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**REQUEST FOR PROPOSAL:
COMPREHENSIVE
COST OF SERVICE/WATER RATE STUDY**

PROPOSALS DUE

September 12, 2024 4:00 p.m. Pacific Standard Time

I. INTRODUCTION

Vista Irrigation District (District) is seeking proposals from qualified firms to conduct a comprehensive cost of service/water rate study (study). The intent of the study is to independently assess and evaluate the District's existing water rates and charges and provide recommendations. The broad objective of the study is to adequately cover revenue requirements in compliance with industry best practices, legal parameters, potential future debt service rate covenants, and District policies. Historically, the District staff has prepared water rate studies; however, the District will be seeking financing for large infrastructure projects in the near future and is seeking to have a firm review its rates and charges and complete a study.

This Request for Proposals (RFP) describes the project, required scope of services, firm selection process, and minimum information that must be included in the proposal. Failure to submit information in accordance with the RFP requirements and procedures may be cause for disqualification. The District reserves the right to waive minor proposal deviations or omissions at its sole discretion.

This study will require the selected firm to perform a comprehensive study to include a review of the District's current rates and rate structure, customer usage and financial data, revenue requirements, cost of service based rate alternatives, and recommendations for the District's consideration. The selected firm will also review the District's planned expenditures, including its operations and maintenance and capital improvement program costs.

II. GENERAL INFORMATION

There is no express or implied obligation for the District to reimburse responding firms for any expenses incurred in preparing proposals in response to this request. Materials submitted by respondents are subject to public inspection under the California Public Records Act (Government Code Sec. 6250 et seq.), unless exempt.

The District reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether the proposer is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this RFP, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the District and the firm selected.

III. DISTRICT BACKGROUND

The District was formed in 1923 pursuant to Section 20500, et. seq., of the California Water Code and provides water to the City of Vista as well as portions of San Marcos, Oceanside, Escondido and unincorporated areas of the County of San Diego. The District service area is approximately 21,150 acres with a service population of approximately 130,000 and 29,000 potable water service connections. The District's treated water transmission and distribution system consists of approximately 429 miles of 4-inch to 42-inch pipelines, 12 storage tanks, 15 pressure zones, and 7 pump stations.

Customer Base: The District, which is over 87% built-out, is a mix of low-density urban development characterized by the following breakdown of customer connections:

- 86% Residential
- 5% Commercial/Industrial
- 5% Fire Service
- 3% Irrigation
- 1% Agricultural

Of the District’s residential accounts, approximately 94% of these properties are single family with the remaining 6% being multi-family units. As the District is primarily “built-out,” mainly infill growth is anticipated, population and customer account growth will be gradual. The District’s service area for potable water customers is made up of nine individual meter reading cycles for meter reading and billing purposes; eight cycles are billed every two months and one cycle is billed monthly. The District utilizes a three tier water rate structure for all customers except for those participating in the San Diego County Water Authority’s Special Agricultural Water Rate (SAWR) program which has a single tier rates for domestic use and agricultural use. Currently, only tiers one and two are being used; tier three may be implemented when mandatory water use reductions are required.

Sources of Water: The District obtains its water from Lake Henshaw, which it owns, and from purchased raw and treated water supplies from the San Diego County Water Authority (Water Authority). Treated purchased water is conveyed to the District’s distribution system via six connections to the Water Authority’s aqueduct system; purchased raw and local water supplies are treated at the Escondido-Vista Water Treatment Plant (EWWTP) and conveyed through the 11-mile Vista Flume to the District’s distribution system. The District and City of Escondido (Escondido) have contracts regarding the rights to and transportation of water from Lake Henshaw. Additionally, several local Indian Bands have rights to this water and deliveries and issues are closely coordinated between all parties.

Downstream of Lake Henshaw, the local water conveyance system, owned by Escondido and jointly maintained by the District, consists of the following: San Luis Rey Diversion Structure, Escondido Canal, Lake Wohlford Dam and Reservoir, Bear Valley Pipelines, and Lake Dixon Dam and Reservoir. The EWWTP, located at Lake Dixon and operated by Escondido, is owned by the District (20 percent) and Escondido (80 percent).

Capital Improvement Program: Although the District is currently funding its capital improvement program using a pay-as-you-go method and currently carries no debt, several large projects requiring financing are scheduled to begin in the next four years. This study should consider the financing of large infrastructure projects and make recommendations as appropriate. Infrastructure projects of note include the replacement of the District’s 100-year old, 11-mile long Vista Flume, construction of a new reservoir and wellfield rehabilitation.

Water Rate Study: The District’s last Water Rate Study was completed in 2021 and included the following increases approved by the District’s Board of Directors on January 19, 2022:

Pass-Through of Water Authority Fees and Charges - Pass through 100% of any increase or decrease in the Water Authority’s fees and charges imposed on the District for water purchases through December 31, 2026.

Inflationary Adjustments to Rates and Charges - Increase to the service charge and impose an inflationary increase each year on July 1. Annual inflationary adjustments would commence on July 1, 2023 and continue through July 1, 2026. The annual inflationary adjustment is applied to District costs only.

Tier Allotment Adjustments - Modify the Tier 1 allotment (the amount of water charged at the Tier 1 rate). Consistent with the 2009 methodology, 50% of the average usage for a 3/4-inch meter was used to determine the Tier 1 allotment; this average was used with hydraulic capacity of the meter size to establish Tier 1 allotments for all meter sizes. The Tier 3 water rate is only implemented when penalties may be assessed by the Water Authority in the event that the District exceeds its allocation during a mandatory water use reduction.

One-time increased to commodity rates effective April 1, 2022 – A one-time increase to the District’s portion of the commodity rates, which represented a 16 cent per unit increase to the Tier 1 rate and a nine cent per unit to the Tier 2/3 rates (under the new tier allotment structure). For SAWR program participants, domestic and agricultural water use will be billed at a flat rate.

Water Authority Pass-through Offset: During 2021 and 2022, the Water Authority was successful in its decade-long rate case litigation against the Metropolitan Water District (MWD) and received payments for damages interest and legal fees from MWD totaling over \$91.1 million. Consistent with a decision made by the Water Authority Board of Directors in 2012, the total amount of monies received was distributed pro-rata to its member agencies. The District received its pro-rata share of the disbursements totaled just over \$3.183 million; the Board approved using the monies (rebates) received to offset the financial impact of Water Authority rate increases beginning in April 2022 and continuing over a five-year period.

The District’s current water rates and charges effective July 1, 2024 can be found in Attachment A.

IV. SCOPE OF REQUIRED SERVICES

The firm shall perform the following tasks:

Task 1.0 - Cost of Service Analysis

Task 1.1 - The firm will conduct a review of current information to familiarize themselves with both District priorities and exogenous factors, including:

- District customer base, make-up, consumption history / patterns, etc.
- District’s existing water rates and charges
- Financial information – Fiscal Year (FY) 2025 Budget, Estimated FY 2024 data, FY 2023 Annual Comprehensive Financial Report and Reserves
- Districts financial policies/practices (reserves, etc.)
- District Strategic Plan and Capital Improvement Program

Task 1.2 - The firm will review various cost allocations between variable and fixed charges to accomplish the requirements set forth in Task 1.3. The firm is also requested to review the current tier structure for compliance recommendations. The firm will then present various cost

allocations alternatives (including the advantages and disadvantages of each alternative) to the Board during meeting(s). The Board will then make the determination as to which rate allocation/structure will be utilized to accomplish Task 1.3, Task 2.0 and be the basis for all other information presented in meetings listed in Task 3.0.

