January 25, 2016

SUBJECT: Request for Proposals (RFP) for Consultant Services for Program Management Services for the Stanislaus Regional Water Authority (SRWA) Water Treatment Project (PROJECT)

Dear Consultant:

The Stanislaus Regional Water Authority (SRWA) is soliciting Proposals from qualified consultant engineers for Program Management Services for the SRWA’s PROJECT.

If you wish to be considered for this work, please submit five (5) hard copies of your firm’s Proposals by 3:00 p.m., Wednesday, February 24, 2016 to:

Stanislaus Regional Water Authority
c/o City of Ceres, Public Works Department
2220 Magnolia Street
Ceres, CA 95307
Attention: Michael Brinton, SRWA Interim General Manager
Via Mail: P. O. Box 642, Ceres, CA 95307

Proposals may be obtained by visiting the Stanislaus Regional Water Authority’s website at http://www.stanrwa.org/.

A selection committee will evaluate all Proposals submitted; however, this RFP does not commit the SRWA to award a subsequent Agreement for Consultant Services, to pay for any costs incurred in preparation or presentation of a Proposal, or to procure an agreement for services. Following the selection committee’s evaluation of the Proposals, interviews may be conducted and your firm may be contacted to schedule an interview date. Afterwards, the SRWA may select a consultant to proceed with the PROJECT. The selection considerations for evaluating the Proposals are included in this RFP.

Questions may be directed to (209) 538-5758 or to Michael.Brinton@ci.ceres.ca.us.

Sincerely,

Michael Brinton
Interim General Manager
PROJECT BACKGROUND:
The SRWA was formed in 2011 by the cities of Ceres, Modesto, and Turlock with the intention of working together to develop a reliable, supplemental drinking water supply to meet the municipal and industrial needs of the three communities. The City of Modesto has recently withdrawn from the SRWA and is no longer a part of the PROJECT. The PROJECT involves construction of a Water Treatment Plant (WTP) and transmission pipelines to provide surface water from Turlock Irrigation District (TID) to the two cities for municipal and industrial uses. Water would be released from Don Pedro Reservoir, diverted from the Tuolumne River at an existing infiltration gallery, and pumped to the WTP by TID, where it would be treated and then distributed to the cities. Some water would also be diverted from the Tuolumne River for agricultural uses.

Prior California Environmental Quality Act (CEQA) documentation includes the following:
- A 2001 Mitigated Negative Declaration (MND) which addressed the construction of the infiltration gallery on the Tuolumne River, and associated future pipeline and pump station, prepared and certified by TID.
- A 2006 Environmental Impact Report (EIR) which addressed other components of the PROJECT, including the WTP and transmission pipelines, prepared and certified by TID.

However, some PROJECT components have changed since those environmental documents were certified. The changes include new pipeline alignments, above-ground terminal valve control cabinets, and new pipeline tunnel crossings, associated staging areas, as well as the withdrawal of the City of Modesto from the SRWA. Additionally, the City of Turlock updated its General Plan since the PROJECT EIR was certified. Ceres is in the process of doing so now. Therefore, a consulting firm, Horizon Water and Environment, has been contracted to complete an EIR for the PROJECT.

Further, on July 28, 2015, the SRWA and TID entered into a Water Sales Agreement (WSA) for the PROJECT.

PROJECT DESCRIPTION:
The SRWA is soliciting Proposals from qualified consultant engineers for Program Management Services for the PROJECT and for work associated with the TID raw water delivery facilities, including cleaning and testing the existing infiltration gallery. The selected consultant(s) will be required to provide program management services for Phase 1 of the Project as further define below. Phases 2 & 3 may be added at a later date and would be subject to additional negotiations.
Scope of Work:

The consultant’s work may include, but is not limited to:

Phase 1 - Project Definition

1. **Program Management Activities and Responsibilities:**
   - A. Work with SRWA’s General Manager (GM) to assist in establishing the overall structure, roles and responsibilities of Project Partner(s) staff and managers. Manage work efforts and define the resources needed to execute the work effort in a timely manner;
   - B. Coordinate regular monthly (or as needed) internal program/project team meetings to monitor work progress, coordinate joint decisions to facilitate progress as the project unfolds, and provide the basis for keeping stakeholders and policy-makers apprised of progress, engaged and making decisions to continue to move this project forward;
   - C. Attend SRWA Board Meetings and provide technical support to GM and update SRWA Board on progress, as requested by and in support of the General Manager;
   - D. Coordinating activities of sub-consultants, if any;
   - E. Maintaining and tracking Phase 1 schedule and budget; and
   - F. Establishing a public outreach plan and also web-based sites for document sharing and other general project team communications (for both internal and public access).

