



## **RIO LINDA/ELVERTA COMMUNITY WATER DISTRICT**

730 L Street  
Rio Linda, California 95673  
Phone: (916) 991-1000 • Fax: (916) 991-6616  
[www.rlecwd.com](http://www.rlecwd.com)

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# **REQUEST FOR PROPOSALS (RFP)**

For Professional Engineering Services for Design, Bid Support, and Engineering  
Support During Construction for Equipping of Rio Linda/Elverta Community Water  
District's Well 16  
in  
Rio Linda, California

December 18, 2018

Responses Due  
January 22, 2019  
2:00 P.M.

CONTACT:  
Mike Vasquez, PE, PLS  
District Engineer  
(916) 905-2388  
[mvasquez@ekiconsult.com](mailto:mvasquez@ekiconsult.com)

December 18, 2018

**Subject:** Request for Proposals – Design, Bid Support, and Engineering Services During Construction for Equipping of Rio Linda/Elverta Community Water District’s Well 16

## **1. Introduction**

The Rio Linda / Elverta Community Water District (District) completed drilling construction of Well 16 in late 2017. The District is now soliciting proposals from qualified consulting firms for engineering design and construction support services for the equipping of Well 16 (Project). Services would include field investigations, geotechnical investigation, engineering analysis and design recommendations for mechanical and electrical equipment including supporting discipline design, design documents including plans and specifications, bidding support, and engineering services during construction.

## **2. Background/Overview**

The District is an independent special water district which serves the communities of Rio Linda and Elverta in Sacramento County and serves approximately 4,500 customers. The District is located north of the City of Sacramento in northwestern Sacramento County. The area within the District's boundary comprises about 12,415 acres (19.4 square miles).

The District supplies its water system from 11 active groundwater wells, one elevated reservoir, one inline booster station, and a ground level reservoir and pump station.

Well 16 has been installed to supplement the existing supply sources and has a design capacity of approximately 1,500 gallons per minute (gpm). The well site is an unpaved 1-acre parcel located on U Street Between 14th Street and Dry Creek Road in Rio Linda, California. Approximately half of the parcel is being developed as part of this Project, while the other half is being reserved for potential future improvements, such as another well or a treatment system.

The Project scope includes, but is not limited to, design of the following elements:

- New well pump and well pedestal;
- Onsite pump discharge and pump-blowoff piping;
- Surge tank (if needed);
- Chlorination facilities;
- Electrical facilities;
- Building to house chemical, electrical and controls;
- SCADA integration into District existing network;
- Natural gas emergency generator;
- Off-site piping to the distribution system; and
- General site preparation, paving, and fencing.

Exhibit 1 shows the conceptual site plan, new piping, and tie-in locations.

### 3. Proposal Schedule

The following schedule is tentative, and the District may amend the tentative schedule as necessary by addenda.

Schedule of Events:

- a. Advertise RFP: December 18, 2018
- b. Mandatory Pre-Proposal Conference: 10:30am on January 8, 2019 at District Offices.
- c. Questions due: January 11, 2019
- d. Response to Questions Provided to RFP Holders: January 15, 2019
- e. Proposal Deadline: Must be received by 2:00 p.m. on January 22, 2019
- f. Anticipated Notice of Award: February 4, 2019
- g. Anticipated Award of Contract: February 19, 2019
- h. Anticipated Notice to Proceed: March 4, 2019

The target date for completion of the Project's design phase (i.e., 100% design submittal) is at the end of August 2019

### 4. Mandatory Pre-Proposal Conference

A **mandatory** pre-proposal conference has been scheduled for Tuesday January 8, 2019 at 10:30 at:

Rio Linda/Elverta Community Water District  
730 L Street  
Rio Linda, California 95673

Proposals from Consultants who do not attend the **mandatory** pre-proposal conference will be rejected. The pre-proposal conference will begin at the designated start time. Tardiness may be grounds for disqualification.

Interested firms will have an opportunity to submit questions regarding the requirements outlined in this RFP. In order to make the meeting more effective for all participants, attendees should read this document thoroughly prior to the meeting.

Substantial clarifications or changes required as a result of the meeting will be issued in the form of a written addendum to the RFP. A list of attendees will be distributed upon request.