Task 1.3 - The firm will perform a standard rate and charge analysis and develop cost-based water user rates and service charges for a five-year period through a cost of service and rate design study process. The water rates and charges must be developed in compliance with California Constitution article XIII D, section 6 (Proposition 218), as well as any new laws that may become effective prior to adoption of new water rates and charges. The firm will ensure compliance with and incorporate appropriate policies as established by the District's Board of Directors. The study will include the following components:

1. Potable water rates
2. Fixed fees (Service Charge also known as a "readiness-to-serve" charge)
3. Fire Service charges review
4. Locked meter charges
5. Recommended rates using a high/low approach based on primary variables, such as rate impacts from:
 - Increase or decrease in sales volume;
 - Increase or decrease in the availability of the District's local water supply;
 - Change in operation and maintenance costs into consideration of inflationary pressures on supplies and services;
 - Large capital projects timing; and
 - New debt service/rate covenants.
6. Allocation scenarios of required increases between variable water rates and fixed service charge.

Historically, the District has adopted a Rate Adjustment Policy, which is comprised the pass-through of increases/decreases of wholesale water rates and charges as well as annual inflationary adjustments, along with other proposed water rate and service charge increases. It is anticipated that the staff will request that this policy be adopted along with other proposed adjustment as has been done in the past.

The firm will prepare a draft study for review by District staff; based on comments and further direction from staff and/or the Board of Directors, the firm will prepare a final study.

Task 2.0 - Rate Model Functionality

The firm will develop a ten-year rate and financial planning model in an Excel format that will be provided to staff. The firm will train staff in use of the model and provide documentation of the model's structure and user guides to facilitate independent utilization by staff. The rate model shall contain functionality to support the development of the rates and charges as described in the study. The rate model will become the property of the District and may be used by the District for any purpose. The model shall specifically include the ability to:

1. Calculate the cost of purchasing, treating, and distributing water;
2. Identify primary cost components and their percentage of total rates and charges;
3. Include financing of the District's 10-year Capital Improvement Program on a debt

- and loan financing basis;
- 4. Measure debt capacity;
- 5. Apply flexible inflators to various cost components; and
- 6. Create a management dashboard to show the following minimum components:
 - a. Allocation of proposed rate increases (percent for primary revenue requirements);
 - b. Graphic display of costs related to rates; and
 - c. Financial metrics (days' cash, reserve fund levels, debt service coverage).

Task 3.0 - Meetings

In addition to kick-off and regular project/progress meetings with staff, the firm will be required to attend and present information (via PowerPoint - or other similar visual presentation program accompanied by written documentation) in regards to:

1. Meeting with the Board of Directors to discuss the study process, review cost of service methodology and receive input on rate structure goals/objectives.
2. Presenting various water rate/service charge alternatives to the Board of Directors.
3. Presenting final report to the Board of Directors.
4. Attending town hall/community meetings leading up to the public hearing to answer any questions on the study.
5. Attending the public hearing to present findings and answer questions as needed. (The firm shall assist with the approval process for the recommended rates and charges, including preparing testimony for rate hearings and providing expert witness services during the rate hearings.)

Task 4.0 - Project Management. Please include Project Management as a component of each of the tasks above.

Task 5.0 – Public Relations. Firm to develop messaging and talking points related to the study, prepare the Proposition 218 notice and assist with response to protest letters, and provide guidance on and assist with public outreach, including town halls.

The District is currently under contract with a municipal financial advisor and may have other advisors during the process. The firm will be required to work with advisors as needed to provide and/or receive information relative to the study and public outreach for the public hearing.

V. PRE-SUBMITTAL ACTIVITIES AND DEADLINES

Telephone inquiries are encouraged to define details of the subject Project; contact only the District staff member listed at the end of this section for additional information and/or to set up a teleconference/virtual meeting. Any existing pertinent District documents that might be useful in the preparation of the firm's proposal will be made available for review during the RFP process. Many documents, such as the District's budget and 2021 Water Rate Study, can be found on our website www.vidwater.org under publications.

Written proposals may be submitted by email to sgoodrick@vidwater.org or by United States mail/other delivery service to Vista Irrigation District, 1391 Engineer Street, Vista, California 92081-8840 (Attn: Shallako Goodrick, Director of Administration); proposals must be received by no later than **4:00 p.m. on September 12, 2024.**

The District reserves the right to eliminate any portion of the requested services from the scope of work.

All inquiries regarding this RFP should be directed to Shallako Goodrick, Director of Administration, at (760) 597-3178 or sgoodrick@vidwater.org.

VI. PROPOSAL FORMAT AND CONTENT

The following format and content shall be used for an in-depth proposal development. These items are intended as minimum guidelines only. Additional categories deemed to be necessary for a complete proposal and scope of work may be added following these sections.

Title Page: The title page shall include the RFP subject; proposing firms name; and contact person's name, local office and mailing address, telephone number, and email address.

Table of Contents: The table of contents shall identify the materials submitted by section and cross-reference to the corresponding section of the RFP.

Transmittal Letter: The transmittal letter shall include the following:

- General introduction stating the proposer's understanding of the services to be provided;
- Positive commitment to perform the service within the time period specified;
- Statement of why the firm or person believes itself to be best qualified to perform the specified;
- Statement of how long you or the firm has/have been in business;
- Statement that the proposal is a firm and irrevocable offer for the stated period of time;
- Name(s) of person(s) authorized to represent the proposer, title, office and mailing address, telephone number, email address; and
- Signature of authorized party.

Contents of the Technical Proposal: The purpose of the Technical Proposal is to demonstrate the qualifications, competence, and capacity of the firms seeking to advise the District on water rates in conformity with the requirements of this RFP. The substance of proposals will carry more weight than their form or manner of presentation. The Technical Proposal should demonstrate the qualifications of the firm and of the particular staff to be assigned to this engagement.

The Technical Proposal should address all the points in the order outlined in the RFP, providing a straightforward, concise description of the proposer's capabilities to satisfy the requirements of the RFP. While additional data may be presented, the areas detailed below must be included as they represent the criteria against which the proposal will be evaluated.

Independence: The firm should provide an affirmative statement that it is independent of the District. The firm should also list and describe the firm's professional relationships involving the District for the past five years, if any, together with a statement explaining why such relationships do not constitute a conflict of interest relative to performing the services required by this RFP. In addition, the firm shall give the District written notice of any professional relationships entered into during this period of this agreement.

Agreement and Insurance Requirements: Attachment B is the District's standard professional services agreement and includes the required insurance information. State the firm's ability or inability to comply with the District's insurance requirements.