2. **Assist with SRWA General Manager selection:** Assist with General Manager recruitment, solicitation, and selection.

3. **Update of demand and supply analysis:** Evaluate Project Partner’s current and projected build out demands, and the availability and reliability of water supplies (groundwater and surface water sources) to determine the optimal Project sizing for the Water Treatment Plant, including phasing options.

4. **EIR technical assistance:** Provide technical project-related information to the environmental consultant for use in the EIR project description and definition.

5. **Identification of required regulatory permits:** Identify and assist with the submittal of necessary permits for construction and operation of the project, such as the Division of Drinking Water Domestic Water Supply Permit and the National Pollutant Discharge Elimination System (NPDES) Permit for Construction, among others. Environmental permits will be identified by the EIR consultant.
6. **Develop a funding strategy:** Identify funding opportunities including grants, low-interest loans and/or special appropriations etc. to reduce the local cost burden. Develop a strategy for pursuing and securing funding sources.

7. **Evaluation of physical/operational condition and water quality from infiltration gallery:** Conduct operational testing of the existing infiltration gallery to determine its production capacity and other appropriate operational parameters. Collect water samples from the existing infiltration gallery and deliver these to a laboratory for analysis. The location-specific water quality data will be needed to determine treatment requirements for compliance with Drinking Water Regulations.

8. **Provide technical peer review of TID’s water right modifications:** Provide technical peer review of TID’s water right modifications for the change in use.

9. **Preliminary alignment study and property investigation:** Define pipeline alignments for the raw and finished water lines to facilitate an initial scope of the needed land acquisition and/or easements and rights-of-way.

10. **Hydraulic analyses:** Complete a hydraulic analyses of the raw and finished water facilities to understand the anticipated hydraulic grades and pumping requirements of combined groundwater and surface water supplies for the Project Partners.

11. **Treatment process alternatives evaluation/define water quality objectives:** Based on the water quality data, define the water quality objectives for the project and provide an evaluation of treatment process alternatives. Include in the evaluation a comparison of conventional granular media filtration and membrane filtration.

12. **Project delivery evaluation:** Provide an analysis of the advantages and disadvantages of various project delivery methods that could be applied to design and construction of this project and review the results with the project team to recommend the preferred delivery method. Facilitate workshop(s) in order to appropriately educate staff and the Policy Board on the different project delivery alternatives.

13. **Assist in discussions with potential water contractors/project partners:** As directed by the Authority’s General Manager, participate in meetings and negotiations with potential water contractors. Evaluate the project size, alignment, cost and schedule implications for the participation of each potential water contractor.

14. **Schedule development:** Develop a project schedule and update the schedule as decisions are made regarding project size, project delivery method, etc.

15. **Update capital project cost estimates and cost sharing allocations:** Provide these on a monthly basis.
16. **Project Definition Technical Memorandum:** Prepare a high-level Technical Memorandum (TM) that defines the project. The objective is for the TM to be placed on a public project website. The TM should be simple and straightforward so that it can be used by the Policy Board and project staff to quickly describe the project and the funding needs.

17. **Define scope for next phase:** Develop detailed scope for the next project phase based on the decisions made during project Phase 1.

18. **Preliminary financial evaluation of impact to existing rates:** When cost estimates are firm, provide a financial evaluation of the impact to existing rates.

19. **Public outreach support:** Work with media/outreach consultants to provide necessary assistance.

**Note:** Phases 2 & 3 are not part of this RFP, and are included for illustrative purposes only. They may be added to the scope of work at a later date and are subject to negotiations.

**Phase 2 - Project Procurement**

1. Provide program management
2. Final project size determination and build-out capacity/phasing plan
3. Refine cash flow projections and provide rate analysis assistance
4. Provide additional public outreach support
5. Oversee geotechnical investigations and groundwater monitoring (via subcontract or contracted directly by JPA)
6. Assist with property acquisition and provide ROW easement agreements for County/Cities
7. **Benchmark project pre-design:**
   A. Raw Water Pipeline(s)
   B. Water Treatment Plan
   C. Finished Water Pipelines
8. Refine capital cost estimates and prepare O&M projections
9. Prepare funding applications
10. **Provide assistance with regulatory permitting and environmental permitting**
    A. Environmental permits to be obtained by the EIR consultant
11. **Provide utility coordination and land survey**
12. **Perform water quality data collection**
13. Assuming DB/DBO procurement (modified list of tasks for alternative procurement):
   A. Soliciting interest from DB/DBO entities
   B. Preparing RFQ
   C. Evaluating SOQs and shortlisting firms
   D. Preparing RFP and technical appendices (design, construction and performance requirements) to Service Contract
   E. Assist in development of Service Contract
   F. Evaluate initial concept proposals and proposals and select DB/DBO firm
   G. Assist in contract negotiations

Phase 3 - Project Implementation

1. Perform GW/SW mixing study
2. Provide contract Compliance, including construction oversight
3. Provide additional public outreach support

Reference documents are available online at: http://www.stanrwa.org/documents/.