### 5. Scope of Services

The Consultant selected for this project will be required to provide the labor, equipment and materials to complete the scope of work for this project as described below:

- a. Review existing documents, including but not limited to, well design report, well completion report, and preliminary environmental documents.
- b. Perform site surveying and potholing (if needed) to identify site utilities.
- c. Perform geotechnical investigation in support of facility design.
- d. Perform evaluation of surge tank requirements at connection to distribution system.

- e. Perform the following tasks in support of the District's permit amendment application to add well and well appurtenances onto the District's existing water system permit:
  - 1) Perform well pump test per State Water Resources Control Board (SWRCB) requirements and provide brief report describing results.
  - 2) Prepare SWRCB drinking water source assessment.
  - 3) Prepare technical engineering report to support permitting of wellhead treatment (chlorination).
  - 4) Attend one (1) meeting with District staff and SWRCB staff.
  - 5) All water quality sampling will be performed by District.
- f. Prepare draft and final application for Site electricity service by Sacramento Municipal Utility District ("SMUD"), and support district in application process.
- g. Prepare pre-design report as part of 30% design submittal (see Item h, below) which will identify design recommendations for the project elements listed in Section 2.
- h. Prepare contract documents including plans, specifications (including front end specifications), and cost estimates (PS&E) in accordance with District standards. This will include 30%, 60%, 95%, and 100% (final) PS&E review submittals to the District for review and comment. Following each review, consultant will respond to all comments and make any necessary changes. A technical review meeting shall be held after the 30%, 60%, and 95% submittals to discuss the District's comments. Plans shall be prepared in AutoCAD. Please assume that the District will complete its review within 2 weeks following receipt of each submittal.
  - 1) Deliverables: Provide five (5) full-size hard copies for each progress submittal as well as electronic versions in PDF format. Specifications shall also be provided in Microsoft Word formats.
- i. Provide bid support services, including:
  - 1) Coordinate and conduct pre-bid meeting, and prepare and distribute meeting minutes.
  - 2) Prepare responses to bidder's inquiries during bid period.
  - 3) Prepare and distribute bid addenda.
  - 4) Review construction bids received and prepare a recommendation to the District regarding bid completeness/responsiveness, bidder capabilities, and contract award.
  - 5) Prepare five (5) conformed sets of specifications and drawings as directed by District.
- j. Provide Engineering Services During Construction:
  - 1) Attend pre-construction meeting.
  - 2) Review contractor submittals for conformance with the design drawings and specifications. Please provide assumed number of submittals and resubmittals.
  - 3) Prepare responses to Requests for Information (RFI's) and change order requests, in coordination with the District. Please provide assumed number of RFIs and change orders.
  - 4) Prepare design clarifications (if needed). Please provide assumed number of design clarifications.

- 5) Perform limited startup support during Contractor startup activities.
- 6) Progress payment review will be performed by District.

## **6. Required Submittals for Proposals**

Hard copies of proposals are to be submitted no later than 2:00 pm on Tuesday, January 22, 2019 to:

Rio Linda/Elverta Community Water District  
Attention: Mike Vasquez, PE, PLS, District Engineer  
730 L Street  
Rio Linda, CA 95673

Proposals must be received by the date and time described above. The District reserves the right to reject any or all of the proposals submitted. During the evaluation process, the District reserves the right, where it may serve the District's best interest, to request additional information or clarification from any of the firms providing a proposal.

The consultant is requested to submit five (5) hard copies and one (1) electronic copy (in PDF on CD, flash drive, or other electronic media) of the proposal that contains the items listed in the following section.

## **7. Proposal Requirements**

The proposal shall display clearly and accurately the capability, knowledge, experience, and capacity of the consulting firm to meet the requirements of this RFP. Each response to this RFP shall include the information described in this section. Provide the information in the specified order. Failure to include all of the information specified may be cause for rejection. Additional information may be provided, but should be succinct and relevant to the goals of this RFP. Any additional information that a proposing Consultant wishes to include that is not specifically requested should be included in an appendix to the proposal.

Consultants are encouraged to keep the proposals brief and to the point, but sufficiently detailed to allow evaluation of the project approach. Excessive information will not be considered favorably. The entire content of the proposal is limited to 10 sheets (20 pages), excluding cover, resumes, and any appendices. Unauthorized conditions, omissions, limitations or provisions attached to a proposal will render the proposal non-responsive and may cause its rejection.

Proposers are warned against making erasures or alterations of any kind, without initialing each and every such change. Proposals that contain erasures or irregularities of any kind, without such initialing, or omissions, may be rejected.