Firm Qualifications and Experience: The proposal should briefly introduce your firm, indicating whether your firm is local, regional, national, or international. State the size of the firm, the size of the firm's staff, the location of the office from which the work on this engagement is to be performed, and the number and nature of the professional staff to be employed in this engagement on a full-time basis and the number and nature of the staff to be so employed on a part-time basis. Indicate the name of the person who will be authorized to answer questions and to bind the firm, the person's title, office and mailing address, email address and telephone number.

If the proposer is a joint venture or consortium, the qualifications of each firm comprising the joint venture or consortium should be separately identified and the firm that is to serve as the principal should be noted, if applicable.

Staff Qualifications and Experience: Please provide information on staff qualifications and experience for those employees that will be working on this project; include resumes of those individuals supervising the project or providing the service.

Prior Engagements with the District: List separately all engagements with the District within the last five years; indicate the scope of work, date, the location of the firm's office from which the work was performed, and the name and telephone number of the principal contact.

References: Please provide references from at least five California public agencies, preferably water and/or irrigation districts, for which the firm has worked during the past five years; indicate the scope of work, date, engagement partner, and total hours.

Please include reference contact information for these agencies, including the name, telephone number and email address of the principal client contact. The District reserves the right to contact any or all of the listed references.

Fee Proposal: Include a detailed fee proposal for each task inclusive of all hourly rates, anticipated travel, and other incidental costs and charges; fees shall be broken down by task.

Schedule: Provide a detailed schedule that incorporates the following target dates and deliverables. If these dates are practically unattainable given the scope of work and the firm’s prior experience, please state why and provide an alternative schedule. The goal is to implement recommended rate and fee changes as of July 1, 2025, if possible, so appropriate time will be required for public outreach (town halls), legal notification and public hearing.

Deliverable	Target Date
Contract Start Date	October 28, 2024
Introductory Board Meeting	November 20, 2024
Rate/Financial Model	December 16, 2024
Preliminary Rate and Charge Recommendations	January 6, 2025
Board Workshop	January 21, 2025
Final Report	February 19, 2025
Board Meeting- Notice of Public Hearing (District)	March 5, 2025
Mail Proposition 218 Notice (District)	March 19, 2025
Town hall meetings (anticipate two meetings)	April 2025
Public Hearing	May 7, 2025
New rates and charges effective	July 1, 2025

Water Rate Cost of Service Study Report: The proposing firm shall provide a copy (in electronic form) of the most recent final report from a water rate cost of service study prepared for an agency listed as a reference.

Acknowledgement of Agreement and Statement of Exceptions: The proposed firm shall certify that it takes no exception(s) to this RFP including but not limited to the District’s Standard Professional Services Agreement, included as Attachment B. If the proposed firm does take exception(s) to any portion of the RFP and/or Standard Professional Services Agreement, the specific exception(s) shall be identified and explained.

Addenda to this Request for Proposals: The proposed firm shall confirm in its proposal the receipt of all addenda issued to this RFP. The proposed firm is not required to include copies of the actual addenda in its proposal.

VII. SELECTION PROCESS SCHEDULE

The District anticipates the process for selecting a firm and awarding the agreement will be according to the following schedule (dates subject to change):

Advertise and Issue RFP:	August 19, 2024
Deadline for Questions	August 28, 2024, 4:00 PM PST
Proposal Due Date:	September 12, 2024, 4:00 PM PST
Proposals reviewed and evaluated:	September 25, 2024
Finalist interviews (if necessary):	October 3, 2024
Selection:	October 9, 2024
District Board of Directors approval:	October 23, 2024
Contract begins:	October 28, 2024

VIII. FIRM SELECTION PROCESS

Proposals will be reviewed by a panel (comprised of District staff and potentially other public agency personnel) for responsiveness, understanding of the work, scope of work, relevant experience, project team and schedule. Staff will select a firm or create a short-list of qualified firms and may choose to interview the short-listed firms. Based upon the proposals and interview, staff will rank the finalists as to qualifications. The District will enter into negotiations with the selected firm. The negotiations will cover: scope of work, schedule, terms and conditions, technical specifications, and price. If the District is unable to reach an acceptable agreement with the selected firm, the District will terminate negotiations with the selected firm and begin negotiations with the second ranked firm.

The selected firm will be required to enter into the District's Professional Services Agreement (Attachment B) and provide insurance certificates and endorsements as stipulated in the Agreement within seven calendar days of notification of selection.

The selected consulting firm and its staff working for the District on this Project will be required to keep confidential all information they learn about the District's water facilities and systems.

IX. ATTACHMENTS

Attachment A: Water Rates and Service Charges Effective July 1, 2024

Attachment B: Standard Professional Services Agreement.

Attachment A

VISTA IRRIGATION DISTRICT RATE AND FEE SCHEDULE

SERVICE CHARGE AS OF 7/1/24			EMERGENCY WATER STORAGE FEE AS OF 3/1/24		MISCELLANEOUS FEES AS OF 1/1/24	
METER SIZE	MONTHLY SERVICE CHARGE	BI-MONTHLY SERVICE CHARGE	MONTHLY SDCWA CHARGE	BI-MONTHLY SDCWA CHARGE	* Hardship: 200% below the Federal Poverty Line	
	5/8"	\$39.64	\$79.28	\$4.41		
3/4" & 3/41"	\$52.30	\$104.60	\$4.41	\$8.82	DELINQUENT DOOR HANGER	\$77.00
1"	\$77.28	\$154.56	\$7.06	\$14.12	MAILED DELIQUENT DOOR HANGER	\$45.00
1 1/2"	\$140.28	\$280.56	\$13.23	\$26.46	DELINQUENT LOCK	\$175.00
2"	\$215.60	\$431.20	\$22.93	\$45.86	DELINQUENT LOCK HARDSHIP	\$57.00
3"	\$416.53	\$833.06	\$42.34	\$84.68	BROKEN LOCK	\$191.00
4"	\$642.45	\$1,284.90	\$72.32	\$144.64	PULLED METER	\$191.00
6"	\$1,521.47	\$3,042.94	\$132.30	\$264.60	AFTER HOURS UNLOCK	\$191.00
8"	\$2,024.01	\$4,048.02	\$229.32	\$458.64	AFTER HOURS UNLOCK HARDSHIP	\$171.00
10"	\$3,028.65	\$6,057.30	\$343.98	\$687.96	REQUEST LOCK/UNLOCK	\$73.00
					RETURN CHECK FEE	\$41.00
MONTHLY WATER ALLOTMENTS BY TIER (UNITS)			WATER USAGE CHARGE AS OF 3/1/24			
METER SIZE	TIER 1	TIER 2	TIER 3			
	0-4	5-42	43+			
3/4" & 3/41"	0-6	7-60	61+	TIER 2	\$5.89 PER UNIT *	
1"	0-15	16-150	151+	TIER 3	\$5.89 PER UNIT *	
1 1/2"	0-30	31-300	301+	AG DOMESTIC	\$5.73 PER UNIT *	
2"	0-48	49-480	481+	SAWR AG RATE	\$4.72 PER UNIT *	
3"	0-96	97-960	961+			
4"	0-150	151-1,500	1,501+			
6"	0-300	301-3,000	3,001+			
8"	0-480	481-4,800	4,801+			
10"	0-690	691-6,900	6,901+			
					* 1 UNIT (100 CUBIC FEET) = 748 GALLONS	

Attachment: Professional Services Agreement Example

AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN VISTA IRRIGATION DISTRICT AND

This Agreement is made and entered into as of _____, by and between VISTA IRRIGATION DISTRICT, a special governmental district formed and operating under the Irrigation District Law, California Water Code Sections 20500, et seq. (hereinafter referred to as “DISTRICT”), and _____, a _____ *insert business structure, e.g., “a California corporation”* (hereinafter referred to as “CONSULTANT”).