The consultant shall submit five (5) hard-copies of your firm’s Proposals by 3:00 p.m. on Wednesday, February 24, 2016.

PROPOSAL CONTENTS AND REQUIREMENTS:
Proposals are expected to be clear, concise, and respond to the requirements set forth in this RFP. Proposals shall address the following Sections:

1. Cover Letter
   The cover letter should introduce the firm, briefly indicate the type of services provided, and highlight the qualifications of the key project team members envisioned to be part of the Team. The letter should cover the firm’s general experience for these types of services and the firm’s commitment to provide the necessary services to the SRWA. Actual or potential sub-consultants shall also be identified and any other information pertinent to the firm’s qualifications may be indicated as well.

2. Proposed Scope of Services
   The proposed scope of services should address the key task items outlined in the Scope of Work subsection of this RFP, and shall include the firm’s understanding of the desired work, a proposed work plan and approach for these services, and a listing of the expected PROJECT deliverables associated with
each work task. The consultant should also specify the expected data needs and level of support from SRWA staff.

3. Experience of the Firm
The consultant’s experience shall include representative projects demonstrating experience with similar scope of services related to this PROJECT. For the prime consultant, and any sub-consulting firms, please provide the following information:

- Length of time in business;
- Names of principal(s) indicating their academic training, experience, and any professional registrations or certifications;
- Office address(es) from which services are expected to be provided, including available manpower, which general tasks, and percentage of work to be performed;
- Listing of no more than five (5) similar projects completed for municipal (or quasi-municipal) agencies in California within the last five (5) years that would demonstrate experience in being able to provide these services including:
  - A brief description of the general scope and services performed, special issues encountered, population served, consultant fee, completion date,
  - Along with the name, address, and phone number of a knowledgeable owner or client representative;
- Key issues, unique circumstances, or challenges for each project, and how they were resolved; and
- Anticipated sub-consultant involvement.

4. Experience of the Project Team
The firm’s Project Manager (PM) is defined to be the individual who is directly responsible for leading the PROJECT and coordinating the required services. The PM and other key personnel must be knowledgeable and experienced in these types of projects. The Proposal shall include the following information (may be in resume form, but not required) demonstrating the PM and other key personnel’s knowledge, experience, and availability:

- Name, title, years of experience with the prime consultant’s firm, and years of experience with other firms;
- Education, degrees, and type of work specializations;
- Active professional registrations in which state(s) and in what discipline(s);
- Summary of the qualifications and representative experience for program management demonstrating experience in being able to complete projects of a similar nature, all completed in California within the last five (5) years. Additionally, provide information on all projects that are currently in progress to which the individual is committed, the level of commitment, and when that commitment is expected to end. For each completed project, please include:
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- Job title and consultant services for which the individual was directly responsible for and/or functions performed;
- General project description, key issues, dollar amount of the contract, and completion date;
- Firm the individual was employed with during each project experience; and
- Owner name, address, and phone number of knowledgeable representative.
- Proposed responsibilities or tasks to be performed.

5. Proposed Project Schedule
The consultant shall provide a proposed schedule for all of the services necessary for Phase 1, including: specifying the major tasks, the expected time to complete each task, and the interdependency of the tasks.

6. Estimated Level of Effort Matrix
The consultant shall provide an estimate of the amount of staff time (hours), by individual (include title), anticipated to complete each task presented in the PROJECT schedule. This section should not include any cost estimates, only time commitments.

7. Proposed Compensation
The consultant shall provide, in a separately sealed and clearly marked envelope labeled “Proposal Cost Estimate” for each Proposal being submitted, the proposed compensation by major task and total cost to be charged to the SRWA. The Proposal cost estimate shall identify the firm’s overall:
- Multiplier rate,
- Labor charge out rates by positions, and
- Direct expenses (i.e. travel, high-end computer use, printing, etc.).

8. Exceptions to the SRWA’s Standard Agreement for Consultant Services
A sample Agreement for Consultant Services is attached as ‘Exhibit A’ for your reference. Please review it carefully with your legal and/or insurance representative and submit any questions, concerns, or language change requests in the appropriate section of your Proposal. It will be assumed that firms choosing not to provide any written comments to the sample agreement agree with the terms and conditions of it in its entirety, as written, and, if selected to perform the required work, the agreement will be processed accordingly.