The proposal should be bound. Document pages shall be 8-1/2 inches by 11 inches in size or folded to such a size. Use section dividers, tabbed in accordance with this section as specified below.

The proposal submitted in response to this RFP shall include:

### **Cover Letter**

A principal of the consulting firm authorized to commit the firm to the requirements of the RFP must sign the letter. The cover letter shall include the following:

- Title of this RFP.
- Name and Mailing Address of Consulting Firm (include physical location if mailing address is a PO Box).
- Contact Person, Telephone Number, Fax Number, and Email Address
- A statement committing personnel identified in the proposal to support the District when requested by the District.
- A statement that the submitting Consultant will perform the services and adhere to the requirements described in this RFP, including any addenda (reference the addenda by date and/or number)
- A statement that the consultant will meet the insurance requirements stated in the attached Sample Agreement (Appendix A).

### **Company Background**

A brief statement of the firm's background and organization.

### **Project Team**

An organizational chart and a brief summary of the qualifications and experience of the key members of the firm's project team who would be expected to provide the desired services. Any change in the project team by the selected consulting firm would need to be approved in writing by the District. Describe the primary responsibilities of each staff member.

### **Qualifications**

A statement of the firm's qualifications and ability to commit adequate resources to perform the scope of services and successfully complete the project in a timely manner. Identify any sub-consultants or sub-contractors you propose to utilize to supplement your firm's staff.

### **Experience**

A summary of the firm's experience with at least three well equipping and construction projects successfully completed in the last five years. Include a brief project description, an explanation of the work that was performed by the firm, construction value and change order percentage, dates, client information, contact name(s) and phone numbers.

Describe each team member's involvement with the projects listed in the summary of firm's experience. Provide similar level of information for key members of any proposed sub-consultant firm.

### **Project Understanding**

Based on the available information, supplemental research, field observations, and experience with similar projects, provide a narrative describing your understanding of the services requested

in this RFP, your general approach and any major challenges to achieving the District's stated goals. Include any issues that you believe will require special consideration for this project. Also, identify any unique approaches or strengths that your firm may have related to this project. District staff will assess your understanding of all aspects of the project based on the overview.

### **Project Approach/Work Plan**

Provide a detailed discussion of the consultant's approach towards the successful and timely completion of the scope described above. Identify any critical issues or potential problems and discuss how your firm will address them. Include a proposed work schedule to accomplish all of the required tasks within the desired timeline.

Include a description of all work that will be subcontracted to others. Also, include your expectations of work to be performed by District staff.

### **Proposed Budget and Rate Schedule, SUBMITTED IN A SEPARATE, SEALED ENVELOPE**

**In a separate sealed envelope:** Provide a cost estimate on a task-by-task basis and the hourly rate for each project team member proposed to work on the District's projects. Include a spreadsheet identifying personnel, hourly rates, project responsibilities, and estimated time expected for each task. The budget for the project must be presented as not-to-exceed, with all overhead/expenses included in the estimated costs.

It is expected that the rates will remain in effect for the duration of the Agreement. The rate schedule shall also include any other rates such as subconsultant markups, reimbursable expenses, equipment, or other direct costs that may be incurred. Also include any other rates to be potentially incurred by the District. If the District is unable to negotiate a professional services agreement with the most qualified respondent, and/or finds the budget unreasonable for the needs of the District, the District will terminate discussions with the most qualified respondent and begin discussions with the second most qualified respondent and so on until a professional services agreement is executed with a reasonable budget meeting the District's needs.

### **Terms and Conditions Statement**

Statement of acceptance or objections to terms and conditions of the District's Standard Professional Services Agreement (Appendix A). If there are any comments on the terms and conditions, alternative language shall be included for consideration by the District.

### **Statement of No Conflict of Interest**

Statement of no conflict of interest if awarded this contract or how any potential conflicts will be addressed.

### **Appendices**

Include resumes of project team members. Each resume shall not exceed three (3) pages.

**8. Pertinent Information**

**Addenda and Supplements**

If it becomes necessary to revise any part of this RFP, an addendum to the RFP will be provided to all firms on the RFP distribution list. Copies of any addenda signed as received by the proposer shall be included in the proposal under an appendix.

**Proposal Costs**

All costs associated with the development of the proposal shall be the responsibility of the consultant and shall not be chargeable in any manner to the District.