RECITALS

- A. DISTRICT is in need of the following services: _____ (hereinafter referred to as the “Services”).
- B. CONSULTANT is duly licensed (where appropriate) and qualified to provide the Services.
- C. The purpose of this agreement is to establish the terms and conditions under which DISTRICT will retain CONSULTANT to provide the Services described herein.

EXECUTORY AGREEMENTS

NOW, THEREFORE, in consideration of the facts recited above and the covenants, conditions and terms set forth below, DISTRICT and CONSULTANT hereby agree as follows:

SECTION ONE: CONSULTANT SERVICES

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, CONSULTANT shall provide the Services as described in the scope of work attached hereto as Exhibit “A” (“Scope of Services”). If this Agreement is for the provision of goods, supplies, equipment or personal property, the terms “Services” shall include the provision (and, if designated in the Scope of Services, the installation) of such goods, supplies, equipment or personal property.

1.2 Changes and Additions to Scope of Services. DISTRICT shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to, or deducting from the Services.

1.2.1 No such new or changed work shall be undertaken unless a written order is first given by DISTRICT to CONSULTANT, incorporating therein any adjustment in (i) the Budget and Fee Schedule attached hereto as Exhibit “B,” and/or (ii) the time to perform this Agreement, which adjustments are subject to the written approval of CONSULTANT.

1.2.2 It is expressly understood by CONSULTANT that the provisions of this Section 1.2 shall not apply to Services specifically set forth in the Scope of Services or reasonably contemplated therein. CONSULTANT hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than CONSULTANT anticipates and that CONSULTANT shall not be entitled to additional compensation therefore.

1.3 Standard of Performance. CONSULTANT agrees that all Services shall be performed in a competent, professional, and satisfactory manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions and in accordance with generally accepted professional practices and principles prevalent in the industry; and all goods, materials, equipment or personal property included within the Services shall be of good quality, fit for the purpose intended.

1.4 Performance to Satisfaction of DISTRICT. CONSULTANT shall perform all work and tasks comprising the Services to the satisfaction of DISTRICT within the time specified. If DISTRICT reasonably determines that any portion of the Services is not satisfactory, DISTRICT shall have the right to take appropriate action, including but not limited to: (a) meeting with CONSULTANT to review the quality of the work and resolve matters of concern; (b) requiring CONSULTANT to repeat unsatisfactory work at no additional charge until they are satisfactory; (c) suspending the delivery of work to CONSULTANT for an indefinite time; (d) withholding payment; and (e) terminating this Agreement as hereinafter set forth.

1.5 Instructions from DISTRICT. In the performance of this Agreement, CONSULTANT shall report to and receive instructions from DISTRICT's Project Manager designated in Paragraph 1.6 below, or his or her designee. Services other than those specifically described in the Scope of Services shall not be performed without the prior written approval of DISTRICT.

1.6 Project Management.

1.6.1 CONSULTANT designates _____ to serve as Project Manager and to provide supervision and have overall responsibility for this Agreement on behalf of CONSULTANT. CONSULTANT's Project Manager shall not be removed or reassigned without the prior written approval of DISTRICT.

1.6.2 DISTRICT designates _____ to serve as DISTRICT's Project Manager to provide overall responsibility for this Agreement on behalf of DISTRICT.

1.7 Familiarity with Work. By executing this Agreement, CONSULTANT warrants that CONSULTANT (a) has thoroughly investigated and considered the Scope of Services to be performed, (b) has carefully considered how the Services should be performed, and (c) fully understands the facilities, difficulties, and restrictions attending performance of the Services under the Agreement. If the Services involve work upon any site, CONSULTANT warrants that CONSULTANT has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of Services hereunder. Should CONSULTANT discover any conditions, including any latent or unknown conditions, which will materially affect the performance of the Services hereunder, CONSULTANT shall immediately inform DISTRICT of such fact and shall not proceed except at CONSULTANT's risk until written instructions are received from DISTRICT's Project Manager.

1.8 Prohibition Against Subcontracting or Assignment. CONSULTANT shall not contract with any other entity to perform in whole or in part any of the Services required hereunder without the prior express written approval of DISTRICT. In addition, neither the Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior express written approval of DISTRICT.

1.8.1 In the event of any unapproved transfer, including any bankruptcy proceeding, DISTRICT may, in its sole and absolute discretion, void the Agreement.

1.8.2 If CONSULTANT subcontracts any of the Services to be performed under this Agreement as permitted under this Agreement, CONSULTANT shall be as fully responsible to DISTRICT for the acts and omissions of CONSULTANT's subcontractor and of the persons employed by the subcontractor, as CONSULTANT is for the acts and omissions of persons directly employed by CONSULTANT. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor of CONSULTANT and DISTRICT. CONSULTANT shall bind every subcontractor and every subcontractor of a subcontractor to the terms of this Agreement applicable to CONSULTANT's work unless specifically set forth to the contrary in the subcontract in question and approved in writing by DISTRICT. It shall be CONSULTANT's responsibility to confirm that each subcontractor meets the minimum insurance requirements specified below.

1.8.3 No approved subcontract or transfer shall release any surety of CONSULTANT of any liability hereunder without the prior express written consent of DISTRICT.

1.8.4 Nothing contained herein shall prevent CONSULTANT from employing professional associates as CONSULTANT may deem appropriate to assist in the performance of Services under this Agreement.

1.9 Records and Reports. Upon request by DISTRICT, CONSULTANT shall prepare and submit to DISTRICT any reports concerning CONSULTANT's performance of the Services rendered under this Agreement. DISTRICT shall have access, upon reasonable notice, to the books and records of CONSULTANT related to CONSULTANT's performance of this Agreement. All drawings, documents, and other materials prepared by CONSULTANT in the performance of this Agreement (a) shall be the property of DISTRICT and shall be delivered at no cost to DISTRICT upon request of DISTRICT or upon the termination of this Agreement, and (b) are confidential and shall not be made available to any individual or entity without the prior written approval of DISTRICT. CONSULTANT shall keep and maintain all records and reports related to this Agreement for a period of three (3) years following termination of this Agreement, and DISTRICT shall have access to such records at any time during normal business hours upon 48 hours notice.

SECTION TWO: TERM AND TIME OF PERFORMANCE

2.1 Term of Agreement. Unless terminated earlier as set forth in this Agreement, the Services shall commence on _____ ("Commencement Date") and the term of this Agreement shall continue through its expiration on _____.

