

Request for Proposals

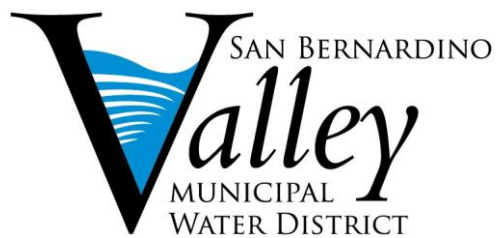
Development of a San Bernardino Valley Municipal Water District Climate Adaptation and Resilience Plan (CARP)

Release Date:

April 21, 2021

The Filing Deadline is:

May 19, 2021, 5:00 P.M.



Any questions regarding this RFP should be submitted by 5:00 P.M. on May 10 to:

Adekunle Ojo, Manager of Water Resources

adekunleo@sbumwd.com

(909) 387-9231

Table of Contents

Background	3
Nature of Services Required	3
Project Goals and Objectives	3
Scope of Services and Timeline	4
Project Team	4
Content Structure	5
Project Tasks	5
1-A: Literature Review and Plan Integration	5
1-B: Climate Vulnerability Assessment and Greenhouse Gas Inventory	6
1-C: Visioning & Goal Setting	6
1-D: Stakeholder Engagement	7
2: Develop Adaptation and Mitigation Solutions	8
3: Document and Communication Materials Production	8
Timeline	9
Inquiries and Addenda	9
Proposal Schedule	10
Proposal Requirements	10
Proposal Submission	11
Interviews	12
Evaluation Process and Criteria	12
Attachment: Sample Consulting Services Agreement	12

BACKGROUND

San Bernardino Valley Municipal Water District (Valley District) is one of 29 contractors of the California State Water Project, which delivers water from Northern California to various parts of the state. In 1960, the District entered into a contract with the California Department of Water Resources to receive an annual allotment of up to 102,600 acre-feet of water from the State Water Project. As a wholesale water provider, the District provides for the groundwater storage and the supplemental water needs of 14 retail water agencies, cities, and mutual water companies throughout its service area, supporting a population of over 700,000 people.

The District's service area encompasses approximately 350 square miles in southwestern San Bernardino County and a portion of Riverside County. It spans the eastern two thirds of the San Bernardino Valley, the Crafton Hills, and a portion of the Yucaipa Valley, and includes the cities and communities of San Bernardino, Colton, Loma Linda, Redlands, Rialto, Bloomington, Highland, Grand Terrace, and Yucaipa. The District is governed by a five-member board, representing five geographical divisions within the District, which is elected by the citizens in a general popular election. Day-to-day management of the District is delegated to the CEO/General Manager who reports directly to the Board of Directors. Additional information about the District is available online at www.sbvmd.com.

NATURE OF SERVICES REQUIRED

The District is seeking a Consultant Team to provide services in developing a Climate Adaptation and Resilience Plan (Plan or CARP). Part of the effort will include a climate vulnerability assessment and greenhouse gas inventory that will provide a baseline for the Plan. The Plan will serve as a comprehensive policy and strategy document for addressing the undesirable impacts of climate change on the District and will identify targeted policies, programs, and projects that will both mitigate the District's contribution to greenhouse gases and increase the District's adaptive capacity.

Valley District seeks a consultant whose approach is both efficient and appropriately scaled to the planning-level analysis of the Plan. The Consultant is expected to assemble a dedicated team that possess excellent communication skills and expertise in climate resilience planning. The District expects all analyses, data, original graphics, and editable copies of all written reports to be turned over to the District at the completion of the project; no portion of the Plan will be proprietary.

PROJECT GOALS AND OBJECTIVES

The development of the Climate Adaptation and Resilience Plan has five (5) primary goals and deliverables:

1. **Understanding Climate Risks:** Conduct a District-wide climate risk and vulnerability assessment to help align our climate adaptation and resilience goals with Board goals and priorities as well as state and federal requirements

2. **Adapting and Mitigating Climate Effects:** Recommend pragmatic climate adaptation and mitigation actions that the District can undertake with an analysis of barriers and opportunities
3. **Setting a Mitigation Goal:** Define a Valley District-specific emissions mitigation target based on a Greenhouse Gas Emission Inventory
4. **Policy-Making:** Creation of an actionable project implementation and policy-making guide
5. **Stakeholder Involvement and Communication:** Inclusion of stakeholders' input in shaping Valley District's response to climate adaptability and resilience; this will include producing a stakeholder messaging strategy and educational materials about local/regional climate change impacts and progress on adaptation and mitigation strategies

The Plan will focus on pragmatic policies and resiliency principles, and should include a realistic number of actionable and impactful steps, with corresponding metrics, that the District can take to reach identified goals. **The Strategic Plan will run parallel to the CARP and provide complementary policy-level guidance and content for the CARP.**

SCOPE OF SERVICES AND TIMELINE

Valley District is seeking proposals that generally reflect the following scope. Consultants are strongly encouraged to suggest refinements and innovative methodologies that ultimately achieve the work products described below. Staff will work closely with the selected consultant and may contribute in-house assistance such as providing related documents. The best proposals will identify the type and amount of District's staff time and expertise that will be required for a successful outcome.

I. PROJECT TEAM

Valley District is seeking a Consultant Team that demonstrates excellent understanding of climate change and climate resilience planning, technical expertise in water resources planning and utilities climate change mitigation and adaptation, expertise in creative and effective stakeholder engagement, and knowledge of our District and region. Consultant should also demonstrate expertise in relevant local, regional, state, and federal policies, laws, and regulations.