9. Conflict of Interest / City Business License:
The SRWA requires that the Consultant’s Project Manager file a Statement of Economic Interest Form 700 with the SRWA to the satisfaction of the Fair Political Practices Commission (FPPC) when the consultant provides information, advice, recommendations or counsel to the SRWA. Before the SRWA enters into an agreement for services with the selected firm, the Project Manager will be
required to report individual economic interests within the City of Ceres and City of Turlock on the following:

1. Real Property Interest (geographically limited)
2. Sources of Income
3. Business Positions
4. Business Investments

The selected firm(s) will also be required to obtain a City of Turlock business license.

10. Insurance Requirements
The successful consultant(s) will be required to provide proof of insurance. Please refer to the attached Standard Agreement for Consultant Services (Exhibit A).

SELECTION CONSIDERATIONS:

The SRWA will select the most qualified consulting firm(s) to provide these services. Based on the recommendation of the Selection Committee, negotiations will begin with the firm(s) deemed most qualified. If agreement cannot be reached, SRWA staff will begin negotiations with the firm(s) that is/are judged to be the next most qualified. Upon successful negotiation, Agreement for Consultant Services will be sent for the consultant’s signature. The consultant’s signed Agreement will be presented to the SRWA Governing Board for approval.

No proposal shall be binding upon the SRWA until after the Agreement for Consultant Services is approved by the duly authorized representatives of the SRWA, and once approved, a ‘Notice to Proceed’ will be issued. The SRWA reserves the right to reject any or all Proposals, and to waive any irregularities. The SRWA shall have the sole authority to terminate negotiations with any consultant, at any time, without recourse by the consultant. Once the Proposals have been evaluated, the SRWA may recommend to the prime consultant the retention of one or more sub-consultants that are deemed capable (through this RFP process or through previous work with the SRWA) of providing valuable assistance in the completion of certain scope of services tasks in a highly efficient manner based on their past experiences. The approval of an Agreement for Consultant Services, if made by the SRWA, will be based on a complete review and analysis of each written Proposal and subsequent interview (if conducted) as outlined in the Proposal Contents and Requirements section of this RFP and scored on the following 100 point criteria:

1. Proposed Scope of Services (30 points)
The two key criteria in determining the point ranking in this category are ‘Project Understanding’ and ‘Project Approach’. Project Understanding will be measured
by the consultant’s demonstrated understanding of the PROJECT’s scope of services and the recognition of potential issues warranting special effort and/or concern. The consultant’s Project Approach will be evaluated by the completeness of the proposed work plan in addressing the scope of services, including full coverage of the PROJECT’s data needs and technical evaluations.

2. **Experience of the Firm (30 points)**
   This will be evaluated by the firm’s years of experience, general capabilities, responsiveness, and demonstrate experience, over the last five (5) years, in being able to successfully deliver these types of projects.

3. **Experience of the Project Team (30 points)**
   The consultant’s proposed project team (including sub-consultants) will be evaluated by the various team members’ organizational ability, time management skills, areas of specialization, ability to produce quality work products, availability, and demonstrated experience, over the last five (5) years, in being able to successfully deliver these types of projects.

4. **Proposed Project Schedule (5 points)**
   Reasonableness and completeness of the proposed schedule as it relates to the scope of services and meeting the objectives of the PROJECT.

5. **Location of the Firm (5 points)**
   It is the policy of the SRWA, when not prohibited by the funding source and all other factors being equal, to retain local firms whose qualifications are satisfactory and who have sufficient experience and capabilities for providing the necessary professional services shall be given the maximum score for this criterion. Non-local firms may be awarded up to 60% of the maximum score in this category for use of local sub-consultants on the team, based on their anticipated percentage of work to be performed.
CONSULTANT SELECTION SCHEDULE:

The following is the anticipated schedule for completing the consultant selection process. Specific dates will be confirmed as those activities get closer.

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<tr>
<th>Milestone</th>
<th>Date</th>
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<tr>
<td>Issue Request for Proposals (RFPs)</td>
<td>January 22, 2016</td>
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<tr>
<td>RFPs Due</td>
<td>February 24, 2016</td>
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<tr>
<td>Consultants Interviews (if necessary)</td>
<td>Week of March 7 or 14, 2016</td>
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<td>SRWA Board Awards Agreement</td>
<td>April 28, 2016</td>
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<tr>
<td>Consultant Begins Work</td>
<td>May 1, 2016</td>
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If you have any questions, please contact me at (209) 538-5758.

