Date: May 4, 2016

To: Prospective Bidding Consultant

Subject: Request for Proposal (RFP) to Provide Soils and Concrete Testing Services for the Requa Interceptor Project

Valley Sanitary District (VSD) is requesting proposals to provide soils and concrete testing services for the subject project. The Requa Interceptor Project will construct 4.2 miles of 10-inch to 30-inch gravity flow sewer pipeline and related sewer main improvements designed to collect and convey sanitary sewer flows within existing public right-of-way through central Indio, California.

Your firm is invited to submit a proposal for soils and concrete testing services for the above referenced project. A detailed Scope of Services (Exhibit A), Proposal Requirements (Exhibit B) and Additional Information (Exhibit C) pertinent to the preparation of the proposal are attached. A blank copy of VSD’s Professional Services Agreement is also included as Exhibit D.

The proposal made in response to this request shall be delivered to:

Mr. Joseph Glowitz, PE, PMP
General Manager
Valley Sanitary District
45500 Van Buren Street
Indio, CA 92201

Proposals must be delivered no later than 4:00 P.M. on Thursday, May 26, 2016. Five (5) copies (3 bound, 1 unbound, and 1 electronic) of the proposal must be included in the submittal, and the submittal clearly marked:

“Request for Proposal (RFP) to Provide Soils and Concrete Services for the Requa Interceptor Project”
VSD reserves the right to reject any and all proposals. VSD reserves the right to select the CONSULTANT which appears most likely to provide the services under the conditions that would be in the best interest of VSD.

If you have any questions or need further information, please do not hesitate to contact Ron Buchwald at (760) 238-5400.

Sincerely,

[Signature]

Joseph Glowitz, PE, PMP
General Manager

Enclosures:  Exhibit A – Scope of Services
             Exhibit B – Proposal Requirements
             Exhibit C – Additional Information
             Exhibit D – VSD’s Professional Services Agreement
REQUEST FOR PROPOSAL (RFP)

SOILS AND CONCRETE SERVICES FOR THE REQUA
INTERCEPTOR PROJECT

EXHIBIT “A” SCOPE OF SERVICES

I. PURPOSE

Valley Sanitary District (VSD) intends to engage a professional soils and material testing Consultant (Consultant) to provide soils and concrete services during construction of the Requa Interceptor Project (Project).

II. SCHEDULE

VSD received Contractor’s bids for the project. Construction of the project is anticipated to start by June 7, 2016. Construction contract duration is five hundred eighty (580) days from the notice-to-proceed.

Table 1 shows the anticipated RFP procurement schedule for this project.

Table 1: Project Procurement Schedule

<table>
<thead>
<tr>
<th>STEP</th>
<th>EVENT</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Soils and Concrete Testing Bid Opening</td>
<td>May 26, 2016</td>
</tr>
<tr>
<td>2</td>
<td>Anticipated Construction Notice to Proceed</td>
<td>June 7, 2016</td>
</tr>
<tr>
<td>3</td>
<td>VSD Board consideration of award Soils and Concrete Testing Contract</td>
<td>June 14, 2016</td>
</tr>
<tr>
<td>4</td>
<td>Anticipated Soils and Concrete Testing Notice to Proceed</td>
<td>June 15, 2016</td>
</tr>
<tr>
<td>5</td>
<td>Estimated Construction Start</td>
<td>June 7, 2016</td>
</tr>
<tr>
<td>6</td>
<td>Estimated Construction End</td>
<td>December 30, 2017</td>
</tr>
</tbody>
</table>

III. PROJECT DESCRIPTION

This VSD capital improvement project will add capacity within the existing collector pipelines and increase capacity to accommodate future development along Avenue 46 and Highway 111 and along Requa Avenue generally between Madison Street to the west and Indio Blvd to the east. The project will construct 4.2 miles of new gravity flow sewer pipeline and related utility improvements designed to collect and convey sanitary sewer flows through central Indio, California to the existing Valley Sanitary District Water Reclamation Facility located at 45-500 Van Buren Street.