**Use of Proposal Ideas**

The District reserves the right to use any or all of the firms' ideas presented in the proposals. Selection or rejection of the proposal does not affect this right.

Any information submitted in a proposal which the consultant considers proprietary must be identified as such, and the consultant shall include the legal basis for a claim of confidentiality. The District will not assert the confidentiality of such information unless the consultant executes and submits a written agreement prepared by the District, to defend and indemnify the District for any liability, costs, and expenses incurred in asserting such confidentiality as part of the proposal. The final determination as to whether or not the District will assert the claim of confidentiality on behalf of the bidder is in the sole discretion of the District.

**9. Proposal Evaluations**

The proposals will be reviewed and evaluated by District staff. The District does not anticipate interviews. Date of final selection is listed above.

The following evaluation criteria and rating schedule will be used to determine the most highly qualified firm(s).

| <b><u>Evaluation Criteria</u></b>               | <b><u>Maximum Points Possible</u></b> |
|---|---------------------------------------|
| 1. Project Understanding, Approach and Workplan | 30                                    |
| 2. Firm Experience                              | 20                                    |
| 3. Project Team Experience and Qualifications   | 20                                    |
| 4. Firm Qualifications                          | 15                                    |
| 5. References                                   | 15                                    |
| <b>Total Possible Points:</b>                   | <b>100</b>                            |

Award of the RFP shall be made to the, responsive and responsible proposer whose proposal is determined, through a formal evaluation panel process, to be the most advantageous to the District after the evaluation panel has taken into consideration the evaluation factors set forth in the RFP. Proposals shall be scored according to the criteria stated in the RFP.

## **10. Award of Contract**

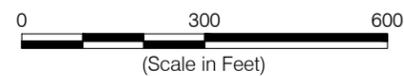
The District reserves the right to reject any and all proposals, to contract work with whomever and in whatever manner the District decides, to abandon the work entirely and to waive an informality or non-substantive irregularity as the interest of the District may require and to be the sole judge of the selection process. The District also reserves the right to negotiate separately in any manner to serve the best interest of the District.

We appreciate your interest in providing engineering services to the District and look forward to a successful relationship with the selected firm. If you have any questions, please contact District Engineer Mike Vasquez, PE, PLS at (916) 905-2388 or [mvasquez@ekiconsult.com](mailto:mvasquez@ekiconsult.com).