Sincerely,

Michael Brinton
Interim General Manager

Attachment: Exhibit A – Standard Agreement for Consultant Services
AGREEMENT FOR SPECIAL SERVICES
between
STANISLAUS REGIONAL WATER AUTHORITY
and
___________________________
for

THIS AGREEMENT is made this ____ day of _________________, 20__, by and between the STANISLAUS REGIONAL WATER AUTHORITY, a Joint Powers Authority of the State of California hereinafter referred to as “SRWA” and ____________________, a ____________, hereinafter referred to as "CONSULTANT."

WITNESSETH:

WHEREAS, in accordance with California Government Code §37103, SRWA has a need for ____________________; and

WHEREAS, CONSULTANT has represented itself as duly trained, qualified, and experienced to provide such special service, hereinafter referred to as “Services.”

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. SCOPE OF WORK: CONSULTANT shall furnish all labor, equipment, materials and process, implements, tools, and machinery, except as otherwise specified, which are necessary and required to provide the Services and shall perform such special services in accordance with the standards of its profession and the specifications attached hereto as Exhibit __. CONSULTANT shall provide Services that are acceptable to SRWA.

2. PERSONNEL AND EQUIPMENT: CONSULTANT shall provide all personnel needed to accomplish the Services hereunder. CONSULTANT shall additionally acquire, provide, maintain, and repair, at its sole cost and expense, such equipment, materials, and supplies as CONSULTANT shall reasonably require to accomplish said Services.

3. SAFETY REQUIREMENT: All Services and merchandise must comply with California State Division of Industrial Safety orders and O.S.H.A.
4. **COMPENSATION:** SRWA agrees to pay CONSULTANT in accordance with Exhibit _ as full remuneration for performing all Services and furnishing all staffing and materials called for in Exhibit _ and for performance by CONSULTANT of all of its duties and obligations under this Agreement. In no event shall the sum of this Agreement exceed _______________ and ___/100ths Dollars ($____________). CONSULTANT agrees that compensation shall be paid in the manner and at the times set forth below:

   (a) **Invoices:** CONSULTANT shall submit dated invoices to SRWA specifying the date, location and service rendered, and the charge therefor.

   (b) **Payment:**

      (1) All payments by SRWA shall be made in arrears, after satisfactory service, as determined and approved by SRWA, has been provided. Payment shall be made by SRWA no more than thirty (30) days from SRWA’s receipt of invoice.

      (2) SRWA shall normally pay by voucher or check within ten (10) working days after each meeting at which payments can be authorized, provided that SRWA receives the invoice at least five (5) working days prior to SRWA’s meeting date.

      (3) If SRWA disputes any items on an invoice for a reasonable cause, which includes but is not limited to unsatisfactory service, SRWA may deduct that disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deletions shall be documented to CONSULTANT within fifteen (15) working days after receipt of invoice by SRWA. SRWA shall assign a sequential reference number to each deletion.

      (4) If dispute is settled, payment shall be by voucher or check payable to and mailed to CONSULTANT within five (5) working days of dispute settlement.

      (5) SRWA reserves the right to only pay for such services rendered to the satisfaction of SRWA.

5. **TERM OF AGREEMENT:** This Agreement shall become effective _______________ and end ________________, subject to SRWA’s availability of funds.

6. **EXTENSION OF AGREEMENT:** SRWA may elect to extend this Agreement for three (3) additional one-year terms, on the same terms and conditions, upon providing written notice to CONSULTANT thirty (30) days prior to the expiration of this Agreement. On each anniversary date, CONSULTANT will be allowed to increase prices. Increases may not exceed increases in the San Francisco-Oakland Consumer Price Index for all urban consumers or percentage increases in CONSULTANT’s published prices, whichever is lower. In all cases, SRWA may cancel the contract if a requested price increase is not acceptable. **<<OPTIONAL PARAGRAPH TO BE USED ONLY WITH APPROVAL OF BOARD CHAIR – delete if not used**

7. **INSURANCE:** CONSULTANT shall not commence work or services under this Agreement until CONSULTANT has obtained SRWA’s approval regarding all insurance requirements, forms, endorsements, amounts, and carrier ratings, nor shall CONSULTANT
allow any subcontractor to commence work or services on a subcontract until all similar insurance required of the subcontractor shall have been so obtained and approved. CONSULTANT shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work or services hereunder by CONSULTANT, its agents, representatives, employees or subcontractors. Failure to maintain or renew coverage or to provide evidence of renewal may constitute a material breach of contract.

(a) Minimum Scope of Insurance: When applicable, coverage shall be at least as broad as:

(1) Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01) with an additional insured endorsement (form CG 20 10 for ongoing operations and 20 37 for products/completed operations), to be approved by the Stanislaus Regional Water Authority.

(2) Insurance Services Office Form CA 00 01 covering Automobile Liability, Code 1 (any auto).