The project is located mainly within existing public Right-of-Way (ROW), including
Madison Street, Avenue 46, Aladdin Street, Shadow Palms Avenue/Requa Avenue, Indio Boulevard, Golf Center Parkway, Citrus Avenue, Avenue 45, and Van Buren Street. The project area is bordered by residential, commercial and industrial land uses. There are several significant buildings along the route including schools, a college, a senior center, and a fire station among others. The project will be constructed using open trench methods with the exception of the segments crossing the All American Canal and the Union Pacific Railroad. Construction of these segments will require the use of jack and bore methods to install the pipeline under the canal and railroad. Each segment of the pipeline is summarized from west to east as follows:

Install a new 10” gravity sewer pipeline beginning at the Shields Road/Avenue 46 intersection east within the Avenue 46 ROW to Indian River Road. This segment will connect two existing sewer pipelines to intercept additional flow. Install a new 18”/24” gravity sewer pipeline beginning at the Madison Street and Highway 111 intersection extending north within the ROW of Madison Street to the intersection of Avenue 46. A new 24” pipeline continues east within the ROW of Avenue 46 to the intersection of Aladdin Street. Approximately 500 feet west of Madison Street, jack and bore construction methods will be used to install the pipeline under the All American Canal.

Install a new 24” gravity sewer pipeline from the Aladdin Street/Avenue 46 intersection north to the Aladdin Street/Shadow Palm Avenue intersection. From this intersection, the pipeline will extend east within the Requa Avenue corridor to Monroe Street. From Monroe Street to Fargo Street, the pipeline will remain in the Requa Avenue corridor but increase to 30”.

Install a new 30” gravity sewer pipeline from Fargo Street east across Indio Boulevard and under the Union Pacific Railroad Yard. From this point, the pipeline will continue along the southern boundary of Assessor Parcel Number (APN) 611-340-041 through an existing easement to Citrus Avenue. The pipeline will continue east along Citrus Avenue to the easterly end, turn northeast and cut across a portion of APN 611-391-045 and continue along the boundary of APN 611-391-014 (City of Indio Mulligan Dog Park) within existing easements to the intersection with Avenue 45. The pipeline will then turn south in the ROW of Avenue 45 / Van Buren Street, cross Van Buren Street in an open trench and into the VSD facility where it ties into the headworks.

The construction cost for this project is $9,081,500.

IV. TASK COORDINATION

VSD contracted MWH Constructors (MWH) to perform the Construction Management of the project. MWH will coordinate the scheduling of soils, concrete and material testing. The soils and concrete testing Consultant shall report to MWH. MWH will review Consultant’s invoices.
V. TASK DESCRIPTION

TASK A – REQUIRED WORK

Subtask No. 1: Soils and Pavement Compaction Testing.

The Consultant shall sample, analyze, and determine the optimum compaction data. The compaction results will be verified by MWH and the City of Indio Inspectors. The compaction requirements shall follow the recommendation of the Geotechnical Report provided by VSD. The compaction results shall also be filed and provided to VSD at the conclusion of the project.

Subtask No. 2: Concrete and Material Sampling.

The Consultant shall prepare the samples at the site and deliver to their laboratory for analysis as directed by MWH. Results of the sample testing shall be e-mailed to MWH and the City of Indio Inspector. The results shall include the station, street, date, time, and compaction data as a minimum.

Subtask No. 3: Geotechnical Support.

MWH will request Geotechnical support from the Consultant on “as needed” basis.

Subtask No. 4: Final Compaction and Analysis Report.

The Consultant shall prepare and submit a Final Compaction Report with all the reports and analysis results created during the construction of the project. The submittal shall consist of three hard copies and an electronic PDF file.
**EXHIBIT A-1**

VSD REQUA INTERCEPTOR PROJECT  
Specifications for Contract No. 2015-0078  
SOILS AND MATERIAL TESTING SCHEDULE