Valley District staff will co-lead the development of the Plan with the Consultant. The Consultant team's primary role is to provide technical expertise, support stakeholder engagement, develop innovative materials, and write the Plan. The Plan will be developed with participation and input from:

- Valley District Board of Directors and staff, including but not limited to Water Resources, Engineering, and Environmental Services
- Key regional partners and potential collaborators identified at the early stage of the project

II. CONTENT STRUCTURE

The Plan will be structured to provide integrated, actionable solutions in key topic areas with the greatest opportunities for climate change mitigation and adaptation, for example:

- Water Supply
- Energy
- Infrastructure and District Assets
- Ecosystem and Headwater

Climate equity should be embedded in the development of solutions as key components of the Plan. The adaptation and mitigation strategies should cover the range of responsible actors:

- **Valley District:** projects, policies and programs that Valley District can implement
- **Community and Stakeholders:** activities, practices, and suggested projects for water retailers, institutions, and other stakeholders in the District’s service area
- **Advocacy Outside the Service Area:** desired policies and resources that are controlled at the state and federal level, that the District and stakeholders can advocate

III. PROJECT TASKS

1) Task 1-A: Literature Review and Plan Integration

The project should begin with a review of [existing planning documents](#), including, but not limited to the following:

- Strategic Plan (Ongoing; 2021)
- Integrated Regional Urban Water Management Plan (Ongoing; 2021)
- [RAND Demand and Supply Studies](#) (2021)
- [Upper Santa Ana River Wash Habitat Conservation Plan – Wash Plan](#) (2020)
- Hazard Mitigation Plan (2018)
- [Regional Recycled Water Concept Study Report](#) (2017)
- [Integrated Regional Water Management Plan](#) (2015)
- [Regional Urban Water Management Plan](#) (2015)
- [Upper Santa Ana River Habitat Conservation Plan - HCP](#)

An analysis of state and regional programs and resources should be performed to avoid redundancy, identify strategic opportunities and partnerships, and determine the appropriate role for Valley District in the next phase of climate adaptation and resilience.

Deliverable (by October 2021): A narrative report, suitable for publication, that describes key findings and include relevant charts, tables, and other depictions of current and future climate resilience efforts.

2) Task 1-B: Climate Vulnerability Baseline Assessment and Greenhouse Gas (GHG) Inventory

Conduct a service area-wide climate change risk/hazard and vulnerability assessment, providing a detailed review of anticipated climate-related risks to the District's various water supplies, infrastructure, facilities, operations, headwaters, and habitat conservation investments. The Vulnerability Assessment will serve as an assessment of the District's forecasted exposure, sensitivity, and adaptive capacity to changing climate conditions and serve as a foundation for prioritizing climate adaptation and mitigation strategies. The assessment will detail how climate change is affecting Valley District now, identify current and future vulnerabilities, and how those vulnerabilities will change in coming decades. Additionally, the GHG inventory will list all District's local emission sources (outside of the State Water Project) and the associated emissions quantified using standardized methods and how to reduce District's contribution to carbon emissions.

Key Deliverables (by October 2021):

1. A complete vulnerability assessment report that meets industry standard for climate change risks and vulnerability assessment including all supporting documents and data gathered or created in the course of this effort
2. A GHG Inventory complete with third-party verification of data and proposed GHG target
3. A one-page, front and back, fact sheet containing the key assessment results
4. A detailed summary of the methodology used so that future climate change risk and vulnerability assessment can be updated going forward

3) Task 1-C: Visioning and Goal Setting

The Consultant will assist the District in developing a vision that will guide the Plan, setting a greenhouse gas reduction goal, and the development of data-driven actions and strategies to moderate harm from expected and unanticipated climate change impacts. The Consultant will provide technical assistance modeling climate change impacts and help define and select measurable targets based on the vulnerability assessment and Board vision. The Consultant will provide advice to the District on the project organization and planning process, as well as compile, analyze, and document stakeholder input on the goals and vision for the

Plan.

In addition to the project kickoff meeting and concluding meeting to present final CARP analysis and deliverables, the Consultant will facilitate periodic progress update meetings as-needed. These additional meetings may occur in-person (if COVID restrictions are lifted in a timely manner), remotely, by conference call and/or webinar. The Consultants will ensure that all logistical needs are met, including but not limited to organizing meetings, preparing information documents, developing presentations, and presenting drafts to key stakeholders as necessary. Consultants are also responsible for taking notes and providing them to the District following all meetings

Key Deliverables (by October 2021):

1. Develop a one-page vision and goal-setting document that will improve understanding of climate change, including the need for adaptation and necessary actions that must be taken.

4) Task 1-D: Stakeholder Engagement

The Consultant will support the District in planning, designing, and facilitating engagement with key stakeholders. The essential Consultant Team members should be available for approximately four (4) virtual meetings as outlined below. The proposal should detail a stakeholder engagement plan and identify which tasks are appropriate and/or desirable for District staff to complete.

The Consultant is expected to be responsible for the following subtasks:

- The Consultant will create materials for communication and engagement.
- The Consultant will support the District in planning and design of two (2) stakeholder meetings. The Consultant will attend the meetings and present, support facilitation, and be available for note taking. The meetings will be focused on the following topics:
 - Hold at least one (1) stakeholder forum focused on visioning and goal setting to solicit feedback to inform the development of the Plan. The Plan will be designed to reflect the stakeholder's suggestions and ideas.
 - Hold a stakeholder forum to present the draft Plan and solicit feedback before the plan is finalized.

The Consultant should be available to attend and present at approximately two (2) meetings or workshops with the Board of Directors.

- The Consultant will provide recommendations to the District on how to market and communicate the Plan and the communication process within the District, with the public, and other audiences.