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

(4) Errors and Omissions/Professional Liability Insurance.

(b) Minimum Limits of Insurance: CONSULTANT shall maintain limits no less than:

(1) General Liability (including operations, products and completed operations): $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: $1,000,000 per occurrence for bodily injury and property damage.

(3) Workers’ Compensation: as statutorily required by the State of California. Employer’s Liability: $1,000,000 per accident for bodily injury or disease.

(4) Errors and Omissions/Professional Liability: $1,000,000 per claim.

(c) Deductibles and Self-Insured Retentions: Upon request of SRWA, any deductibles or self-insured retentions must be declared to and approved by SRWA. At the option of SRWA, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects SRWA, its elective and appointive boards, officers, agents, employees, and volunteers; or (2) CONSULTANT shall provide a financial guarantee satisfactory to SRWA guaranteeing payment of losses and related investigations, claim administration and defense expenses.
(d) Other Insurance Provisions: The commercial general liability policy shall contain, or be endorsed to contain, the following provisions:

(1) SRWA, its elective and appointive boards, officers, agents, employees, and volunteers are to be covered as additional insured with respect to liability arising out of work or operations performed by or on behalf of CONSULTANT, including materials, parts or equipment furnished in connection with such work or operations, which coverage shall be maintained in effect for at least three (3) years following the completion of the work specified in the contract. General liability coverage can be provided in the form of an endorsement to CONSULTANT’s insurance (at least as broad as CG 20 10 for ongoing operations and CG 20 37 for products/completed operations), or as a separate Owners and Contractors Protective Liability policy providing both ongoing operations and completed operations coverage.

(2) For any claims related to this project, CONSULTANT’s insurance coverage shall be primary insurance as respects SRWA and any insurance or self-insurance maintained by SRWA shall be excess of CONSULTANT’s insurance and shall not contribute with it.

(3) In the event of cancellation, non-renewal, or material change that reduces or restricts the insurance coverage afforded to SRWA under this Agreement, the insurer, broker/producer, or CONSULTANT shall provide SRWA with thirty (30) days’ prior written notice of such cancellation, non-renewal, or material change.

(4) Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

(e) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII.

(f) Verification of Coverage: CONSULTANT shall furnish SRWA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by SRWA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive CONSULTANT’S obligation to provide them. SRWA reserves the right, at any time, to require complete, certified copies of all required insurance policies and endorsements.

(g) Waiver of Subrogation: With the exception of professional liability, CONSULTANT hereby agrees to waive subrogation which any insurer of CONSULTANT may acquire from CONSULTANT by virtue of the payment of any loss. The commercial general liability policy and workers’ compensation policy shall be endorsed to contain a waiver of subrogation in favor of SRWA for all work performed by CONSULTANT, its agents, employees, independent contractors and subcontractors. CONSULTANT agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

(h) Subcontractors: CONSULTANT shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All insurance coverage for subcontractors shall be subject to all of the
requirements stated herein.

8. **INDEMNIFICATION:** CONSULTANT shall indemnify, defend, and hold harmless SRWA and its elective and appointive boards, officers, agents, employees, and volunteers from and against any and all claim, demand, cost, or liability that arises out of, pertains to, or relates to, the negligence, recklessness, or willful misconduct of CONSULTANT and its employees or agents in the performance of services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful misconduct of SRWA.

9. **INDEPENDENT CONTRACTOR RELATIONSHIP:** All acts of CONSULTANT, its agents, officers, and employees and all others acting on behalf of CONSULTANT relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of SRWA. CONSULTANT, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of SRWA. CONSULTANT has no authority or responsibility to exercise any rights or power vested in the SRWA. No agent, officer, or employee of the SRWA is to be considered an employee of CONSULTANT. It is understood by both CONSULTANT and SRWA that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

   CONSULTANT, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of SRWA.

   CONSULTANT shall determine the method, details and means of performing the work and services to be provided by CONSULTANT under this Agreement. CONSULTANT shall be responsible to SRWA only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to SRWA’s control with respect to the physical action or activities of the CONSULTANT in fulfillment of this Agreement. CONSULTANT has control over the manner and means of performing the services under this Agreement. CONSULTANT is permitted to provide services to others during the same period service is provided to SRWA under this Agreement. If necessary, CONSULTANT has the responsibility for employing other persons or firms to assist CONSULTANT in fulfilling the terms and obligations under this Agreement.

   If in the performance of this Agreement any third persons are employed by CONSULTANT, such persons shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the CONSULTANT.

   It is understood and agreed that as an independent contractor and not an employee of SRWA neither the CONSULTANT or CONSULTANT’S assigned personnel shall have any entitlement as a SRWA employee, right to act on behalf of the SRWA in any capacity whatsoever as an agent, or to bind the SRWA to any obligation whatsoever.