<table>
<thead>
<tr>
<th>INSPECTION TYPE</th>
<th>Qty</th>
<th>Unit</th>
<th>Price/Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Soil &amp; AB sieve analysis</td>
<td>20</td>
<td>Ea</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sand Equivalent</td>
<td>10</td>
<td>Ea</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Soil Maximum Density test</td>
<td>20</td>
<td>Ea</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Soil/Asphalt field technician</td>
<td>1880</td>
<td>HR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asphalt Concrete Coring</td>
<td>40</td>
<td>HR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Concrete Inspector</td>
<td>56</td>
<td>HR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Concrete Cylinders strength testing (4 per set)</td>
<td>52</td>
<td>Ea</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Concrete &amp; Soil samples pickups (trips)</td>
<td>40</td>
<td>Ea</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rebar tensile test</td>
<td>6</td>
<td>Ea</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asphalt concrete gradation test</td>
<td>4</td>
<td>Ea</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asphalt concrete compacted max density test</td>
<td>4</td>
<td>Ea</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Review Contract Documents</td>
<td>1</td>
<td>LS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attend Pre Construction Meeting</td>
<td>1</td>
<td>LS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support Staff</td>
<td>30</td>
<td>HR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Project Manager</td>
<td>65</td>
<td>HR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Principal Engineer</td>
<td>10</td>
<td>HR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Final Geotechnical Compaction Report</td>
<td>1</td>
<td>LS</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Scope Conditions:**

1. This is a prevailing wage project.
2. Sampling and testing will be on an on call as needed basis during a period of 18 months for backfill averaging 20 feet in depth starting on June 2016 and ending on December 2017.
3. Testing hours are assuming that approximately 100 linear feet of pipe is placed per day.
4. Concrete sampling is included in the event of concrete manholes are cast on site.
5. During hot days in summer, inspections may start @ 6:00 AM in the morning.
6. 2 HR minimum call-out.
7. Overtime inspections in excess of 8-HRS, will be paid 150% of the rate.
8. Travel time will not be charged.
9. Site Trailer will be equipped with restroom, water dispenser, microwave, refrigerator, fax, desk for Inspectors. There is no potable water at the job site.
REQUEST FOR PROPOSAL (RFP)

SOILS AND CONCRETE SERVICES FOR THE
REQUA INTECEPTOR PROJECT

EXHIBIT “B” PROPOSAL REQUIREMENTS

I. PROPOSAL REQUIREMENTS

Although no specific format is required by VSD, this section is intended to provide guidelines to the consultant regarding features which VSD will look for and expect to be included in the proposal.

1. Content & Format

Organize and present the proposal in a neat and logical format, relevant to these services. The consultant’s proposals shall be clear, accurate, and comprehensive. Excessive or irrelevant material will not be favorably received.

Proposals shall use a 10-point minimum font size, maximum 25 pages including transmittal/offer letter and resumes of key people, but excluding Index/Table of Contents, tables, charts, and graph exhibits. The purpose of these restrictions is to minimize the costs of proposal preparation and to ensure that the response to the RFP is fully relevant to the project. Submit a separate fee proposal to contain only enough pages to clearly respond to the information that is requested in the RFP.

The proposal should include the following:

a) Team organization including an organization diagram.
b) Description of specific work tasks and activities, and concepts for conducting the work.
c) Descriptions of similar projects by the consultant and key staff to be used on this assignment.
d) Brief resumes of key staff listing relevant credentials and showing a design year for each project (one page per resume).
e) Project schedule indicating the time frame for completing each task contained within the scope of work.
f) Cost and billing schedule of current hourly billing rates for each of the specialized tasks as listed in Exhibit A-1.

2. Statement of Qualifications

Describe the qualifications of the firm, key staff and sub-consultants that will perform on the project. The consultant and the sub-consultant qualifications shall be based on projects (less than five) within the past three years that are similar in scope and size. The consultant shall demonstrate competence to perform these services. The
projects listed should be those that the key staff named for this project was responsible for performing services. Information shall include:

a) Names of key staff that participated on named projects and their specific responsibilities.
b) The client’s names, contact person, addresses, and telephone numbers.
c) A brief description of type and extent of services provided.
d) Completion dates (estimated, if not yet completed).
e) Total costs of each project.

3. Project Team

The purpose of this section is to describe the organization of the project team. A project manager shall be named who shall be the prime contact and be responsible for coordinating all activities with MWH. An organizational diagram shall be submitted showing all key team members and illustrating the relationship between MWH, the project manager, and key staff.