20181205.15033394 C:\Users\rिकासата\appdata\local\temp\AcPublish\_14004\Exhibit 1.dwg Layout1



**Site Location Map**



**Legend:**

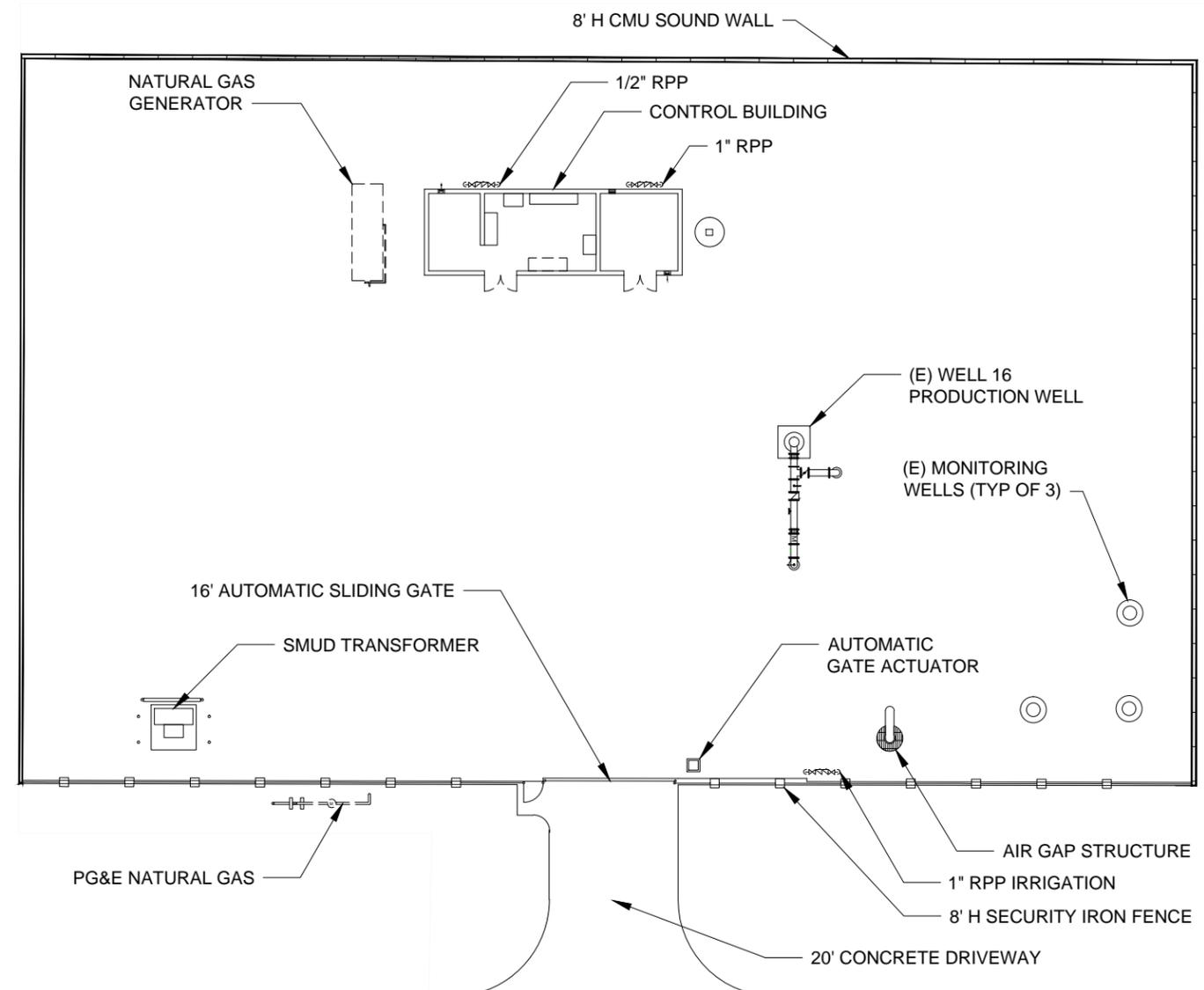
- WM --- (E) Water Main
- WM — 8" Water Main
- WM — 12" Water Main
- | Capped or Blind Flange

**Abbreviations:**

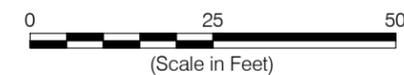
- CMU = Concrete Masonry Unit
- E = Existing
- H = Height
- RPP = Reduced Pressure Principle Back Flow Preventer
- WM = Water Main

**Notes:**

1. All locations are approximate.
2. Basemap source: Google Earth Pro, date of imagery 1 February 2018.



**Conceptual Well 16 Site Plan**



**Conceptual Well 16 Site Plan and Connection to Distribution System**

Rio Linda/Elverta Community Water District  
 Rio Linda, CA  
 December 2018  
 EKI B80131.00



## Appendix A

**RIO LINDA/ELVERTA COMMUNITY WATER DISTRICT**  
**PROJECT: Well 16 Equipping Design and Construction Support**  
**PROJECT NO. \_\_\_\_\_ - \_\_\_\_\_**

### AGREEMENT FOR CONSULTING SERVICES

**THIS ENGINEERING SERVICES AGREEMENT** (“Agreement”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the Rio Linda Elverta Community Water District, a county water district of the State of California (“District”) and [Consultant Name], (“Consultant”) (each individually a “Party” and collectively the “Parties”). There are no other parties to this Agreement.

### RECITALS

- A.** Consultant represents to District that it is a duly qualified and licensed firm experienced in providing professional engineering consulting services in support of the Well 16 Equipping Design and Construction Support project.
- B.** In the judgment of the Board of Directors of District, it is necessary and desirable to employ the services of Consultant to perform consulting services on Well 16 Equipping Design and Construction Support project (the “Project”).
- C.** Consultant has been selected as the most qualified to provide engineering services resulting from their submitted Proposal dated [Month, Day,] 2018 in response to the District’s Request for Proposals dated [Month, Day,] 2018, a description of such services is attached hereto as **Exhibit A** (“Services”).

**NOW, THEREFORE**, in consideration of the promises and covenants set forth below, the Parties agree as follows:

### AGREEMENT

**Section 1. Recitals.** The recitals set forth above (“Recitals”) are true and correct and are hereby incorporated into and made part of this Agreement by this reference. In the event of any inconsistency between the Recitals and Sections 1 through 18 of this Agreement, Sections 1 through 18 shall prevail.