2.1.1 The time provided to CONSULTANT to complete the Services required by this Agreement shall not affect DISTRICT's right to terminate this Agreement, as provided for in Section 6.

2.1.2 DISTRICT shall have the option to renew this Agreement for a maximum of two (2) additional one-year term periods under the terms and conditions in effect at the end of the initial term or any extended term (each, an "Option Period"). To exercise the option, DISTRICT shall give notice to CONSULTANT not more than 90 days nor fewer than 60 days prior to the end of the initial term or first Option Period. The price(s) for the Services during the Option Period shall be the same as the price(s) for the Services during the previous term unless, not more than 120 days nor fewer than 90 days prior to the end of the term, CONSULTANT provides written notice to DISTRICT of the new price(s) for the Services during the Option Period.

2.2 Time for Performance; Force Majeure. CONSULTANT shall perform the Services in a prompt and timely manner in accordance with the activity schedule shown in Exhibit "C." The time period specified in the activity schedule or this Agreement for performance of Services shall be extended

because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of DISTRICT or CONSULTANT, including but not restricted to acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation and/or acts of any governmental agency, including DISTRICT, if the delaying party shall within ten (10) days of the commencement of such delay notify the other party in writing of the causes of the delay.

2.2.1 If CONSULTANT is the delaying party, DISTRICT shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of DISTRICT such delay is justified. DISTRICT's determination shall be final and conclusive upon the parties to this Agreement.

2.2.2 In no event shall CONSULTANT be entitled to recover damages against DISTRICT for any delay in the performance of this Agreement, however caused. CONSULTANT's sole remedy shall be extension of this Agreement pursuant to this Paragraph 2.2.

SECTION THREE: COMPENSATION AND PAYMENT

3.1 Compensation. CONSULTANT shall be compensated in accordance with the terms of the Budget and Fee Schedule attached hereto as Exhibit "B." Included in the Budget are all ordinary and overhead expenses incurred by CONSULTANT and its agents and employees, including meetings with DISTRICT representatives, and incidental costs incurred in performing the Services under this Agreement. Unless otherwise specified in the Budget and Fee Schedule, DISTRICT shall compensate CONSULTANT on a time-and-materials basis at the rates listed in Exhibit "B."

3.2 Payment. CONSULTANT shall submit itemized monthly statements for Services rendered under this Agreement. Each monthly statement shall reference this Agreement, the Work Order number (if applicable), the date and description of Services performed, and the amount invoiced. DISTRICT shall pay the statements within thirty (30) days of receipt. Payments shall be subject to review for compliance by DISTRICT with the requirements of this agreement, and shall be subject to a final audit upon completion of all Services. No other compensation will be paid except for work in accordance with Paragraph 1.2 above.

3.2.1 Total Payment. DISTRICT shall not, absent prior written approval, pay any additional sum for any expense or cost incurred by CONSULTANT in rendering the Services pursuant to this Agreement. DISTRICT shall make no payment for any extra, further, or additional service pursuant to this Agreement. In no event shall CONSULTANT submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entirety of the Services performed pursuant to this Agreement, unless this Agreement is modified in writing prior to the submission of such an invoice.

3.2.2 Hourly Fees. Fees for the Services performed by Consultant on an hourly basis shall not exceed the amounts shown on the fee schedule included with Exhibit B.

3.2.3 Reimbursable Expenses. Unless otherwise set forth in Exhibit B, reimbursable expenses of CONSULTANT are included within, and count against, any maximum amount specified in Exhibit B of this Agreement.

3.2.4 Payment of Taxes. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement, and for the payment of any applicable federal, state or local taxes arising as a result of the performance of this Agreement.

3.2.5 Payment upon Termination. In the event that DISTRICT OR CONSULTANT terminates this Agreement pursuant to Section 6, DISTRICT shall compensate CONSULTANT for all outstanding costs and reimbursable expenses incurred for Services satisfactorily completed and for reimbursable expenses as of the date of written notice of termination. CONSULTANT shall maintain adequate logs and timesheets in order to verify costs and reimbursable expenses incurred to that date.

3.3 Retention of Funds. CONSULTANT hereby authorizes DISTRICT to deduct from any amount payable to CONSULTANT (whether arising out of this Agreement or otherwise) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate DISTRICT for any losses, costs, liabilities, or damages suffered by DISTRICT in connection with this Agreement or the activities of CONSULTANT hereunder, and all amounts for which DISTRICT may be liable to third parties by reason of CONSULTANT's negligent acts, errors, or omissions, or willful misconduct, in performing or failing to perform CONSULTANT's obligations under this Agreement. DISTRICT in its sole and absolute discretion may withhold from any payment due CONSULTANT, without liability for interest, an amount sufficient to cover such claim or any resulting lien. The failure of DISTRICT to exercise such right to deduct or withhold shall not act as a waiver of CONSULTANT's obligation to pay DISTRICT any sums CONSULTANT owes DISTRICT.

SECTION FOUR: INSURANCE AND INDEMNITY

4.1 Insurance. CONSULTANT shall carry all insurance required by Federal, State, County and local laws. CONSULTANT shall procure and maintain, during the life of the AGREEMENT, adequate worker's compensation, public liability, professional liability (where applicable) and property damage insurance. The specific requirements for insurance as set forth in this article shall be considered minimum requirements. CONSULTANT shall procure and maintain, during the life of this AGREEMENT, such commercial general liability and automobile liability insurance necessary to protect CONSULTANT and DISTRICT from all claims for bodily injury, including accidental death and property damage claims arising from operations under this AGREEMENT. DISTRICT shall be named as additional primary insured on CONSULTANT's policy without offset against CONSULTANT's existing insurance and the certificate of insurance shall include reference to such provisions.

4.1.1 Minimum Scope of Insurance. Coverage shall be at least as broad as:

(a) Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

[(b) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).]

(c) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

4.1.2 Minimum Limits of Insurance. CONSULTANT shall maintain limits no less than:

(a) General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general and products-completed operations aggregate limit is used, either the general and products-completed operations aggregate limit shall apply separately to this project/location or the general and products-completed operations aggregate limit shall be twice the required occurrence limit.

(b) Automobile Liability: \$1,000,000 per accident for bodily injury, death, and property damage.

(c) Professional Liability: \$1,000,000 per claim for negligent acts, errors or omissions of a professional nature.

(d) Workers' Compensation: California Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided as required by law, with limits of not less than \$1,000,000.00 per accident or bodily injury, and \$1,000,000.00 per disease per employee. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of DISTRICT.

4.1.3 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by DISTRICT. At the option of DISTRICT, either:

(a) The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects DISTRICT, its officers, officials, employees and authorized volunteers; or

(b) CONSULTANT shall provide a financial guarantee satisfactory to DISTRICT guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4.1.4 Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

(a) DISTRICT, its directors, officers, employees, and authorized volunteers are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of CONSULTANT; and with respect to liability arising out of work or operations performed by or on behalf of CONSULTANT including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to CONSULTANT's insurance using ISO endorsement CG2010, CG2033, or equivalent, or as a separate owner's policy.