There shall be a brief description of the role and responsibilities of all key staff and sub-consultants identified in the team organization.

There should also be included brief resumes of key personnel who will provide these services demonstrating their qualifications and experience. Resumes should highlight education, licenses, relevant experience, and specific responsibilities for services described.

4. Fee Proposal

The consultant’s fees shall be itemized in accordance with the tasks listed in the Scope of Services (Exhibit A-1).

5. Statement of Offer & Signature

The RFP shall be signed by an individual authorized to bind the consultant and shall contain a statement that the RFP is a firm offer for a 90-day period.
REQUEST FOR PROPOSAL (RFP)

SOILS AND CONCRETE TESTING SERVICES FOR THE
REQUA INTERCEPTOR PROJECT

EXHIBIT “C” ADDITIONAL INFORMATION

I. GENERAL REQUIREMENTS

1. Insurance Requirements

The consultant shall furnish with the proposal, proof of the following minimum insurance coverage as shown in the attached sample agreement (Exhibit D). These minimum levels of coverage are required to be maintained for the duration of the project.

2. Standard Form of Agreement

The consultant will enter into an agreement with VSD based upon the contents of the RFP and the consultant’s proposal. VSD’s Professional Services Agreement (Agreement) is included as Exhibit D.

The consultant shall carefully review the Agreement, especially in regards to the indemnity and insurance provisions, and include with the proposal a description of any exceptions or changes requested to the standard contract. If there are no exceptions, a statement to that effect shall be included in the proposal. There is no guarantee that exceptions or changes requested will be accepted.

3. Disclaimer

This RFP does not commit VSD to award a contract, or to pay any costs incurred in the preparation of the proposal. VSD reserves the right to extend the due date for the proposal, to accept or reject any or all proposals received as a result of this RFP. VSD may require the selected consultant to participate in negotiations and to submit such technical, fee, or other revisions of their proposals as may result from negotiations.

4. Proposal Amendments

VSD may issue Proposal Addendums and Amendments, as necessary. Notification of these addendums and amendments will be sent to the List of Proposal Holders. Written confirmation of receipt and acknowledgement of the Addendums shall be included with the RFP.

5. Request for Proposal submittal deadline

Deadline: The Proposal package must be received in the Office of the Valley Sanitary District, 45500 Van Buren Street, Indio, California, no later than 4:00 P.M.
Pacific Standard Time, Thursday, May 26, 2016. Proposals received after the deadline will not be accepted and will be returned to the Offeror.

6. The Proposal shall consist of:

One (1) copy unbound of the Proposal, three (3) copies bound of the Proposal and one (1) electronic copy on USB.

7. Late Proposals

It is the consultant’s sole responsibility to ensure that its proposal is received at the VSD office prior to the scheduled closing time for receipt of proposals. Proposals received after the closing time specified in the RFP will not be considered and will be returned.

8. Withdrawal of Proposals

Proposals may be withdrawn if written notification of withdrawal of the proposal is signed by an authorized representative of the consultant and received at the VSD office prior to the closing time for receipt of proposals. Proposals cannot be changed to withdrawn after the time designated for receipt.

9. Assigned Representatives

VSD will assign a responsible representative to administer the contract, and to assist the consultant in obtaining information. The consultant also shall assign a responsible representative (project manager) who shall be identified in the proposal. The consultant’s representative will remain in responsible charge of the consultant’s duties from the notice-to-proceed through project completion. Any substitution of representatives of consultants identified in the proposal shall first be approved in writing by a VSD representative. VSD reserves the right to review and approve/disapprove any and all key staff and sub-consultant substitutions or removals, and may consider such changes which are not approved to be a breach of contract.

10. Site Inspection

The consultant is urged to make site visits and examinations so as to become thoroughly familiar with the conditions affecting their evaluation process. Failure to make such additional investigations will not be the grounds for additional claims or for extension of time under the contract, and will not relieve the consultant of responsibility for meeting all requirements of the RFP.