**Section 2. Term.** This Agreement shall commence on the Effective Date and continue for three (3) years (“Term”), provided that either Party may terminate the Agreement by providing thirty (30) days written notice to the other Party.

## **Appendix A**

**Section 3. Effective Date.** This Agreement shall only become effective once all of the Parties have executed the Agreement (the “Effective Date”). Consultant, however, shall not commence the performance of the Services until it has been given notice by District (“Notice to Proceed”).

### **Section 4. Work.**

(a) *Services.* Subject to the terms and conditions set forth in this Agreement, Consultant shall perform the Services as described in **Exhibit A** and as provided in approved Task Orders. Consultant shall not receive additional compensation for the performance of any services unless they are approved by the District in writing.

(b) *Modification of Services.* Only the District’s General Manager may authorize extra or changed work. Failure of Consultant to secure such a written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further waives any and all right or remedy by way of restitution or quantum meruit for any and all extra work performed without such express and prior written authorization of the General Manager.

**Section 5. Time of Performance.** Consultant warrants that it will commence performance of the Services within thirty (30) calendar days of the Notice to Proceed, and shall conform to the requirements of the Services provided in **Exhibit A** or as provided in an approved Task Order. The time of performance is a material term of this Agreement relied on by District in entering into this Agreement.

**Section 6. Payment.** The District shall pay Consultant for all Services described in **Exhibit A**, which are performed and invoiced by Consultant.

Consultant shall submit monthly invoices to District for Services performed and expenses incurred during the preceding month. District shall pay Consultant within 30 days of receipt of each invoice. Each invoice shall identify all services performed and any expenses for which reimbursement is requested. Prior to payment, District may require Consultant to furnish supporting information and documentation for all charges for which payment is sought.

**Section 7. Representations of Consultant.** District relies upon the following representations by Consultant in entering into this Agreement:

(a) *Standard of Care.* District has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby warrants that it is qualified to perform the Services as provided in the Task Orders and that all of its services will be performed in accordance with the generally accepted hydrogeologic consultant practices and standards, in compliance with all applicable federal, state and local laws.

(b) *Independent Consultant.* In performing the services hereinafter specified, Consultant shall act as an independent Consultant and shall have control of the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of

## Appendix A

District, and is not entitled to participate in any pension plan, insurance, bonus, or similar benefits District provides its employees. In the event District exercises its right to terminate this Agreement, Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees. Nothing contained herein shall be construed as creating an employment, agency or partnership relationship between District and Consultant.

(c) *Authority.* Consultant represents that it possesses the necessary licenses, permits and approvals required to perform the Services or will obtain such licenses, permits or approvals prior to the time such licenses, permits or approvals are required. Consultant shall also ensure that all sub-consultants are similarly licensed and qualified. Consultant represents and warrants to District that Consultant shall, at Consultant's sole cost and expense, keep in effect or obtain at all times during the Term of this Agreement, any licenses, permits, and approvals which are legally required for Consultant to practice Consultant's profession at the time the Services are rendered including registration for public works projects with the Department of Industrial Relations.

(d) *No Conflict of Interest.* Consultant represents that no conflict of interest will be created under state or federal law by entering into or in carrying out this Agreement. Consultant further promises that in the performance of this Agreement, no person having such interest will be knowingly employed. If requested to do so by District, Consultant shall complete and file, and shall cause any person doing work under this Agreement to complete and file, a "Statement of Economic Interest" with the Sacramento County Clerk disclosing their financial interests.

(e) *Prevailing Wage.* Consultant agrees to pay all craftsmen and laborers required as part of the consulting services at least the minimum prevailing wage required by the Department of Industrial Relations of the State of California. Consultant understands and agrees that it is Consultant's responsibility to determine the minimum prevailing wage and to report compliance as required under California law.

**Section 8. Conformity with Law and Safety.** Consultant shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the scope of Services, including all provisions of the Occupational Safety and Health Act of 1979 as amended, all California Occupational Safety and Health Regulations, the California Building Code, the American with Disabilities Act, and all other applicable federal, state, municipal and local safety regulations, appropriate trade association safety standards, and appropriate equipment manufacturer instructions. Consultant's failure to comply with any laws, ordinances, codes or regulations applicable to the performance of the Services hereunder shall constitute a breach of contract. In cases where standards conflict, the standard providing the highest degree of protection shall prevail.

