



**SAN BERNARDINO
VALLEY** | A REGIONAL WATER
AGENCY SINCE 1954

Request for Qualifications for Indoor Water Fixture Direct Installation Program

Issue Date: March 30, 2026
Submission Deadline: April 24, 2026, 5:00 PM

Notice to Respondents

On behalf of San Bernardino Valley Municipal Water District (San Bernardino Valley or Agency), responses to this Request for Qualifications for Indoor Water Fixture Direct Installation Program (RFQ), as described herein, will be accepted by the Agency, until April 24, 2026, 5:00 PM. Any changes to this RFQ are invalid unless specifically modified by the Agency and issued as a separate addendum document. Should there be any question as to changes to the content of this document; the Agency's copy shall prevail. All addenda and notices related to this solicitation will be posted by the Agency on their websites at <http://www.sbvmd.com>. In the event this RFQ is obtained through any means other than the Agency's distribution, the Agency will not be responsible for the completeness, accuracy, or timeliness of the final RFQ document. The submission should be prepared simply and economically, providing straightforward, concise delineation of your firm's capabilities to satisfy the requirements of this RFQ. Emphasis should be on organization, completeness, and clarity.

To assure consideration, all proposals shall follow the Required Elements in Response/Response Format provided in this RFQ or as directed. To facilitate the evaluation process, all proposals should be submitted as a PDF or other approved digital process via email and must be received by the filing deadline. The main body of the proposal should be limited to 30 pages. Team member resumes and company qualification brochures may be added to the 30-page proposal tabbed in the Appendix at the end of the proposal.

All questions regarding this RFQ must be submitted via email to Kelly Malloy at KellyM@sbvmd.com. Questions and responses will be sent via email to the entire distribution list for this RFQ.

Project History and Overview

The Agency is seeking proposals from experienced firms to support the implementation of a comprehensive water conservation pilot initiative. This project encompasses the direct installation of indoor water-efficient fixtures aimed at reducing water use across residential and commercial properties through the use of a Drought Resiliency Grant through the Department of Water Resources.

This project involves:

1. Direct Installation: Replacement of high-water-use fixtures with high-efficiency alternatives, including toilets, showerheads, and faucet aerators, in multi-family homes and mobile home parks.

The estimated timeline for this project spans from May 2026 to December 2026, with specific milestones for each task to ensure timely progress and adherence to budgetary constraints.

For purposes of providing scope and cost estimates for this project, the Agency is implementing a grant in the amount of \$1,000,000. This project may be awarded to multiple eligible consultants in order to achieve the expedited timeline.

San Bernardino Valley is seeking a highly qualified, licensed contractor (Consultant) to oversee and implement a comprehensive water conservation initiative aimed at advancing water conservation and infrastructure within the region. The Consultant will be responsible for a broad range of tasks, from project initiation to final implementation.

This project focuses on a multi-faceted approach to water conservation, involving several specific implementation activities:

- **Direct Installation Program:** The Consultant will implement the direct installation of water-saving devices (low-flush toilets, showerheads, and kitchen faucet aerators) in eligible multi-family homes. This will include:
 - **Outreach and Identification:** Working with local water retailers to identify and communicate with eligible homes within disadvantaged community areas based on water usage data and demographic information.
 - **Installation Coordination:** Managing logistics for installation, including scheduling, contractor coordination, and quality assurance to ensure installations meet efficiency standards.
 - **Documentation:** Ensure that there is an administrative record and photographs of all work completed.

SCOPE OF WORK

San Bernardino Valley is soliciting proposals from qualified firms with demonstrated technical expertise in implementing water conservation projects. The selected firm will be expected to manage various components of the project, including direct installation of water-saving devices. Effective communication, coordination, and input from multiple stakeholders—including San Bernardino Valley’s Board of Directors and staff, local communities, water retailers, and state agencies—will be crucial. The proposal must outline a detailed plan to meet project goals within the specified timelines. Each task within the projects may have distinct schedules and may need to be executed concurrently with other tasks.

The final scope of services and timeline will be collaboratively defined and agreed upon between the Agency and the selected proposer, under the general direction of the Chief Executive Officer/General Manager and designated staff.

San Bernardino Valley reserves the right to modify the scope of services at its discretion, including curtailment of some activities, to meet budget constraints and project deadlines.

Required Elements in Response/Response Format

Consulting firms, teams, or individuals responding to this RFQ shall provide the following information in their proposals in the order listed herein.

a) Body of the Proposal

(May not exceed 30 pages in length with a minimum font size of 12 point)

i) Table of Contents

ii) Project Understanding

A clear statement of the project.

iii) 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.

iv) Organizational Chart

Illustrate the individuals who will actually work on the project, including:

- Names
- Firm names
- Addresses
- Telephone numbers
- Email addresses
- Chain of responsibility

Qualifications are to be provided in the appendix, see below.

v) Project Schedule

vi) Additional Information

Any other information that may assist San Bernardino Valley in making its determination in the selection process. The consultant is encouraged to include any other information that will help San Bernardino Valley make its selection. Provide information regarding potential conflicts of interest, as part of the proposal disclosures.

vii) Fee Schedule

The fee schedule shall be organized to follow the general tasks in the Scope of Services. Services outlined in each proposal must comply with all requirements set forth in this RFQ. The costs shall provide:

- Hourly rates and hours to complete each task
- Sub-consultants' hourly rates and hours