II. CONSULTANT EVALUATION & SELECTION PROCESS

VSD’s consultant evaluation and selection process is based on the following criteria and will be used in evaluating the proposals using a point value system based on the items indicated below:
a) Understanding of the project requirements, including identification of critical elements and key issues.
b) Technical approach and work plan for the project, including innovative approaches.
c) Qualifications and experience of the project manager, other key individuals, and sub-consultants.
d) Results of reference checks. Reference checks will only be conducted for a short list of firms or the top rated firm.
e) Clarity of proposal.
f) Compliance with proposal requirements.
g) Fees and schedules

VSD may elect to interview a short list of qualified firms or to interview only the top rated firm based on the proposals submitted for the project. VSD staff will negotiate a contract with the best qualified firm for the desired consulting services at compensation which the staff determines are fair and reasonable to VSD. Should VSD staff be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, negotiations with that firm shall be terminated. Negotiations will then be undertaken with the next most qualified firm. Failing to reach an accord with the second most qualified firm, VSD will terminate negotiations and continue the negotiation process with the next most qualified firm in order of their evaluation ranking until an agreement is reached, a firm is selected and an Agreement is executed.

III. EQUAL EMPLOYMENT OPPORTUNITY

VSD is an equal opportunity employer and requires the consultant to comply with policies and regulations concerning equal opportunity employment.

IV. MISCELLANEOUS

All plans and other documents prepared by the consultant on behalf of VSD shall become the sole property of VSD.

V. VSD RESPONSIBILITIES

1. Provide project management. Assign a project manager to act as the project point of contact.
2. Provide or make available upon request contract documents, reports, drawings, specifications, GIS land base maps (hard copy and digital), VSD standard specifications, records and other data deemed useful for the project.
3. Administer the agreement and make payments to the consultant.
4. Award contract to the contractor
5. Provide coordination between VSD, city, or other agency construction projects and major events to avoid interference with construction.
6. Pay required permit fees.
PROFESSIONAL SERVICES AGREEMENT
FOR
“NAME OF” PROJECT

This Agreement is entered into this ____ day of __________, 2016, by and between the Valley Sanitary District (District), a California Special District, and [INSERT NAME OF COMPANY], a [INSERT TYPE OF BUSINESS; CORPORATION; LIMITED LIABILITY COMPANY; ETC.] (Consultant).

I. RECITALS

A. The Consultant desires to perform and assume responsibility for the provision of professional construction management services required by the District on the terms and conditions set forth in this Agreement.

B. The Consultant has presented a proposal for such services to the District, dated __________, 2016, (attached hereto and incorporated herein as Exhibit “A”) and is duly licensed, qualified and experienced to perform those services.

C. The Consultant agrees it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Agreement is based on such independent investigation and research.

D. The District desires to engage the Consultant to render such services as set forth in this Agreement.

II. AGREEMENT

1. Scope of Services.

1.1 General Scope of Services. The Consultant promises and agrees to furnish to the District all labor, materials, tools, equipment, services and incidental and customary work necessary to fully and adequately supply the necessary professional construction management services (“Services”). The Services are more particularly described in Exhibit “A.”

2. Schedule of Services.

2.1 Schedule of Services. The services of the Consultant are to commence upon execution of this Agreement by the District and shall be undertaken and completed in a prompt and timely manner, pursuant to the schedule outlined in the Scope of Work, more particularly described in Exhibit “A.”

2.2 Extension of Time. The Consultant may, for good cause, request extensions of time to perform the Services required hereunder. Such extensions shall be authorized in advance by the District in writing and shall be incorporated in written amendments to this Agreement.
3. Fees and Payments.

3.1 Compensation. The Consultant shall receive compensation, including authorized reimbursements, for all services rendered under this Agreement at the rates set forth in Exhibit “A.” The total compensation shall not exceed [INSERT WRITTEN DOLLAR AMOUNT] DOLLARS ($[INSERT NUMBER]) without the District’s prior written approval.

3.2 Payment of Compensation. The Consultant shall submit to the District, a monthly itemized statement which indicates work completed and hours of services rendered by the Consultant. The statement shall describe the amount of services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. The District shall, within forty-five (45) days of receiving such statement, review the statement and pay all approved charges thereon.