5) Task 2: Develop Adaptation and Mitigation Solutions

The Consultant will take the lead on developing integrated climate mitigation and adaptation solutions that are tailored to Valley District and informed by existing plans, technical expertise and analysis, institutional knowledge, best practices from other utilities, and input and collaboration with staff and key stakeholders. The Consultant will provide guidance on potential climate-resilient watershed and ecosystem solutions that may be implemented by the District to achieve the goals of the District. The Consultant will make recommendations on Plan implementation, plan monitoring and performance measures.

The Consultant Team will be responsible for the following subtasks:

- Lead the technical research and analysis on defining the specific solutions that will make up the Plan based on the content structure identified earlier.
- Analyze and help refine solutions proposed by the District and other members of the project team.
- Provide research, analysis, and recommendations on the technical, political and financial feasibility of solutions.
- Provide an analysis of each identified solution based on environmental, health, social equity, and regional economic benefits.
- Identify where solutions align with District's Strategic Plan.
- Compile and analyze stakeholder input on solutions.
- Work closely with the District to identify a set of solutions that will be included in the Plan and develop descriptions of each solution.
- Work with the District to prioritize short-and long-term actions and programs based on feasibility and impact.
- Develop and provide technical information necessary for decision-making on proposed solutions.
- Develop implementation strategies for the Plan, including timeline, approximate cost and staffing requirements, potential funding sources, and the responsible party.

Deliverable (by December 2021): Draft CARP. The project schedule should include adequate time for stakeholder comment on the draft plan.

6) Task 3: Document and Communication Materials Production

The Consultant will be responsible for the majority of communication and report materials including graphics, webpage content, presentations, and final plan and summary documents.

The Consultant will be responsible for the following subtasks and deliverables:

- The Consultant, with input from staff, will design and produce a report that is accessible and useful for internal and external use. The report will include, at a minimum:
 - Inventory and annotation of relevant District plans and existing resilience and sustainability initiatives.
 - Description of the planning process.
 - Description of District’s climate adaptation goals and explanation of why planning for climate adaptation is necessary.
 - Characterization of the climate change projections and current emissions profile based on the most recent studies.
 - Analysis of climate vulnerabilities and GHG emissions to determine priority of intervention strategies.
 - Description of the District’s goals and visions for addressing climate adaptation.
 - Description of technical, programmatic and advocacy solutions.
 - Implementation strategy for the proposed solutions.
- The Consultant will coordinate with District staff to prepare graphical representations of data and information, including GIS, wherever possible. The report should use maps and creative visuals to increase user-friendliness and reduce text. Graphics will also be designed for use on the District website and outreach materials.
- The Consultant will develop communication materials that District staff will use to solicit participation in the meeting and may be asked to create presentations and visuals to aid communication and engagement at meetings and throughout the planning process.
- Prepare draft report for comment and revision by the District staff.
- Prepare draft report and summary report for stakeholder’s comment.
- Prepare final report and summary report for Board of Directors adoption.
- Prepare website content for the Plan that minimally includes the goals, solutions, and implementation timelines. Content will be hosted on the District website.

IV. TIMELINE

The project will commence immediately upon successful contract execution. The project should be substantially completed by June 2022.

INQUIRIES AND ADDENDA

It is responsibility of each Consultant to examine the RFP and to seek clarification in writing via email. Inquiries must be submitted via email no later than 5:00 p.m. local time, Monday, May 10, 2021 to adekunleo@sbymwd.com; Valley District will respond to all inquiries within two (2) business days.

PROPOSAL SCHEDULE

Date	Event
April 21, 2021	Release of Request for Proposals
May 10, 2021 @ 5:00 p.m.	Deadline to submit inquiries
May 19, 2021, 5:00 p.m.	Deadline for Valley District Receipt of Proposals
May 25, 2021	Interviews of select firms if needed (virtual) – hold the date
June 15, 2021	Board of Directors Approval/Award Contract (tentative)
September 2021	Vulnerability Assessment Completion (Target)
December 2021	Draft Climate Adaptation and Resilience Plan

PROPOSAL REQUIREMENTS

Interested consultants should respond to this RFP with a written proposal providing all the information requested. The proposal will be considered complete only if all the items listed under the Proposal Requirements are included.

a) Table of Contents.

b) Body of the proposal. (may not exceed 12 pages in length with a minimum font size of 12 point)

- i) Project Understanding. A clear statement of the project.
- ii) Project Approach. The project approach shall include a detailed description of all the tasks needed for successful completion of the project and shall follow the general outline provided in the Scope of Services section above.
- iii) List of consultant’s team who will work on this project, and their role. Please include names, firm names, addresses, telephone numbers, email addresses and project organizational chart (qualifications are to be provided in the appendix, see below).
- iv) Project Schedule. Present a schedule reflecting timeframes and milestones for completing each phase and task.
- v) Stakeholder Outreach Strategy. Stakeholder engagement is critical to the Climate Adaptation and Resilience Plan development process. The proposal should highlight how the proposer plans to engage key stakeholders and gather input throughout the process.
- vi) Any other information that may assist Valley District in making its determination in the selection process. Consultant is encouraged to include any other information that will help Valley District make its selection. Provide information regarding potential

conflict of interest as part of the proposal disclosures.

c) Fee schedule/budget.

