are any ambiguities, inconsistencies or conflicts between the terms of this General Services Provider Standard Agreement and **Exhibit "A"**, the terms of this General Services Provider Standard Agreement shall control and nothing set forth in **Exhibit "A"** shall be deemed to supersede any of the provisions of this General Services Provider Standard 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, certified or registered, return receipt requested, with postage prepaid, and addressed to the Parties as follows:

To the City: **DEPT. HEAD NAME AND TITLE**
REQUESTING Department
City of Victorville
14343 Civic Drive
Victorville, CA 92392

To Provider: **PROVIDER REP. 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 33. 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 34. 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 35. 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 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 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 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 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 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.

THE CITY OF VICTORVILLE

SERVICE PROVIDER

By: _____
NAME AND TITLE

By: _____
NAME & TITLE

Dated: _____

Dated: _____

ADD ATTEST IF OVER \$50K

By: _____
**Charlene Robinson,
City Clerk**

Dated: _____

THE CITY OF VICTORVILLE

APPROVED AS TO STANDARD FORM:

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

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

Dated: _____

Dated: _____

EXHIBIT A

SCOPE OF SERVICES

See Attachment

EXHIBIT A

FEE SCHEDULE

(or Bid Proposal Forms, Payment Schedule, etc.)

See Attachment