If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Agreement, Consultant shall immediately notify the District's risk manager by telephone. If any accident occurs in connection with this Agreement, Consultant shall promptly submit a written report to District, in such form as the District may require. This report shall include the following information: (a) name and address of the injured or deceased persons;

## Appendix A

(b) name and address of Consultant's sub-consultant, if any; (c) name and address of Consultant's liability insurance carrier; and (d) a detailed description of the accident, including whether any of District's equipment, tools or materials were involved.

If a release of a hazardous material, substance, or waste occurs in connection with the performance of this Agreement, Consultant shall immediately notify District. Consultant shall not store hazardous materials or hazardous waste within the District limits without a proper permit from District.

**Section 9. Excusable Delays.** Consultant shall not be in breach of this Agreement in the event that performance of Services is temporarily interrupted or discontinued due to a "Force Majeure" event which is defined as: riots, wars, sabotage, civil disturbances, insurrections, explosion, natural disasters such as floods, earthquakes, landslides, fires, strikes, lockouts and other labor disturbances or other catastrophic events, which are beyond the reasonable control of Consultant. Force Majeure does not include: (a) Consultant's financial inability to perform; (b) Consultant's failure to obtain any necessary permits or licenses from other governmental agencies; or (c) Consultant's failure to obtain the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the Consultant.

**Section 10. Assignment Prohibited.** No Party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempt or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

**Section 11. Ownership and Disclosure of Work Product.** District shall be the owner of and shall be entitled to immediate possession of accurate reproducible copies of any design computations, plans, specifications, surveys, copies of correspondence, maps, or other pertinent data and information gathered or computed by Consultant ("Work Product") in the performance of and prior to termination of this Agreement by District or upon completion of the work pursuant to this Agreement. Consultant may retain copies of the above-described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of District, during the term of this Agreement and for a period of one hundred eighty (180) days following expiration of the term of the Agreement.

When this Agreement is terminated, Consultant agrees to return to District all documents, drawings, photographs and other written or graphic material, however produced, that it received from District, its Consultants or agents, in connection with the performance of its Services under this Agreement. All materials shall be returned in the same condition as received.

**Section 12. Termination by Default.** If a Party should fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violates any of the terms of this Agreement (the "Defaulting Party"), the other Party shall give notice to the Defaulting Party and allow such Party ten (10) days to correct such deficiency. If the Defaulting Party does not correct such deficiency, the other Party may immediately terminate this Agreement by giving written notice of such termination, stating the reason for such termination. In such event, Consultant shall be entitled to receive payment for all services satisfactorily rendered, provided,

## Appendix A

however, there shall be deducted from such amount the amount of damage, if any, sustained by virtue of any breach of this Agreement by Consultant. If payment under this Agreement is based upon a lump sum in total or by individual task, payment for services satisfactorily rendered shall be an amount which bears the same ratio to the total fees specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total fee, provided, however, that there shall be deducted from such amount the amount of damage, if any sustained by District by virtue of any breach of this Agreement by Consultant.

(a) Consultant shall deliver copies of all Work Product prepared by it pursuant to this Agreement.

(b) If District terminates this Agreement before District issues the Notice to Proceed to Consultant or before Consultant commences any Services hereunder, whichever last occurs, District shall not be obligated to make any payment to Consultant. If District terminates this Agreement after District has issued the Notice to Proceed to Consultant and after Consultant has commenced performance under this Agreement, District shall pay Consultant the reasonable value of the Services rendered by Consultant pursuant to this Agreement prior to termination of this Agreement. District shall not in any manner be liable for Consultant's actual or projected lost profits had Consultant completed the Services. Consultant shall furnish to District such financial information, as in the judgment of the District Manager, is necessary to determine the reasonable value of the Services rendered by Consultant prior to termination.

(c) Except as provided in this Agreement, in no event shall District be liable for costs incurred by or on behalf of Consultant after the date of the notice of termination.

**Section 13. Liability for Breach.** Neither Party waives the right to recover damages against the other for breach of this Agreement including any amount necessary to compensate District for all detriment proximately caused by Consultant's failure to perform its obligations hereunder or which in the ordinary course of things would be likely to result therefrom. District reserves the right to offset such damages against any payments owed to Consultant. District shall not in any manner be liable for Consultant's actual or projected lost profits had Consultant completed the Services required by this Agreement. In the event of Termination by either Party, copies of all finished or unfinished Work Product shall become the property of District. Notwithstanding the above, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.