- i) Fee schedule shall be organized to follow the general tasks in the Scope of Services. Services outlined in the cost proposal must comply with all requirements set forth in this RFP. The costs shall provide hourly rates and hours to complete each task, including sub-consultant's hourly rates and hours, and any other costs to complete the project. The cost proposal should also include options for reducing or adding services. All costs should reflect "not to exceed" amounts per task.
- ii) Valley District accepts no responsibility for costs incurred by any individual, or firm, submitting a proposal pursuant to this RFP. The proposal must include a complete and fixed price. If the scope of services requires modification during the course of the work, Valley District will determine whether to amend the current agreement or to issue a subsequent RFP for additional services. The price specified must remain firm and irrevocable for 60 days following the RFP submission date. All proposals become property of Valley District and will not be returned.

d) Appendix

- i) Provide a list of qualifications, licenses, certificates and resumes for all persons, including sub-consultants that will actually work on the project. Please limit individual experience in resumes to similar projects. Points will be deducted for qualifications and resumes submitted that are not for projects similar in nature to this project. If it is not clear how the experience is similar to this project, the Consultant may wish to provide an explanation to avoid any confusion.
- ii) Please include at least three (3) references of similar clients for which consultant has rendered similar services in the recent past. Please limit similar experience to projects completed by individuals that will actually work on this project. Points will be deducted for projects submitted that do not include any individuals that will actually work on this project.

PROPOSAL SUBMISSION

All proposals should be submitted as a PDF via email and must be received by 5:00 p.m. on May 19, 2021. Please submit your proposals to:

Adekunle Ojo, Manager of Water Resources
San Bernardino Valley Municipal Water District
380 East Vanderbilt Way, San Bernardino, CA 92408
adekunleo@sbumwd.com

Valley District will acknowledge the receipt of a proposal by email.

INTERVIEW

The top two (2) respondents may be invited to an interview to help clarify each proposal and the approach and qualifications for the project. Based upon the evaluation of the proposals and the interview, the top-ranked consultant will be recommended to the Board of Directors. If needed, interviews will be scheduled with select firms following initial review of the proposals and will take place on the date specified in the Proposal Schedule above. Interview must be attended by the actual team members who will work on the project including any sub-consultants. The interview will consist of a 20-minute presentation by the project team followed by a 20-minute question and answer period. Based on current COVID-19 restrictions, interviews will occur virtually via Zoom.

EVALUATION PROCESS AND CRITERIA

Proposals will be reviewed by a committee. Review and evaluation of the proposals will be based upon the following criteria:

CRITERIA	DESCRIPTION	POINTS
Experience on similar projects and project team	The respondent and staff assigned to the project have the skills and experience necessary to complete the deliverables to industry standards	30
Demonstrated ability to perform the tasks outlined in this RFP within a reasonable time frame and budget	Respondent has experience with similar projects and prior record of performance (relevant references)	30
Project Understanding and Approach	Respondent adequately described the anticipated approach for completing each deliverable	20
Quality and completeness of proposal	The respondent met the RFP requirements and provided a high quality and complete proposal	10
Timeline	The timeline is reasonable to complete the proposed work and meet District's expectation	5
Budget	The budget is appropriate for the deliverables proposed	5
TOTAL		<u>100</u>
Interviews	If needed to differentiate top two respondents	5

Valley District reserves the right to issue additional RFPs, to modify, or to abandon this project before award of contract.

ATTACHMENT

A sample copy of Valley District's Standard Agreement for Consulting Services is attached for your information. The selected consultant is expected to execute the agreement.

Attachment:
Valley District's
Consulting Services
Agreement

CONSULTING SERVICES AGREEMENT

THIS CONSULTING SERVICES AGREEMENT (“Agreement”) is entered into as of _____, 2021 (“*Effective Date*”), by and between San Bernardino Valley Municipal Water District, a municipal water district organized and operating under the Municipal Water District Law of 1911 (“*District*”), and [REDACTED], a [REDACTED] (“*Consultant*”). District and Consultant are sometimes referred to herein collectively as “*Parties*” and individually as “*Party*.”

RECITALS

A. District is a public agency of the State of California and is in need of a qualified consultant to provide professional services for the following project:

JOB NAME: [REDACTED]

JOB NUMBER: [REDACTED]

B. Consultant is duly licensed in the State of California and has the necessary qualifications to provide such professional services.

C. The Parties desire to enter into this Agreement for the purpose of setting forth the terms and conditions upon which Consultant will render such professional services to District.

NOW, THEREFORE, the Parties agree as follows:

**ARTICLE I
SCOPE OF SERVICES TO BE PERFORMED, TIME OF
PERFORMANCE AND TERM**

1.1 Term. The term (“*Term*”) of this Agreement shall commence on the Effective Date and shall automatically terminate upon earlier of: (a) [REDACTED]; or (b) the successful completion of Services (as defined below), unless earlier terminated.

1.2 Scope of Services and Time of Performance. During the Term of this Agreement, Consultant shall perform all services, and provide all materials, equipment, tools, labor, and expertise, necessary to furnish the professional services set forth in Consultant’s proposal in response to the RFP (“*Proposal*”), a true and correct copy of which is attached as *Exhibit “A”* hereto and incorporated herein by reference (collectively, “*Services*”). All Services shall be performed in accordance with the timeframes set forth in the Proposal.

1.3 Task Orders. From time to time, the Parties may make changes to or authorize certain work set forth in the scope of Services, including without limitation issuing additional instructions, requiring additional work, or deleting work previously ordered, by executing one or more task orders (each a “*Task Order*”) in substantially the form attached as *Exhibit “B”* hereto and incorporated herein by reference. The provisions of this Agreement shall apply to all such Task Orders. The costs of each Task Order, or any modification of time for completion that might

be required thereby, shall be mutually agreed upon in writing by District and Consultant before commencement of the work called for by such Task Order. A Task Order is a request for additional Services and/or changes to Services, and shall not be effective unless and until accepted in writing by both Parties. Consultant shall be solely responsible for all costs and expenses associated with any additional Services, including additional Services already performed, that have not been specifically agreed upon in writing by Consultant and District. As used in this Agreement, the term “*Services*” shall include Services added, deleted, or modified by any Task Order.