(b) For any claims related to this Project, CONSULTANT's insurance coverage shall be primary insurance as respects DISTRICT, its directors, officers, employees, and authorized volunteers. Any insurance or self-insurance maintained by DISTRICT, its directors, officers, employees, or authorized volunteers shall be excess of CONSULTANT's insurance and shall not contribute within.

(c) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by mail, has been given to DISTRICT, except for non-payment of premium for which ten (10) days prior notice will be given. For purposes of this notice requirement, any adverse material change in the policy prior to its expiration shall be considered a cancellation. CONSULTANT shall, upon demand of DISTRICT, deliver to DISTRICT all such policy or policies of insurance and the receipts for payment of premiums thereon.

4.1.5 Acceptability of Insurers. To be acceptable, insurers must have an A.M. Best rating of no less than A minus: VII, or equivalent, unless otherwise approved by DISTRICT General Manager.

4.1.6 Verification of Coverage. CONSULTANT shall furnish DISTRICT with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on the standard ACORD insurance form or on another form approved by DISTRICT, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by DISTRICT before work commences. DISTRICT reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

4.2 Indemnity. The parties mutually acknowledge that DISTRICT has retained CONSULTANT to perform the Services set forth in this Agreement based upon the special skills, expertise and experience of CONSULTANT. Accordingly, in performing the Services under this Agreement, CONSULTANT shall use the skill and care that a highly specialized professional, with expertise in the field, would use under similar circumstances. Further, the parties mutually agree that, to the extent that CONSULTANT retains subconsultants or subcontractors to perform any portion of any of the tasks or Services under this Agreement, CONSULTANT has a duty to DISTRICT to ensure that the tasks and Services performed by such subconsultants or subcontractors meet the same professional level, skill and expertise expected of CONSULTANT.

4.2.1 Except as set forth in subdivision 4.2.2, CONSULTANT shall indemnify, defend (with legal counsel acceptable to DISTRICT) and hold harmless DISTRICT and DISTRICT personnel from and against any and all actions, suits, claims, demands, judgments, attorneys fees, costs, damages to persons or property, losses, penalties, obligations, expenses or liabilities ("Claims") that may be asserted or claimed by any person or entity arising out of CONSULTANT's performance of any tasks or Services for or on behalf of DISTRICT, whether or not there is concurrent negligence on the part of DISTRICT and/or any DISTRICT personnel, but excluding any Claims arising from the active negligence or willful misconduct of DISTRICT or any DISTRICT personnel where the active negligence or willful misconduct is determined to be the actual and proximate cause of the alleged injury.

4.2.2 The provisions of this subdivision 4.2.2 shall apply only in the event that CONSULTANT is a "design professional" within the meaning of California Civil Code section 2782.8(c). If CONSULTANT is a "design professional" within the meaning of Section 2782.8(c), then, notwithstanding subdivision 4.2.1 above, to the fullest extent permitted by law (including, without limitation, Civil Code sections 2782 and 2782.6), CONSULTANT shall defend (with legal counsel reasonably acceptable to DISTRICT), indemnify and hold harmless DISTRICT and DISTRICT personnel from and against any Claim that arises out of, pertains to, or relates to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of CONSULTANT, any subconsultant, subcontractor or any other person directly or indirectly employed by them, or any person that any of them control, arising out of CONSULTANT's performance of any task or service for or on behalf of DISTRICT under this Agreement. Such obligations to defend, hold harmless and indemnify DISTRICT or any DISTRICT personnel shall not apply to the extent that such Claims are caused in part by the sole active negligence or willful misconduct of DISTRICT or such DISTRICT personnel. CONSULTANT's cost to defend DISTRICT and/or DISTRICT personnel against any such Claim shall not exceed CONSULTANT's proportionate percentage of fault with respect to that Claim; however, pursuant to Civil Code section 2782.8(a), in the event that one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business,

CONSULTANT shall meet and confer with DISTRICT (and, if applicable, other parties) regarding any unpaid defense cost. To the extent CONSULTANT has a duty to indemnify DISTRICT or any DISTRICT personnel under this subdivision 4.2.2, CONSULTANT shall be responsible for all incidental and consequential damages resulting directly or indirectly, in whole or in part, from CONSULTANT's negligence, recklessness or willful misconduct.

SECTION FIVE: LEGAL RELATIONS AND RESPONSIBILITIES

5.1 CONSULTANT shall keep itself fully informed of all existing and future State and Federal laws and all county, municipal and DISTRICT ordinances and regulations which in any manner affect those employed by it or in any way affect the performance of the Services pursuant to this Agreement. CONSULTANT shall at all times observe and comply with all such laws, ordinances, and regulations and shall be responsible for the compliance of all work performed by or on behalf of CONSULTANT. CONSULTANT shall cause all completed deliverables required under this Agreement to conform to all applicable Federal, State and local legal requirements. When applicable, CONSULTANT shall not pay less than the prevailing wage, which rate is determined by the Director of Industrial Relations of the State of California.

5.1.1 Requirement to Employ Persons Legally Authorized to Work and to Pay Prevailing Wage for Certain Contracts. Consultant shall not hire or employ any person to perform work within DISTRICT or allow any person to perform the Services required under this Agreement unless such person is properly documented and legally entitled to be employed within the United States. CONSULTANT is aware of the requirements of California Labor Code Sections 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Sections 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "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 ONE THOUSAND DOLLARS (\$1,000) or more, CONSULTANT agrees to fully comply with such Prevailing Wage Laws including, but not limited to, requirements related to the maintenance of payroll records and the employment of apprentices. It is understood that it is the responsibility of CONSULTANT to determine the correct scale. The State Prevailing Wage Rates may be obtained from the California Department of Industrial Relations ("DIR") pursuant to California Public Utilities Code, Sections 465, 466, and 467 by calling 415-703-4774. CONSULTANT shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at CONSULTANT's principal place of business and at the project site, if any. The statutory penalties for failure to pay prevailing wage or to comply with State wage and hour laws will be enforced. CONSULTANT must forfeit to DISTRICT TWENTY FIVE DOLLARS (\$25.00) per day for each worker who works in excess of the minimum working hours when CONSULTANT does not pay overtime. In accordance with the provisions of Labor Code Sections 1810 et seq., eight (8) hours is the legal working day. CONSULTANT also shall comply with State law requirements to maintain payroll records and shall submit certified records electronically to the State Labor Commissioner 1771.4. CONSULTANT shall comply with all statutory requirements relating to the employment of apprentices. CONSULTANT shall comply with the contractor registration requirements of Labor Code Section 1725.5. CONSULTANT shall defend (with counsel selected by DISTRICT), indemnify, and hold DISTRICT, its elected officials, officers, employees, and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It is agreed by the Parties that, in connection with performance of the Services, including, without limitation, any and all "Public Works" (as defined by the Prevailing Wage Laws), CONSULTANT shall bear all risks of payment or non-payment of prevailing wages under California law and/or the

implementation of Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law. CONSULTANT acknowledges and agrees that it shall be independently responsible for reviewing the applicable laws and regulations and effectuating compliance with such laws. CONSULTANT shall require the same of all of its subcontractors.