- Any other costs for a complete project

The level of effort and associated costs should be easily understood by San Bernardino Valley. San Bernardino Valley accepts no responsibility for costs incurred by any individual or firm submitting a proposal pursuant to this RFQ. The proposal must include a complete and fixed price. If the scope of services requires modification during the course of the work, San Bernardino Valley will determine whether to amend the current agreement or to issue a subsequent RFQ for additional services. The price specified must remain firm and irrevocable for 60 days following the RFQ submission date. All proposals become the property of San Bernardino Valley and will not be returned.

b) Appendix

Any appendices should generally be organized as follows:

- **Qualifications, Licenses, Certificates, and Resumes:** Include for all persons, including sub-consultants, who will work on the project.
- **Experience Evidence:** Provide evidence of experience with up to 3 similar projects. For each project used as experience, the consultant shall:
 - Provide the name and location of the project
 - Highlight the type of work conducted
 - Describe how the project was similar (i.e., tasks, scale, budget, etc.)
 - Describe your company's role in the project
 - List whether your company was the prime or a subcontractor
 - Provide current contact information for the client so the evaluation team can follow up with them if desired

Request for Qualifications

Inquiries

All inquiries related to this RFQ are to be directed, in writing, to KellyM@sbvmwd.com. Information obtained from any other source is not official and should not be relied upon.

Substantive inquiries (and responses) will be provided at the location of the initial RFQ posting and become part of the public document.

Selection Process/Schedule

The following schedule is planned*:

RFQ Publication:	March 31, 2026
Submission Deadline:	April 24, 2026
Review and Short-list:	April 28, 2026
Interviews (If needed)	To Be Scheduled

Selection: May 8, 2026
Agreement: May 19, 2026

*The Agency reserves the right to change the schedule if necessary.

Late Responses

While late responses are usually rejected, the Agency retains the right to accept or reject any late response for any reason.

Qualifications Review

The Agency will review and rate responses on various qualitative and quantitative criteria. The Agency will evaluate these proposals and select one or more vendor to proceed with project implementation.

Signed Responses

An original signature must be included on the "Respondent's Statement of Qualifications and Ability to Undertake the Project" document submitted with each copy. The form is included at the end of this RFQ.

Acceptance of Responses

In this section, provide clarity regarding the purpose of the RFQ. The RFQ is not a binding agreement to purchase goods or services. Responses to an RFQ are assessed in light of the qualification review criteria and, if chosen for the shortlist, will be contacted for the RFQ.

Conflict of Interest

The vendor shall state that:

- It is able to legally conduct business within the Agency's service area.
- It has not colluded in any fashion with other respondents which would restrict or eliminate competition
- No employee, official, or member of San Bernardino Valley Municipal Water District shall have a material or monetary interest in this Respondent's Statement of Qualifications and Ability to Undertake the Project
- It is or is not aware of any other actual or potential conflict of interest related to this Respondent's Statement of Qualifications and Ability to Undertake the Projects and the projects proposed for implementation.

Disclosure of Proposal Contents

All proposals are subject to the provisions of the California Public Records Act, California Government Code section 6250 et seq., and any information submitted with a response is a public record subject to disclosure, unless a specific exemption applies.

Contract

A sample copy of San Bernardino Valley's Standard Agreement for Consulting Services is attached for your information. Prior to approval by San Bernardino Valley's Board of Directors and the Agency, the selected consultant must notify San Bernardino Valley if they are unwilling to sign the contract so that the Agency can begin negotiations with another firm.

CONSULTING SERVICES AGREEMENT

THIS CONSULTING SERVICES AGREEMENT (“*Agreement*”) is entered into as of <Insert Date>, 2026 (“*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 <Insert Firm> (“*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: Indoor Water Efficient Fixture Direct Installation

JOB NUMBER: 6640

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:

SAMPLE

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) December 31, 2026; 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 RFQ (“*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*”). 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 <Insert contract amount>. 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. Letitia H. White (“*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. Kelly Malloy (“*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 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.

SAMPLE

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: Kelly Malloy
380 East Vanderbilt Way
San Bernardino, CA 92408
Telephone: (909) 387-9229
E-Mail: kellym@sبvmwd.com

If to Consultant: <Consultant Name>
Attn:
<Insert Address>
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.

SAMPLE
[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: Heather Dyer _____

Its: CEO/General Manager _____

CONSULTANT:

<Insert Consultant Name>

SAMPLE

By: _____

Name: _____

Its: _____

EXHIBIT “A”

SAMPLE

Respondent's Statement of Qualifications and Ability to Undertake the Project

The Respondent must complete, sign, and return this statement of qualifications and ability to undertake this project in accordance with Agency's Standard Agreement as part of their submittal response. The Respondent's company official(s) who are authorized to commit to such a submittal must sign submissions. Failure to sign and return this form will subject the submittal to disqualification.

The Respondent will disclose conflicts of interest, in writing, to the review committee who will consider the nature of the respondent's responsibilities and the degree of potential or apparent conflict in deciding the course of action that the respondent needs to take to remedy the conflict of interest.

The signer declares under penalty of perjury that she/he is authorized to sign this Respondent's Statement of Qualifications and Ability to Undertake the Project.

Respondent's Name: _____

Identify each person who owns at least 25% of the Respondent's business entity by name:

(Name)

(Name)

(Name)

(Name)

Submitted and Certified By:

(Authorized Signer's Name)

(Title)

(Street Address)

(Telephone Number)

(City, State, Zip Code)

(Fax Number)

(AUTHORIZED SIGNATURE)

(DATE)