1.4 Qualifications. Consultant represents and warrants to District that it has the qualifications, experience, licenses, and facilities necessary to properly perform the Services in a timely, competent, and professional manner.

1.5 Licenses. Consultant shall, in accordance with applicable laws and ordinances, obtain and maintain at its expense all permits and licenses necessary to accomplish the Services. Failure to maintain a required permit or license may result in immediate termination of this Agreement.

1.6 Standard of Care. Consultant shall perform all Services in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and competence ordinarily exercised by members of the profession currently practicing under similar conditions and in compliance with all federal, state, and local laws, rules, regulations, or ordinances applicable to the Services.

1.7 Relations with Construction Contractor. Consultant shall not directly or indirectly communicate with or consult with any construction or other District contractor utilized in the project, except in the presence of or with the specific written consent of the District.

1.8 Non-Exclusivity. District agrees that Consultant may perform services in matters that are not substantially related to the Services for people or entities that are or might be adverse to District. Subject to the restrictions of this Section 1.8 and Sections 3.2 and 3.3, Consultant will have no obligation to limit or restrict the assignment of its consultants, employees, and principals to other projects as a result of their performance of the Services.

ARTICLE II COMPENSATION AND EXPENSES

2.1 Compensation. As full and complete compensation for the Services to be rendered by Consultant, District shall pay Consultant for all Services performed pursuant to this Agreement, inclusive of subconsultants and miscellaneous expenses, in the amount and on the schedule set forth in the Proposal (“*Compensation*”), which amount shall not exceed [COST IN WORDS] (\$[X,XXX.XX]) (“*Maximum Fee*”). To the extent different payment terms are set forth in a Task Order that conflict with the general payment terms set forth in the Proposal, the terms in the Task Order shall control. Consultant acknowledges and agrees that in no event shall Consultant receive or have a claim of any kind for any payment in excess of the Maximum Fee for any work, including additional Services under any Task Order, performed under this Agreement, unless such amount exceeding the Maximum Fee is specifically approved in writing by District.

2.2 Billing Procedure. On or before the tenth (10th) day of each month, Consultant will submit to District an accurate and complete statement (“**Invoice**”) for Services actually performed during the previous month and other amounts due under this Agreement. Each Invoice shall include, at a minimum: (a) District’s job name; (b) District’s job number; (c) Consultant’s point of contact for billing questions; (d) basis of billing; (e) total contract value; (f) total billing to date; (g) amount remaining in contract; (h) estimated percentage of completion at time of billing; and (i) a summary of Services actually performed during the billing period. Each Invoice shall be supported by such data substantiating Consultant’s right to payment as District may reasonably require.

2.3 Payment. District shall pay to Consultant within thirty (30) calendar days after receipt of an Invoice, or the resolution of any billing dispute, all undisputed amounts. District may withhold a portion of an Invoice because of defective Services not remedied or unsatisfactory prosecution of the Services by Consultant. District will release any withheld funds upon Consultant satisfactorily remedying the issue that resulted in the withholding. District will not pay late fees to Consultant on the compensation due Consultant under the terms of this Agreement. Payment of any Invoice shall not constitute acceptance of any Services completed by Consultant, and the making of final payment shall not constitute a waiver of any claims by District for any reason whatsoever.

2.4 Disputed Invoices. In the event District disputes an Invoice, District shall provide a written explanation of the dispute to Consultant within thirty (30) days after receiving the Invoice. District and Consultant shall cooperate to resolve any disputed amount. District shall not be penalized for any reasonable dispute and shall not be obligated to pay any amount in dispute until the dispute has been resolved.

2.5 Expenses. District must pre-approve in writing each reasonable and necessary expense for which Consultant intends to seek reimbursement, which expenses are directly related to the performance of the Services. If pre-approved, such expenses for reasonable and necessary travel, lodging, or miscellaneous expenses incurred in the performance of this Agreement will be reimbursed to Consultant in accordance with District’s general reimbursement policy. Consultant shall submit an Invoice of all incurred expenses accompanied by reasonable supporting documentation or transaction receipts. Invoices that fail to include reasonable supporting documentation or receipts will not be honored and District will have no obligation of any kind to reimburse Consultant for unsupported expenses listed on such Invoices.

2.6 Taxes. Any Taxes imposed by governing taxing authorities with respect to the Services will be the responsibility of Consultant. “**Taxes**” shall mean all taxes imposed with respect to the provision of the Services and associated amounts payable with respect to the Services, whether denominated as sales taxes, gross receipts taxes, transaction privilege taxes, use taxes, excise taxes, or otherwise.

ARTICLE III
WORK PRODUCT; CONFIDENTIAL INFORMATION

3.1 Project Data. Consultant shall be exclusively responsible for obtaining from the appropriate sources, persons or third parties, all data and information necessary for the proper, timely and complete performance and satisfaction of the Services.

3.2 Work Product. Upon completion or other termination of this Agreement, Consultant shall provide to District, and such other consultants approved by District, all papers, maps, models, designs, calculations, surveys, reports, data, notes, computer files, documents, drawings and other work product (collectively "**Work Product**") developed from or associated with the Services. Upon completion of the Services, Consultant shall provide one reproducible physical copy and one electronic copy of all final Work Product described in the Proposal, in forms acceptable to District. Consultant acknowledges that all Services performed or Work Product prepared for District by Consultant hereunder, including without limitation all data, calculations, reports, models, working notes, drawings, designs, improvements, trademarks, patents, copyrights (whether or not registered or patentable), and specifications developed or prepared by Consultant in connection with or related to such Services or Work Product shall become the sole and exclusive property of District, unless specifically otherwise agreed upon in writing by District and Consultant. Consultant hereby unconditionally assigns, transfers and conveys to District all rights, interests and claims of any kind related thereto, including copyright. Consultant shall promptly disclose such Work Product to District and, at the District's expense, perform all actions reasonably requested by District (whether during or after the Term) to establish and confirm such ownership (including, without limitation, executing any necessary assignments, consents, powers of attorney, and other instruments). Notwithstanding the preceding, all pre-existing intellectual property owned by Consultant which is incorporated in or utilized to develop the Services performed or Work Product prepared for District hereunder shall remain the sole and exclusive property of Consultant; provided, however, that Consultant grants to District a non-exclusive, perpetual, fully transferable, worldwide, royalty-free, limited license to use such pre-existing intellectual property in connection with such Services or Work Product. Consultant shall not be held liable for reuse of Work Product or modifications thereof by District or its representatives for any purpose other than the original intent of this Agreement, without written authorization of Consultant.