4.1 The Parties may, from time to time, request changes in the scope of the services of the Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant’s compensation and/or changes in the schedule must be authorized in advance by the District in writing. Mutually agreed changes shall be incorporated in written amendments to the Agreement.

5. Responsibilities of Consultant.

5.1 Independent Contractor; Control and Payment of Subordinates. The Consultant enters into this Agreement as an independent contractor and not as an employee of the District. The Consultant shall have no power or authority by this Agreement to bind the District in any respect. Nothing in this Agreement shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by the Consultant are employees, agents, contractors or subcontractors of the Consultant and not of the District. The District shall not be obligated in any way to pay any wage claims or other claims made against the Consultant by any such employees, agents, contractors or subcontractors, or any other person resulting from performance of this Agreement.

5.2 Conformance to Applicable Requirements. All work prepared by the Consultant shall be subject to the approval of the District.

5.3 Project Manager. The Consultant shall designate a project manager who at all times shall represent the Consultant before the District on all matters relating to this Agreement. The project manager shall continue in such capacity unless and until he or she is removed at the request of the District, is no longer employed by the Consultant or replaced with the written approval of the District which shall not be unreasonably withheld.

5.4 Coordination of Services. The Consultant agrees to work closely with the District staff in the performance of services and shall be available to the District staff, the consultants and other staff at all reasonable times. The District agrees to work closely with the Consultant’s staff in the performance of services and shall be available to the Consultant’s staff at all reasonable times.
5.5 **Warranty.** The Consultant agrees and represents that it is qualified to properly provide the services set forth in Exhibit “A” in a manner which is consistent with the generally accepted standards of the Consultant’s profession. The Consultant further represents and agrees that it will perform said services in a legally adequate manner in conformance with applicable federal, state and local laws and guidelines.

6. **Insurance.**

6.1 **Time for Compliance.** The Consultant shall not commence services under this Agreement until it has provided evidence satisfactory to the District that it has secured all insurance required under this section. In addition, the Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the District that the subconsultant has secured all insurance required under this section.

6.2 **Types of Required Coverages.** As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder and without limiting the indemnity provisions of the Agreement, the Consultant in partial performance of its obligations under such Agreement, shall procure and maintain in full force and effect during the term of the Agreement, the following policies of insurance.

6.2.1 **Commercial General Liability:** Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office “occurrence” form CG 0001, with minimum limits of at least $1,000,000 per occurrence. Defense costs shall be paid in addition to the limits.

The policy shall contain no endorsements or provisions limiting coverage for (1) products and completed operations; (2) contractual liability; (3) third party action over claims; or (4) cross liability exclusion for claims or suits by one insured against another.

6.2.2 **Automobile Liability:** Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering “Any Auto” (Symbol 1) with minimum limits of $1,000,000 each accident.

6.2.3 **Workers’ Compensation:** Workers’ Compensation Insurance, as required by the State of California and Employer’s Liability Insurance with a limit of not less than $1,000,000 per accident for bodily injury and disease.

6.2.4 **Professional Liability:** Professional Liability Insurance for errors and omissions with minimum limits of $3,000,000. Covered Professional Services shall specifically include all work to be performed under the Agreement.

If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from termination or expiration of this Agreement.

6.3 **Endorsements.**

6.3.1 The policy or policies of insurance required by Sections 6.2.1 Commercial General Liability and 6.2.2 Automobile Liability shall be endorsed to provide the following:
6.3.1.1 **Additional Insured:** The indemnified parties shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement. Additional Insured Endorsements shall not (1) be restricted to “ongoing operations”; (2) exclude “contractual liability”; (3) restrict coverage to “sole” liability of the Consultant; or (4) contain any other exclusions contrary to the Agreement.

6.3.1.2 **Primary Insurance and Non-Contributing Insurance:** This insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the indemnified parties shall not contribute with this primary insurance.

6.3.1.3 **Severability:** In the event of one insured, whether named or additional, incurs liability to any other of the insureds, whether named or additional, the policy shall cover the insured against whom claim is or may be made in the same manner as if separate policies had been issued to each insured, except that the limits of insurance shall not be increased thereby.