5.2 Licenses, Permits, Fees and Assessments. CONSULTANT shall obtain at its sole cost and expense all licenses, permits, and approvals that may be required by law for the performance of the Services required by this Agreement. CONSULTANT shall have the sole obligation to pay any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for CONSULTANT's performance of any work required by this Agreement, and shall indemnify, defend, and hold harmless DISTRICT against any such fees, assessments, taxes, penalties, or interest levied, assessed, or imposed against DISTRICT thereunder.

5.3 CONSULTANT as Independent Contractor. CONSULTANT shall perform the Services and all work required herein as an independent consultant of DISTRICT and shall remain at all times as to DISTRICT a wholly independent contractor. DISTRICT shall not in any way or for any purpose become or be deemed to be a partner of CONSULTANT in its business or otherwise, or a joint venturer, or a member of any joint enterprise with CONSULTANT. CONSULTANT shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of DISTRICT. CONSULTANT shall be under the control of DISTRICT as to the result to be accomplished but not the means; provided, however, that CONSULTANT shall consult with DISTRICT as provided in the Scope of Work. Neither CONSULTANT nor any of CONSULTANT's employees shall, at any time, or in any way, be entitled to any sick leave, vacation, retirement, or other fringe benefits from DISTRICT; and neither CONSULTANT nor any of its employees shall be paid by DISTRICT time and one-half for working in excess of forty (40) hours in any one week. DISTRICT is under no obligation to withhold State and Federal tax deductions from CONSULTANT's compensation. Neither CONSULTANT nor any of CONSULTANT's employees shall be included in the competitive service, have any property right to any position, or any of the rights an employee may have in the event of termination of this Agreement.

5.4 Ownership of Data, Reports and Documents. Any work performed by or work product prepared or generated by CONSULTANT under this Agreement shall be the property of DISTRICT. CONSULTANT shall deliver to DISTRICT's Project Manager, at the end of the Project, notes and surveys made, all reports of tests made, studies, reports, plans, a copy of electronic and digital files, and other materials and documents which shall be the property of DISTRICT. CONSULTANT is not responsible to third parties for DISTRICT's use of data, reports and documents on other projects. DISTRICT may use or reuse the materials prepared by CONSULTANT in any manner desired without additional compensation to CONSULTANT.

5.5 Intellectual Property and Proprietary Information.

5.5.1 Proprietary Information. All proprietary information developed specifically for DISTRICT by CONSULTANT in connection with, or resulting from, this Agreement, including but not limited to inventions, discoveries, improvements, copyrights, patents, maps, reports, textual material, or software programs, but not including CONSULTANT's underlying materials, software, or know-how, shall be the sole and exclusive property of DISTRICT, and are confidential and shall not be made available to any person or entity without the prior written approval of DISTRICT. CONSULTANT agrees that the compensation to be paid pursuant to this Agreement includes adequate and sufficient compensation for any proprietary information developed in connection with or resulting from the performance of CONSULTANT's Services under this Agreement. CONSULTANT further understands and agrees that full disclosure of all proprietary information developed in connection with, or resulting from, the performance of Services by CONSULTANT under this Agreement shall be made to DISTRICT, and that

CONSULTANT shall do all things necessary and proper to perfect and maintain ownership of such proprietary information by DISTRICT.

5.5.2 Reproduction Rights. Any and all patents and copyrights that arise from the Services or the creation of work in carrying out this Agreement shall be vested in DISTRICT, and CONSULTANT hereby agrees to relinquish all claims to such copyrights in favor of DISTRICT.

5.5.3 Use of Patented Materials. CONSULTANT shall assume all costs arising from the use of patented or copyrighted materials, including but not limited to equipment, devices, processes, and software programs, used or incorporated in the Services performed by CONSULTANT under this Agreement. CONSULTANT shall indemnify, defend, and save DISTRICT harmless from any and all suits, actions or proceedings of every nature for or on account of the use of any patented or copyrighted materials.

5.6 Covenant Against Discrimination. Consultants and contractors doing business with DISTRICT are expected to be equal opportunity employers who achieve or attempt to achieve parity in the representation of women and minorities in their work force. In this regard:

5.6.1 CONSULTANT covenants on behalf of itself and its employees, officers, agents, representatives and subcontractors that there shall be no discrimination against any person on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the performance of this Agreement.

5.6.2 CONSULTANT shall ensure equal employment opportunity for all persons, regardless of race, color, religion, sex, creed, national origin, ancestry, age, medical condition, sexual orientation, physical or mental disability, Vietnam-era veteran or special disabled veteran status, marital status or citizenship, within the limits imposed by law. These principles are to be applied by CONSULTANT in all employment practices including recruiting, hiring, transfers, promotions, training, compensation, benefits, layoffs, and terminations.

5.6.3 CONSULTANT shall comply with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, the Americans and Disabilities Act of 1990 (42 U.S.C. §12101 et seq.), as the same may be amended from time to time, and any other applicable Federal and State laws and regulations hereinafter enacted.

5.7 Compliance with California Unemployment Insurance Code Section 1088.8. If CONSULTANT is a sole proprietor, then prior to signing the Agreement, CONSULTANT shall provide to DISTRICT a completed and signed Form W-9, Request for Taxpayer Identification Number and Certification. CONSULTANT understands that pursuant to California Unemployment Insurance Code section 1088.8, DISTRICT will report the information from Form W-9 to the State of California Employment Development Department, and that the information may be used for the purposes of establishing, modifying, or enforcing child support obligations, including collections, or reported to the Franchise Tax Board for tax enforcement purposes.

5.8 Conflicts of Interest Prohibited.

5.8.1 No officer, official, employee, agent, representative or volunteer of DISTRICT shall have any financial interest, direct or indirect, in this Agreement, or participate in any decision relating to this Agreement which affects his or her financial interest or the financial interest of any corporation, partnership, or association in which he or she is interested, in violation of any Federal, State or DISTRICT statute, ordinance, or regulation. CONSULTANT shall not employ any such person while this Agreement is in effect.

5.8.2 CONSULTANT shall file a Conflict of Interest Statement with the Secretary of the Board of Directors if that is required by DISTRICT's Conflict of Interest Code. CONSULTANT is responsible for compliance with any applicable financial disclosure requirements. CONSULTANT shall not make or participate in making or in any way attempt to use CONSULTANT's position to influence a governmental decision in which CONSULTANT knows or has reason to know CONSULTANT has a financial interest other than the compensation promised by this agreement. CONSULTANT represents that CONSULTANT has diligently conducted a search and inventory of CONSULTANT's economic interests, as defined in the regulations promulgated by the Fair Political Practices Commission, and has determined that CONSULTANT does not, to the best of CONSULTANT's knowledge, have an economic interest which would conflict with CONSULTANT's duties under this agreement. CONSULTANT will not have such interest during the term of this agreement. CONSULTANT will immediately advise DISTRICT's Project Manager if CONSULTANT learns of an economic interest of CONSULTANT's during the term of this Agreement.