3.3 Confidential Information. Consultant acknowledges that during the Term it may receive or have access to certain information, observations, and data (including without limitation trade secrets, designs, ideas, products, research, software, financial data, and personal information) concerning the business or affairs of District which is designated as confidential or proprietary or should reasonably be understood to be confidential given the nature of the information and the circumstances surrounding its disclosure ("**Confidential Information**"). All Confidential Information is, and shall remain, the property of District. Consultant shall: (a) use all Confidential Information solely for the purpose of providing the Services described in this Agreement; (b) hold all Confidential Information in strict confidence; (c) protect all Confidential Information from dissemination to, and unauthorized access or use by, any third party, using the same level of care and discretion that it uses with its own similar information, which in no case will be less than commercially reasonable care; (d) restrict access to all Confidential Information to such of its personnel, agents, and/or subconsultants, if any, who have a need to have access in order to provide

the Services and who are under obligations of confidentiality substantially similar to those in this Agreement; and (e) return or destroy all Confidential Information of the other Party in its possession upon termination or expiration of this Agreement and promptly confirm such return or destruction. Consultant shall not sell or make any unauthorized use of any Confidential Information.

ARTICLE IV BOOKS AND RECORDS

4.1 Books and Records. Consultant shall keep and preserve for no less than four (4) years after the date of final billing or termination of this Agreement, whichever shall first occur, accurate and detailed records of all ledgers, books of account, invoices, vouchers, cancelled checks, and other documents or records evidencing or relating to the Services and disbursements charged to District under this Agreement (collectively, “*Books and Records*”). All Books and Records shall be maintained in accordance with generally accepted accounting principles and must be sufficiently complete and detailed so as to permit an accurate evaluation of the Services provided by Consultant under this Agreement. District and its agents shall be given full access to such Books and Records during normal business hours. District and its agents shall have the right to make copies of any of the said Books and Records.

4.2 Work Product Documentation. Consultant further agrees to maintain all design calculations and final Work Product on file in legible and readily accessible form. In addition to the requirements of Section 3.2, Consultant shall make copies of such material available to District, at District’s sole cost and expense, and Consultant shall not destroy the originals of such materials and items, including any additions, amendments or modification thereto, unless District fails to object to such destruction upon Consultant providing District with sixty (60) days advance written notice, indicating that such material is scheduled to be destroyed.

ARTICLE V INDEPENDENT CONTRACTOR

5.1 Status. The Parties hereby acknowledge that in rendering the Services provided hereunder, Consultant shall be deemed to be an independent contractor and shall not be deemed in any way an agent, partner, or joint venturer of District. Consultant acknowledges and agrees that, as an independent contractor, it is solely responsible for the payment of any and all taxes and/or assessments imposed on account of payment to Consultant or the performance of Services by Consultant pursuant to this Agreement.

5.2 Agency Restrictions. Consultant understands and agrees that Consultant shall not represent itself to third parties to be the agent, employee, partner, or joint venturer of District. Furthermore, Consultant shall not make any statements on behalf of or otherwise purporting to bind the District in any contract or otherwise related agreement. Consultant further agrees and acknowledges that Consultant does not have the authority to and shall not sign any contract on behalf of District. Consultant shall not obligate District to do any other act that would bind District in any manner.

5.3 Further Assurances. Consultant shall furnish District with any documents or records that District reasonably believes necessary to properly and timely carry out the Services. District shall first tender written notice to Consultant regarding any documents or records that it reasonably believes necessary to properly carry out the Services. Consultant shall then have ten (10) days from the receipt of such notice to provide District with the requested documents or records.

ARTICLE VI TERMINATION

6.1 Termination. At any time during the Term of this Agreement, District may terminate this Agreement, in whole or in part, with or without cause, upon ten (10) working days' written notice to Consultant. Upon receipt of the termination notice, Consultant shall promptly discontinue Services except to the extent the notice otherwise directs. In the event District renders such written termination notice to Consultant, Consultant shall be entitled to compensation for all Services properly rendered prior to the effective date of the notice and all further Services set forth in the notice. District shall be entitled to reimbursement for any compensation paid in excess of Services properly rendered and shall be entitled to withhold compensation for defective Services or other damages caused by Consultant's work. Consultant acknowledges District's right to terminate this Agreement as provided in this Article VI, and hereby waives any and all claims for damages that might arise from District's termination of this Agreement. Consultant shall deliver to District and transfer title (if necessary) to all completed Work Product. District shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed Services, and shall not be entitled to damages or compensation for termination of Services.

ARTICLE VII CALIFORNIA LABOR CODE PROVISIONS FOR PUBLIC WORKS PROJECTS

7.1 Prevailing Wage Rates. Consultant is aware of the requirements of California Labor Code sections 1720 *et seq.* and 1770 *et seq.* (collectively, "**Prevailing Wage Laws**"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall indemnify, defend, and hold harmless District and its directors, officers, employees, and agents from any claims, liabilities, costs, fines, penalties, or interest arising out of any failure or alleged failure of Consultant or its subconsultants to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, including without limitation prevailing wages, employment of apprentices, hours of labor, and debarment of contractors and subcontractors.