6.3.1.4 **Cancellation:** The policy shall not be canceled or the coverage suspended, voided, reduced or allowed to expire until a thirty (30) day prior written notice of cancellation has been served upon the District except ten (10) days prior written notice shall be allowed for non-payment of premium.

6.3.1.5 **Duties:** Any failure by the named insured to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the indemnified parties.

6.3.1.6 **Applicability:** That the coverage provided therein shall apply to the obligations assumed by the Consultant under the indemnity provisions of the Agreement, unless the policy or policies contain a blanket form of contractual liability coverage.

6.3.2 The policy or policies of insurance required by Section 6.2.3 Workers’ Compensation shall be endorsed, as follows:

6.3.2.1 **Waiver of Subrogation:** A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

6.3.2.2 **Cancellation:** The policy shall not be canceled or the coverage suspended, voided, reduced or allowed to expire until a thirty (30) day prior written notice of cancellation has been served upon the District except ten (10) days prior written notice shall be allowed for non-payment of premium.

6.3.3 The policy or policies of insurance required by Section 6.2.4 Professional Liability shall be endorsed, as follows:

6.3.3.1 **Cancellation:** The policy shall not be canceled or the coverage suspended, voided, reduced or allowed to expire until a thirty (30) day prior written notice of cancellation has been served upon the District except ten (10) days prior written notice shall be allowed for non-payment of premium.
6.4 Deductible. Any deductible or self-insured retention must be approved in writing by the District and shall protect the indemniﬁed parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

6.5 Evidence of Insurance. The Consultant, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certiﬁed copies of the required policies, or original certiﬁcates and endorsements on forms approved by the District. The certiﬁcates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least ﬁfteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be ﬁled with the District. If such coverage is cancelled or reduced, the Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, ﬁle with the District evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

6.6 Failure to Maintain Coverage. The Consultant agrees to suspend and cease all operations hereunder during such period of time if the required insurance coverage is not in effect and evidence of insurance has not been furnished to the District. The District shall have the right to withhold any payment due the Consultant until the Consultant has fully complied with the insurance provisions of this Agreement.

In the event that the Consultant’s operations are suspended for failure to maintain required insurance coverage, the Consultant shall not be entitled to an extension of time for completion of the work because of production lost during suspension.

6.7 Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best’s rating of no less than A: VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

6.8 Insurance for Subconsultants. All the subconsultants shall be included as additional insureds under the Consultant’s policies, or the Consultant shall be responsible for causing the subconsultants to purchase the appropriate insurance in compliance with the terms of this Agreement, including adding the District as an additional insured to the sub consultants policies.

7. Ownership of Materials and Conﬁdentiality.

7.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for the District to copy, use, modify, reuse or sublicense any and all copyrights, designs and other intellectual property embodied in plans, speciﬁcations, studies, drawings, estimates and other documents or works of authorship ﬁxed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer media, which are prepared or caused to be prepared by the Consultant under this Agreement (“Documents & Data”).

The Consultant shall require all sub consultants to agree in writing that the District is granted a non-exclusive and perpetual license for any Documents & Data the sub
consultant prepares under this Agreement. The Consultant represents and warrants that the Consultant has the legal right to license any and all Documents & Data. The Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than the Consultant or provided to the Consultant by the District.

The District shall not be limited in any way in its use or modification of the Documents and Data at any time, provided that any such use or modification not within the purposes intended by this Agreement shall be at the District’s sole risk.

7.2 Confidentiality. All Documents & Data are confidential and the Consultant agrees that they shall not be made available to any individual or organization without the prior written approval of the District, except by court order.

8. Accounting Records.

8.1 Maintenance and Inspection. The Consultant shall maintain and make available for inspection by the District and its auditor’s accurate records of all its costs, disbursements and receipts with respect to any work under this Agreement. Such inspections may be made during regular office hours at any time until one (1) year after the final payments under this Agreement are made to the Consultant.