5.9 Covenant Against Contingent Fee. CONSULTANT covenants that neither it nor any of its officers, employees, agents or representatives employed or retained any company or person, other than a bona fide employee working for CONSULTANT, to solicit or secure this Agreement. CONSULTANT further covenants that neither it nor any of its officers, employees, agents or representatives has paid or agreed to pay any company or person, other than a bona fide employee of CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this provision, DISTRICT shall have the right to annul this agreement without liability, or, at its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fees, gift, or contingent fee.

5.10 Unauthorized Use of DISTRICT's Name. Except as required by law or with the prior written consent of DISTRICT (which consent may be withheld in DISTRICT's sole and absolute discretion), CONSULTANT shall not use DISTRICT's name, seal or logo on marketing materials, nor shall CONSULTANT state, imply or in any way represent to any third party that DISTRICT has endorsed or approved CONSULTANT or any of its Services or products.

5.11 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended, or shall be construed, to confer upon or give any person or entity other than DISTRICT and CONSULTANT any rights or remedies under or by reason of this Agreement. There are no third party beneficiaries to this Agreement or the Services and work performed hereunder.

5.12 Facilities and Equipment: Except as otherwise provided, CONSULTANT shall, at its sole cost and expense, provide all facilities and equipment necessary to perform the services required by this Agreement. In no event shall DISTRICT be required to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and copying facilities.

SECTION SIX: TERMINATION AND DEFAULT

6.1 Termination By DISTRICT. DISTRICT reserves the right to terminate this Agreement at any time, with or without cause, upon ten (10) days written notice to CONSULTANT. Upon receipt of any notice of termination from DISTRICT, CONSULTANT shall immediately cease all work on the Services hereunder except such as may be specifically approved in writing by DISTRICT.

6.1.1 CONSULTANT shall be entitled to compensation for all work performed and Services rendered prior to receipt of DISTRICT's notice of termination and for any portion of the Services authorized in writing by DISTRICT thereafter. If termination occurs prior to completion

of any portion of the Services for which a payment request has not been received, compensation for such performed but un-invoiced portion of the Services shall be based upon an amount mutually agreed to by DISTRICT and CONSULTANT. If, at the time of termination further compensation is due CONSULTANT, CONSULTANT shall not be entitled to such compensation until all reports, documentation and other work product to be delivered to DISTRICT are delivered to DISTRICT.

6.1.2 If termination is due to the failure of CONSULTANT to fulfill its obligations under this Agreement, DISTRICT may take over the work and prosecute the same to completion by contract or otherwise, and CONSULTANT shall be liable to the extent that the total cost for completion of the Services required hereunder, including costs incurred by DISTRICT in retaining a replacement CONSULTANT and similar expenses, exceeds the Budget.

6.2 Right to Stop Work; Termination by CONSULTANT. CONSULTANT shall have the right to stop work only if DISTRICT fails to timely make a payment required under the terms of the Budget. CONSULTANT may terminate this Agreement only in the event of a substantial failure by DISTRICT to perform in accordance with the terms of this Agreement through no fault of CONSULTANT, and upon thirty (30) days' prior written notice to DISTRICT. CONSULTANT shall immediately cease all Services hereunder as of the date CONSULTANT's notice of termination is sent to DISTRICT, except such work or portion of the Services as may be specifically approved in writing by DISTRICT. CONSULTANT shall be entitled to compensation for all Services rendered prior to the date notice of termination are sent to DISTRICT and for any work authorized in writing by DISTRICT thereafter. If CONSULTANT terminates this Agreement because of an error, omission, or a fault of CONSULTANT, or CONSULTANT's willful misconduct, the terms of Paragraph 6.1.2 relating to DISTRICT's right to take over and finish the work and CONSULTANT's liability therefore shall apply.

6.3 Waiver. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing.

6.4 Rights and Remedies are Cumulative. 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 or any other default by the other party.

6.5 Attorneys' Fees. In any action between the parties hereto seeking enforcement of any of the terms or provisions of this Agreement or in connection with the performance of the work hereunder, the party prevailing in the final judgment in such action or proceeding, in addition to any other relief which may be granted, shall be entitled to have and recover from the other party its reasonable costs and expenses, including but not limited to reasonable attorney's fees, expert witness fees and courts costs. If either party to this Agreement is required to initiate or defend litigation with a third party because of the violation of any term or provision of this Agreement by the other party, then the party so litigating shall be entitled to its reasonable attorney's fees and costs from the other party to this Agreement.

SECTION SEVEN: MISCELLANEOUS

7.1 Notices. Unless otherwise provided herein, all notices required to be delivered under this Agreement or under applicable law shall be personally delivered, or delivered by United States mail, prepaid, certified, return receipt requested, by reputable document delivery service that provides a receipt showing date and time of delivery, or by facsimile or e-mail provided that the facsimile or e-mail system

produces a report showing the date and time of delivery. Notices personally delivered, delivered by a document delivery service, or delivered by facsimile or email, shall be effective upon receipt. Notices delivered by mail shall be effective at 5:00 p.m. on the second calendar day following dispatch. Notices shall be addressed as follows:

To DISTRICT: Vista Irrigation District
1391 Engineer Street
Vista, CA 92081-8840
Attn: _____
Telephone: _____
FAX: _____
E-mail: _____

To CONSULTANT: _____

Attn: _____
Telephone: _____
FAX: _____
E-mail: _____

Changes in the address to be used for receipt of notices shall be effected in accordance with this Section 7.1.

7.2 Construction and Amendment. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. The headings of sections and paragraphs of this Agreement are for convenience or reference only, and shall not be construed to limit or extend the meaning of the terms, covenants and conditions of this Agreement. This Agreement may only be amended by the mutual consent of the parties by an instrument in writing.

7.3 Laws and Venue. This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this agreement, the action shall be brought in a state or federal court situated in the County of San Diego, State of California.

7.4 Severability. Each provision of this Agreement shall be severable from the whole. If any provision of this Agreement shall be found contrary to law, the remainder of this Agreement shall continue in full force.

7.5 Authority. The person(s) executing this Agreement on behalf of the parties hereto warrant that (a) such party is duly organized and existing, (b) they are duly authorized to execute and deliver this Agreement on behalf of said party, (c) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (d) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

7.6 Successors. Subject to Paragraph 1.8 above, all of the terms, conditions, and provisions hereof shall inure to and shall bind each of the parties hereto, and each of their respective successors and assigns.

7.7 Integrated Agreement. This Agreement represents the entire understanding of DISTRICT and CONSULTANT as to those matters contained herein. No prior oral or written

understanding shall be of any force or effect with regard to those matters covered by this Agreement. This Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements or understandings, if any, between the parties, and none shall be used to interpret this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

VISTA IRRIGATION DISTRICT

By: _____
Brett Hodgkiss, General Manager

Date: _____

CONSULTANT

Tax I.D. Number: _____

By: _____
Signature

Date: _____

Name: _____

Title: _____

Email: _____

EXHIBIT A
SCOPE OF WORK

EXHIBIT B

BUDGET AND FEE SCHEDULE

EXHIBIT C

ACTIVITY SCHEDULE