7.2 Registration. If the Services are being performed as part of an applicable “public works” or “maintenance” project, in addition to the foregoing, then pursuant to California Labor Code sections 1725.5 and 1771.1, Consultant and all subconsultants must be registered with the Department of Industrial Relations (“*DIR*”). Consultant shall maintain registration for the duration of this Agreement and require the same of any of its subconsultants. This Agreement may also be subject to compliance monitoring and enforcement by the DIR. Consultant shall have sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.

7.3 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of California Labor Code section 3700, which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and Consultant agrees to comply with such provisions before commencing the performance of any Services.

ARTICLE VIII PROJECT MANAGEMENT

8.1 Consultant’s Representative. [REDACTED] (“*Consultant’s Representative*”) is hereby designated as the principal and representative of Consultant authorized to act on its behalf with respect to the Services specified herein and to make all decisions in connection herewith. Consultant shall not substitute Consultant’s Representative without first notifying District in writing of Consultant’s intent. District shall have the right to review the qualifications of said substitute. If District determines said substitute Consultant’s Representative is unacceptable, Consultant shall submit alternate candidates until District determines the substitute Consultant Representative is acceptable.

8.2 District’s Representative. [REDACTED] (“*District’s Representative*”) is hereby designated to represent District and except as otherwise provided herein authorized to act on its behalf with respect to the Services specified herein and to make all decisions in connection therewith. District may substitute District’s Representative at any time upon written notice to Consultant.

ARTICLE IX INDEMNIFICATION; LIMITATION OF LIABILITY

9.1 Indemnification. Consultant shall indemnify, defend, and hold harmless District and District’s directors, officers, employees, representatives, agents, affiliates, subsidiaries, predecessors, successors, and assigns from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, judgments, fines, penalties, and deficiencies, including attorneys’ fees (collectively, “*Claims*”), arising out of or related to any acts or omissions, or goods, products, or services made, furnished, or otherwise provided, or alleged to be made, furnished, or otherwise provided, by Consultant or Consultant’s employees, representatives, agents, subconsultants, contractors, subcontractors, suppliers, successors, permitted assigns, or anyone acting on behalf of Consultant in connection with the performance of the Services. Consultant’s indemnification responsibility with respect to the Services shall exist and continue regardless of

the extent to which District may have reviewed and approved the Services performed by Consultant, except that Consultant shall not be responsible for any Claim attributable to the Services to the extent such Claim is attributable to a decision made by District with respect to which Consultant and District have specifically agreed in writing that District shall be the responsible party. Consultant's indemnification obligations shall not be affected by any insurance provisions or limitations of liability contained in this Agreement. Consultant's indemnification obligations shall continue in full force and effect notwithstanding the completion, expiration, or other termination of this Agreement.

9.2 Limitation of Liability. DISTRICT'S CUMULATIVE AGGREGATE LIABILITY IN CONNECTION WITH THIS AGREEMENT, WHETHER ARISING UNDER CONTRACT OR BASED UPON A CLAIM OF STRICT LIABILITY, NEGLIGENCE, OR ANY OTHER TORT OR STATUTORY BASIS, SHALL BE LIMITED TO THE TOTAL PAYMENTS MADE BY DISTRICT TO CONSULTANT HEREUNDER DURING THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT UPON WHICH LIABILITY IS PREDICATED. IN NO EVENT WILL DISTRICT OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, OR AFFILIATES BE LIABLE FOR LOST PROFITS, LOST BUSINESS OPPORTUNITIES, LOST REVENUES, OR FOR EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, DELAY, INDIRECT, OR CONSEQUENTIAL DAMAGES OR THE LIKE, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER DISTRICT HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. THE PARTIES EACH ACKNOWLEDGE THAT THE FORGOING LIMITATION OF LIABILITY IS A MATERIAL CONDITION OF DISTRICT'S WILLINGNESS TO ENTER INTO THIS AGREEMENT, AND THAT DISTRICT WOULD NOT ENTER INTO THIS AGREEMENT BUT FOR SUCH LIMITATION.

ARTICLE X INSURANCE

10.1 Insurance. Consultant shall provide, pay for, and maintain in force at all times during the performance of the Services hereunder, the policies of insurance set forth below. Consultant shall provide original certificates of insurance and endorsements evidencing coverage on forms reasonably acceptable to District prior to commencing any Services under this Agreement and promptly upon request thereafter. The existence of the required insurance coverage under this Agreement shall not be deemed to satisfy, substitute for, or otherwise limit Consultant's indemnification obligations under this Agreement. Consultant acknowledges that the insurance coverage and the policy limits set forth in this Agreement constitute the minimum coverage and policy limits required.

(a) Commercial General Liability Insurance covering liabilities for death and personal injury, liabilities for loss of or damage to property, and contractual indemnity obligations with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

(b) Automobile Liability Insurance for bodily injury or death and property damage, including coverage for owned, non-owned, leased, and hired auto, with a minimum \$1,000,000 per person and \$2,000,000 per occurrence.

(c) Workers' Compensation Insurance as required by applicable law.

(d) Employers' Liability Insurance with limits of at least \$1,000,000 per occurrence.

(e) Professional Liability Insurance/Errors and Omissions Liability Insurance appropriate to Consultant's profession, with limits of liability of not less than \$2,000,000 each claim/annual aggregate.

10.2 Policy Requirements. All insurance policies required pursuant to this Agreement shall:

(a) For all liability policies, include an additional insured endorsement at least as broad as ISO CG 2010 07 04 and consistent therewith naming as additional insureds "San Bernardino Valley Municipal Water District and its directors, officers, employees, representatives, agents, affiliates, subsidiaries, predecessors, successors, and assigns".