**Section 14. Insurance Coverage.** During the Term, the Consultant shall maintain in full force and effect policies of insurance set forth herein, which shall be placed with insurers with a current A. M. Best's rating of no less than A VII, and will provide the District with written proof of said insurance. Consultant shall maintain coverage as follows:

(a) *Professional Liability:* professional liability insurance for damages incurred by reason of any actual or alleged negligent act, error or omission by sub-consultant in the amount of

## Appendix A

One Million Dollars (\$1,000,000.00) combined single limit each occurrence and annual aggregate. If the Consultants prime agreement requires the sub-consultant to carry additional Professional Liability insurance the sub-consultant shall increase their Professional Liability insurance to meet the prime agreement's requirements for the duration of the Project.

(b) *General Liability.* Consultant shall carry commercial general liability insurance in an amount no less than Two Million Dollars (\$2,000,000.00) combined single limit for each occurrence, covering bodily injury and property damage. If commercial general liability insurance or another form with a general aggregate limit is used, either the general aggregate limit shall apply separately to each Project or the general aggregate shall be no less than Two Million Dollars (\$2,000,000.00).

(c) *Worker's Compensation Insurance and Employer's Liability.* Consultant shall carry workers' compensation insurance as required by the State of California under the Labor Code.

(d) *Automobile Liability Insurance.* Consultant shall carry Automobile liability insurance covering bodily injury and property damage in an amount no less than One Million Dollars (\$1,000,000) combined single limit for each occurrence. Said insurance shall include coverage for owned, hired, and non-owned vehicles.

(e) *Policy Obligations.* Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

(f) *Material Breach.* If Consultant, for any reason, fails to maintain insurance coverage that is required pursuant to this Agreement, such failure shall be deemed a material breach of this Agreement. District, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, District may purchase such required insurance coverage, and without further notice to Consultant, District may deduct from sums due to Consultant any premium costs advanced by District for such insurance. These remedies shall be in addition to any other remedies available to District.

**Section 15. Indemnification.** To the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.8), Consultant shall defend, indemnify hold harmless and release District, and District's elected and appointed councils, commissions, directors, officers, employees, agents, and representatives ("District's Agents") from and against any and all actions, claims, loss, cost, damage, injury (including, without limitation, disability, injury or death of an employee of Consultant or its sub-consultants), expense and liability of every kind, nature and description that arise out of, pertain to or relate to acts or omissions of Consultant, or any direct or indirect sub-consultant, employee, Consultant, representative or agent of Consultant, or anyone that Consultant controls (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify District and District's Agents shall not apply to the extent that such Liabilities are caused in whole by the sole negligence, active negligence, or willful misconduct of District or District's Agents, but shall apply to all other Liabilities. With respect to third party claims against the Consultant, the Consultant waives any and all rights of any type of express or implied indemnity against District and District's Agents. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or



## Appendix A

### Section 18. General Provisions.

(a) *Modification.* No alteration, amendment, modification, or termination of this Agreement shall be valid unless made in writing and executed by all of the Parties to this Agreement.

(b) *Waiver.* No covenant, term, or condition or the breach thereof shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

(c) *Severability.* If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date of this Agreement, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.

(d) *Counterparts.* This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

(e) *Audit.* District 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 District under this Agreement.

(f) *Entire Agreement.* This Agreement, together with its specific references, attachments and exhibits, constitutes the entire agreement of the Parties with respect to the subject matters hereof, and supersedes any and all prior negotiations, understanding and agreements with respect hereto, whether oral or written.

(g) *Attorney's Fees and Costs.* If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

(h) *Time is of the Essence.* Time is of the essence in this Agreement for each covenant and term of a condition herein.

**Appendix A**

**IN WITNESS WHEREOF**, this Agreement has been entered into by and between District and Consultant as of the Effective Date.

**DISTRICT:**

Rio Linda Elverta Community Water District,  
a county water district of the State of  
California

By: \_\_\_\_\_  
Timothy R. Shaw, General Manager

Date: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
Barbara A. Brenner, District Counsel

**CONSULTANT:**

Consultant Name

By: \_\_\_\_\_  
Name, Title

Date: \_\_\_\_\_