   It is further understood and agreed that CONSULTANT must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of CONSULTANT’S personnel.
As an independent contractor, CONSULTANT hereby indemnifies and holds SRWA harmless from any and all claims that may be made against SRWA based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

10. VOLUNTARY TERMINATION: SRWA may terminate this Agreement without cause or legal excuse by providing thirty (30) days’ written notice to CONSULTANT.

11. TERMINATION OF STATED EVENT:

(a) Termination on Occurrence of Stated Events. This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of CONSULTANT, (2) legal dissolution of CONSULTANT, or (3) death of key principal(s) of CONSULTANT.

(b) Termination by SRWA for Default of CONSULTANT. Should CONSULTANT default in the performance of this Agreement or materially breach any of its provisions, at its option SRWA may terminate this Agreement by giving written notification to CONSULTANT. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of SRWA’s property by CONSULTANT, dishonesty or theft.

(c) Termination by CONSULTANT for Default of SRWA. Should SRWA default in the performance of this Agreement or materially breach any of its provisions, at its option CONSULTANT may terminate this Agreement by giving written notice to SRWA. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with CONSULTANT, willful destruction of CONSULTANT’s property by SRWA, dishonesty or theft.

(d) Termination for Failure to Make Agreed-Upon Payments. Should SRWA fail to pay CONSULTANT all or any part of the payments set forth in this Agreement on the date due, at its option CONSULTANT may terminate this Agreement if the failure is not remedied within thirty (30) days after CONSULTANT notifies SRWA in writing of such failure to pay. The termination date shall be the effective date of the notice.

(e) Termination by SRWA for Change of CONSULTANT’S Tax Status. If SRWA determines that CONSULTANT does not meet the requirements of federal and state tax laws for independent contractor status, SRWA may terminate this Agreement by giving written notice to CONSULTANT. The termination date shall be the effective date of the notice.

(f) In the Event of Termination. If this Agreement is terminated pursuant to this Paragraph, CONSULTANT shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If SRWA so requests, and at SRWA’s cost, CONSULTANT shall provide sufficient oral or written status reports to make SRWA reasonably aware of the status of CONSULTANT’S work on the project. Further, if SRWA so requests, and at SRWA’s cost, CONSULTANT shall deliver to SRWA any work products whether in draft or final form which have been produced to date.
If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, SRWA will pay CONSULTANT an amount based on the percentage of work completed on the termination date, this percentage shall be determined by SRWA in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by SRWA for Default of CONSULTANT, CONSULTANT understands and agrees that SRWA may, in SRWA's sole discretion, refuse to pay CONSULTANT for that portion of CONSULTANT'S services which were performed by CONSULTANT on the project prior to the termination date and which remain unacceptable and/or not useful to SRWA as of the termination date.

12. CONFORMANCE WITH FEDERAL AND STATE LAW: All equipment, supplies and services used by CONSULTANT in the performance of this Agreement shall conform to the laws of the government of the United States and the State of California.

13. NONDISCRIMINATION: In connection with the execution of this Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race, religion, color, sex, or national origin. CONSULTANT shall take affirmative action to insure that applicants are employed, and the employees are treated during their employment, without regard to their age, race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, promotions, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT shall also comply with the requirement of Title VII of the Civil Rights Act of 1964 (P.L. 88-352) and with all applicable regulations, statutes, laws, etc., promulgated pursuant to the civil rights acts of the government of the United States and the State of California now in existence or hereafter enacted. Further, CONSULTANT shall comply with the provisions of Section 1735 of the California Labor Code.

14. TIME: Time is of the essence in this Agreement.

15. ENTIRE AGREEMENT AND MODIFICATION: This Agreement supersedes all previous Agreements and constitutes the entire understanding of the parties hereto. CONSULTANT shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. CONSULTANT specifically acknowledges that in entering into and executing this Agreement, CONSULTANT relies solely upon the provisions contained in this Agreement and no others.

16. OBLIGATIONS OF CONSULTANT: Throughout the term of this Agreement, CONSULTANT shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. CONSULTANT warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the SRWA with the services contemplated by this Agreement. CONSULTANT further represents that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

17. OWNERSHIP OF DOCUMENTS: All reports, data, drawings, plans, designs, specifications, graphics, calculations, working papers, models, flow diagrams, visual aids, and other incidental work or materials furnished hereunder shall become and remain the property of the SRWA, and may be used by SRWA as it may require without any additional cost to SRWA.
No reports shall be used by the CONSULTANT for purposes other than this contract without the express prior written consent of SRWA.