9.1 Prior Approval Required. The Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of the District. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

10. Termination of Agreement.

10.1 Grounds for Termination. The District may, by written notice to the Consultant, terminate all or any part of this Agreement at any time and without cause by giving written notice to the Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, the Consultant shall be compensated only for those services which have been adequately rendered to the District, and the Consultant shall be entitled to no further compensation. The Consultant may not terminate this Agreement except for cause.

10.2 Effect of Termination. If this Agreement is terminated as provided herein, the District may require the Consultant to provide all finished or unfinished Documents & Data and other information of any kind prepared by the Consultant in connection with the performance of the services under this Agreement. The Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

10.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, the District may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

11.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose.

Consultant: 

________________________________________

________________________________________

________________________________________

Attn.: _________________________________

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

11.2 Indemnification. The Consultant shall defend, indemnify and hold the District, its elected officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, negligence or willful misconduct of the Consultant, its officials, officers, employees, agents, subcontractors and sub consultants arising out of or in connection with the performance of the services or this Agreement, including without limitation the payment of all consequential damages and attorneys’ fees and other related costs and expenses except such loss or damage which was caused by the active negligence, sole negligence, or willful misconduct of the District.

The Consultant shall defend, at the Consultant’s own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the District, its directors, officials, officers, employees, agents or volunteers. The Consultant shall pay and satisfy any judgment, award or decree that may be rendered against the District or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. The Consultant shall reimburse the District and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

The Consultant’s obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the District, its directors, officials, officers, employees, agents or volunteers.

11.3 Prohibited Interests. The Consultant covenants that neither it, nor any of its employees, agents, contractors or subcontractors has any interest, nor shall they acquire any
interest, direct or indirect, in the subject of the Agreement, nor any other interest which would conflict in any manner or degree with the performance of the services hereunder.

11.4 **Prevailing Wages.** The Consultant is aware of the requirements of California Labor Code section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, section 16000, 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 subject to the Prevailing Wage Laws, the Consultant agrees to fully comply with such Prevailing Wage Laws.

11.5 **Equal Opportunity Employment.** The Consultant shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person’s race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation.

11.6 **Labor Certification.** By its signature hereunder, the Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for worker’s compensation or to undertake self-insurance in accordance with the provisions of that code, and agrees to comply with such provisions before commencing the performance of the services.

11.7 **Attorneys’ Fees.** If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to reasonable attorneys’ fees and all other costs of such action.

11.8 **Assignment or Transfer.** The Consultant shall not assign or transfer any interest in this Agreement whether by assignment or novation, without the prior written consent of the District, which will not be unreasonably withheld. Provided, however, that claims for money due or to become due to the Consultant from the District under this Agreement may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer, whether voluntary or involuntary, shall be furnished promptly to the District.

11.9 **Successors and Assigns.** This Agreement shall be binding on the successors and assigns of the parties.

11.10 **Amendment; Modification.** No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both parties.

11.11 **Waiver.** No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel or otherwise.

11.12 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties relative to the services specified herein. There are no understandings, agreements, conditions, representations, warranties or promises with respect to this Agreement, except those contained in or referred to in the writing.
11.13 **Governing Law.** This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

11.14 **Time of Essence.** Time is of the essence for each and every provision of this Agreement.

11.15 **Interpretation.** Since the parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party.

11.16 **No Third Party Beneficiaries.** There are no intended third party beneficiaries of any right or obligation assumed by the parties.

11.17 **Authority to Enter Agreement.** Each party warrants that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind each respective party.

11.18 **Invalidity; Severability.** If any portion of this Agreement is declared invalid, illegal or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

11.19 **Counterparts.** This Agreement may be signed in counterparts, each of which shall constitute an original.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

VALLEY SANITARY DISTRICT

By: ___________________________
   Joseph Glowitz
   General Manager

[INSERT NAME OF CONSULTANT]

By: ___________________________  [Name]
   [Title]

Attest:

By: ___________________________
   [Name]
   [Title]

Approved as to Form:

By: ___________________________
   Best, Best & Krieger LLP
   General Counsel
EXHIBIT “A”
CONSULTANT PROPOSAL

[ATTACH CONSULTANT PROPOSAL]