(b) Be on an "occurrence" basis, not a "claims-made" basis. The foregoing policies must contain an aggregate limit not less than the occurrence limit. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.

(c) Be primary and non-contributory with any insurance programs carried by or available to District.

(d) Waive all rights of subrogation and contribution against District and its insurers.

(e) Provide that coverage shall not be revised, cancelled or reduced until at least thirty (30) days' written notice of such revision, cancellation or reduction shall have been given to District. In the event any policies of insurance are revised, cancelled or reduced, Consultant shall prior to the revision, reduction or cancellation date, submit evidence of new insurance to District complying with this Agreement.

(f) Be issued by insurance companies which are qualified to do business in the State of California and which have a current rating of A-VIII or better in Best's Insurance Report.

10.3 Subconsultant Insurance. In the event Consultant subcontracts any portion of its performance, the agreement between Consultant and the subconsultant shall require the subconsultant to carry the same policies of insurance that Consultant is required to maintain pursuant to this Agreement.

**ARTICLE XI
REPRESENTATIONS AND WARRANTIES**

11.1 Representations and Warranties. Each Party represents and warrants the following:

(a) Such Party is duly organized, validly existing, and in good standing under the laws of its state of formation or incorporation and has all requisite power and authority to conduct the business with which it conducts and proposes to conduct.

(b) All action on the part of such Party necessary for the authorization, execution, delivery, and performance of this Agreement, and the consummation of the transactions contemplated herein, has been properly taken and obtained in compliance with applicable law.

(c) Such Party has not entered into nor will either enter into any agreement (whether written or oral) in conflict with this Agreement or which would prevent such Party from performing its obligations under this Agreement.

(d) Such Party has the contacts and expertise, and will reasonably allocate its financial and time resources on a best efforts basis to enable it to perform its obligations hereunder.

**ARTICLE XII
MISCELLANEOUS**

12.1 Entire Agreement. This Agreement contains the entire understanding between the Parties, and supersedes any prior understanding and/or written or oral agreements between them, respecting the subject matter of this Agreement. There are no representations, agreements, arrangements, or understandings, oral or written, by and between the Parties relating to the subject matter of this Agreement that are not fully expressed herein.

12.2 Assignment. Consultant may not assign its rights and obligations hereunder, in part or in whole, without the prior written consent of District, which consent may be granted or withheld in District's sole discretion.

12.3 Succession. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns.

12.4 No Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person or entity other than the Parties and their respective successors and permitted assigns.

12.5 Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

12.6 Notices. Any notice to be given or to be served upon either Party hereto in connection with this Agreement must be in writing and shall be deemed to have been given and received: (a) when personally delivered; (b) two (2) days after it is sent by Federal Express or similar overnight courier, postage prepaid and addressed to the Party for whom it is intended, at

that Party's address specified below; (c) three (3) days after it is sent by certified or registered United States mail, return receipt requested, postage prepaid and addressed to the Party for whom it is intended, at that Party's address specified below; or (d) as of the date of electronic mail transmission addressed to the Party for whom it is intended, at that Party's electronic mail address specified below, and provided that an original of such notice is also sent to the intended addressee by means described in clauses (a), (b), or (c) within two (2) business days after such transmission. Either Party may change the place for the giving of notice to it by thirty (30) days prior written notice to the other Party as provided herein.

If to District: San Bernardino Valley Municipal Water District
Attn: _____
380 East Vanderbilt Way
San Bernardino, CA 92408
Telephone: (909) 387-9253
E-Mail: _____

If to Consultant: _____
Attn: _____

Telephone: (_____) _____
E-Mail: _____

12.7 Governing Law; Venue. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, excluding any choice of law provision that would apply the laws of any other jurisdiction. The Superior Court of the State of California in and for San Bernardino County shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each Party hereby consents to the jurisdiction of such court and waives any right it may otherwise have to challenge the appropriateness of such forum, whether on the basis of the doctrine of forum *non conveniens* or otherwise.

12.8 Waivers. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent occurrence.

12.9 Amendment. Except as expressly provided otherwise herein, this Agreement may not be modified, altered, or changed in any manner whatsoever except by a written instrument duly executed by authorized representatives of both Parties.

12.10 Severability. If any provision of this Agreement shall be deemed or held to be invalid or unenforceable for any reason, such provision shall be adjusted, if possible, rather than voided, so as to achieve the intent of the Parties to the fullest extent possible. In any event, such provision shall be severable from, and shall not be construed to have any effect on, the remaining provisions of this Agreement, which shall continue in full force and effect.

12.11 Time of the Essence. Time is of the essence in the performance of each and every provision or obligation of this Agreement as to which time is an element.

12.12 Release of Information and Advertising. Consultant shall not, without the prior written consent of District, make any news release or other public disclosure regarding this Agreement.

12.13 Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word “including” shall mean including without limitation.

12.14 Attorneys’ Fees. If any legal action is necessary to enforce or interpret the terms of this Agreement, the prevailing Party shall be entitled to reasonable attorneys’ fees, reasonable expert witness fees, costs, and necessary disbursements in addition to any other relief to which that Party may be entitled.

12.15 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument. Signatures may be delivered electronically or by facsimile and shall be binding upon the Parties as if they were originals.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereby execute this Agreement as of the Effective Date.

DISTRICT:

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

By: _____

Name: _____

Its: _____

CONSULTANT:

[REDACTED]

By: _____

Name: _____

Its: _____

EXHIBIT “A”

[Insert Consultant's Proposal]

EXHIBIT “B”

[Insert Task Order Form]