18. NEWS AND INFORMATION RELEASE: CONSULTANT agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from SRWA through the Board Chair.

19. INTEREST OF CONSULTANT: CONSULTANT warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONSULTANT warrants that, in performance of this Agreement, CONSULTANT shall not employ any person having any such interest. CONSULTANT agrees to file a Statement of Economic Interests with the Board Secretary at the start and end of this contract if so required at the option of SRWA.

20. AMENDMENTS: Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for SRWA or CONSULTANT to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with SRWA and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, SRWA will not be responsible to pay any charges CONSULTANT may incur in performing such additional services, and CONSULTANT shall not be required to perform any such additional services.

21. PATENT/COPYRIGHT MATERIALS: Unless otherwise expressly provided in the contract, CONSULTANT shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement. CONSULTANT shall furnish a warranty of such right to use to SRWA at the request of SRWA.

22. CERTIFIED PAYROLL REQUIREMENT: For CONSULTANTS performing field work on public works contracts on which prevailing wages are required, CONSULTANT shall comply with the provisions of the California Labor Code including, but not limited to, Section 1776 regarding payroll records, and shall require its subconsultants and subcontractors to comply with that section as may be required by law.

23. PARTIAL INVALIDITY: If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

24. WAIVER: The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

25. AUDIT: SRWA’s duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify CONSULTANT’S charges to SRWA under this Agreement.
CONSULTANT agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for CONSULTANT services. SRWA’s representative shall have the right to reproduce any of the aforesaid documents.

26. **GOVERNING LAW:** This Agreement shall be governed according to the laws of the State of California.

27. **HEADINGS NOT CONTROLLING:** Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

28. **COMPLIANCE WITH LAWS:** CONSULTANT shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws including, but not limited to, prevailing wage laws, if applicable. CONSULTANT shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits.

29. **BUSINESS LICENSE:** CONSULTANT will have a City of Turlock business license.

30. **ASSIGNMENT:** This Agreement is binding upon SRWA and CONSULTANT and their successors. Except as otherwise provided herein, neither SRWA nor CONSULTANT shall assign, sublet, or transfer interest in this Agreement or any part thereof without the prior written consent of the other.

31. **RECORD INSPECTION AND AUDIT:** CONSULTANT shall maintain adequate records to permit inspection and audit of CONSULTANT’s time and material charges under this Agreement. CONSULTANT shall make such records available to SRWA during normal business hours upon reasonable notice. Such records shall be turned over to SRWA upon request.

32. **EXCLUSIVE USE:** Services provided within the scope of this Agreement are for the exclusive use of SRWA and CONSULTANT agrees that, until final approval by SRWA, all data, plans, specifications, reports, and other documents will not be released to third parties by CONSULTANT without the prior written consent of SRWA.

33. **EMPLOYMENT OF SRWA OFFICIAL OR EMPLOYEE:** CONSULTANT shall employ no SRWA official or employee in the work performed pursuant to this Agreement. No officer or employee of SRWA shall have any financial interest in this Agreement in violation of California Government Code Sections 1090 et seq.; nor shall SRWA violate any provision of its Conflict of Interest Code adopted pursuant to the provisions of California Government Code Sections 87300 et seq.

34. **NOTICE:** Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail, if delivery is by postage paid, registered, or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time:
for CONSULTANT: __________________________________________
________________________________________
________________________________________
PHONE: ________________________________
FAX: _________________________________

for SRWA: STANISLAUS REGIONAL WATER AUTHORITY
ATTN: Michael Brinton, Interim General Manager
2220 Magnolia Street/ P.O. BOX 642
Ceres, CA 95307
PHONE: (209) 538-5758

35. PERFORMANCE BY KEY EMPLOYEE: CONSULTANT has represented to
SRWA that ______________ will be the person primarily responsible
for the performance of the services referred to in this Agreement. SRWA has entered into this
Agreement in reliance on that representation by CONSULTANT. CONSULTANT therefore
agrees that __________ percent (____%) or more of the time to be devoted to the project
that is the subject of this Agreement will be that of the above-named person. <<OPTIONAL
PARAGRAPH - delete if not used

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by
and through their respective officers thereunto duly authorized.

STANISLAUS REGIONAL
WATER AUTHORITY,
a joint powers authority
By ____________________________

Chris T. Vierra, Board Chair
Name ____________________________

Date ____________________________
Title ____________________________

CONSULTANT, a California Corporation
By ____________________________

Name ____________________________

Date ____________________________

APPROVED AS TO FORM:

By ____________________________

Phaedra A. Norton, Interim General Counsel

Date ____________________________

ATTEST:

By ____________________________

Jennifer Land, Board Secretary

Date ____________________________