



REQUEST FOR PROPOSALS

FOR

VEHICLE FLEET ELECTRIFICATION FEASIBILITY STUDY AND CONCEPTUAL PLAN

OMWD CIP D179964

ISSUED DECEMBER 29, 2023

PROPOSALS DUE:

February 8, 2024, 2:00 P.M.

OLIVENHAIN MUNICIPAL WATER DISTRICT

A handwritten signature in black ink, appearing to read "LARS", is positioned above a horizontal line.

Lindsey Stephenson, PE  
Engineering Manager

## **TABLE OF CONTENTS**

### **SECTION**

1.0	INTRODUCTION
2.0	OLIVENHAIN MUNICIPAL WATER DISTRICT
3.0	BACKGROUND AND CIP BUDGET AND SCHEDULE
4.0	OMWD PROJECT MANAGEMENT
5.0	SCOPE OF SERVICES
6.0	PROPOSED MODIFICATIONS TO THE SCOPE OF SERVICES
7.0	OMWD FURNISHED SERVICES TO SELECTED CONSULTANT
8.0	SPECIAL CONSIDERATIONS
9.0	PROPOSAL REQUIREMENTS
10.0	SUBMITTAL REQUIREMENTS
11.0	PRE-SUBMITTAL ACTIVITIES
12.0	CONSULTANT NOMINATION AND SELECTION PROCESS
13.0	EVALUATION CRITERIA
14.0	SCHEDULE FOR NOMINATION, SELECTION, AND AWARD
15.0	SPECIAL CONDITIONS

## REQUEST FOR PROPOSALS FOR

### VEHICLE FLEET ELECTRIFICATION FEASIBILITY STUDY AND CONCEPTUAL PLAN

#### 1.0 INTRODUCTION

The Olivenhain Municipal Water District (OMWD) is seeking proposals from qualified engineering consultants (Consultant) to provide a feasibility study and conceptual plan for electrification of the vehicle fleet. The plan must address the State of California Air Resources Board (CARB) Zero-Emission Vehicle (ZEV) Requirements. The fleet inventory includes:

- 29 – ½ Ton Pickup Trucks (6 Due for replacement in FY 2025)
  - 14 – ¾ Ton Pickup Trucks with Utility Beds
  - 10 – ½ Ton Construction Trucks
  - 7 – Flatbed Trucks
  - 5 – Backhoes & Loaders
- \*OMWD vehicles are historically evaluated for replacement at 100k mileage and/or 10 years old

OMWD stores vehicles at the following locations that will require consideration.

- Headquarters at 1966 Olivenhain Road, Encinitas, CA 92024.
- The David C. McCollom Water Treatment Plant (DCMWTP), 19090 Via Ambiente, Escondido, California.
- The 4S Ranch Water Reclamation Facility (4SWRF), 16595 Dove Canyon Road, San Diego, CA 92127.
- Duty vehicles are utilized at personal homes
- In an emergency situation, all vehicles could support OMWD's Emergency Operation Center

#### California Air Resources Board Advance Clean Fleets (ACF) Regulations

In April 2023, the State adopted the ACF which is intended to:

- Deploy medium- and heavy-duty zero-emissions vehicles (ZEV)
- Compliment the Advanced Clean Trucks (ACT) regulation of 2023 which ensures acceleration of large-scale fleet transition
- Help achieve the State's health protective air quality standards and climate goals.

The ACF timeline includes:

- 2024 – 50% of vehicle purchases are zero emissions, if the vehicles are available
- 2027 – 100% of fleet is ZEV, if the vehicles are available
- 2036 – Manufacturers may sell only ZEV medium- and heavy-duty vehicles
- Alternative Compliance
  - Meet ZEV targets using the phase-in ZEV milestones option

The ZEV Milestone Option allows flexibility to manage the fleet composition using a phase-in period. With this option, existing combustion-powered vehicles can be kept for their full useful life. OMWD falls within milestone group 2 with the following schedule:

- 2027 – 10%
- 2030 – 25%
- 2033 – 50%
- 2036 – 75%
- 2039 and beyond – 100%

AB 1594 was implemented in Fall 2023 and allows for emergency vehicles at water districts to be exempted. OMWD intends to pursue an exemption request for part or all of OMWD vehicles.

### Scope of Work Overview

In general, the scope of work includes, but is not limited to:

#### **1. Phase 1: Needs Assessment**

- a. Summarize the State requirements and timelines that apply to OMWD.
- b. Review and inventory the OMWD vehicle fleet data and determine electrification requirements. Review considerations for maintenance, duty, and urgent response.
- c. Develop a baseline replacement plan for the approach and timeline for compliance and planning level cost estimate.
- d. Identify vehicles that could be exempted and prepare an exemption request.
- e. Estimate loads and initiate coordination with SDG&E
- f. Initiate coordination with neighbor agencies
- g. Identify regulatory agencies and funding opportunities.
- h. Provide a Needs Assessment Tech Memo.
- i. Provide Project Management and QAQC.

## 2. Phase 2: Infrastructure Planning

- a. Based on results of Needs Assessment TM and CARB exemption request and with written direction from OMWD, prepare a refined replacement plan.
- b. Evaluate the feasibility of charging locations and infrastructure.
- c. Update estimate electrical loads for charging. Continue to coordinate with SDG&E on refined power requirements at each site.
- d. Select project sites and layout improvements.
- e. Develop project phasing plan.
- f. Describe permitting and regulatory approvals.
- g. Estimate project costs and available financing and funding opportunities.
- h. Continue to coordinate with neighboring public agencies and develop concepts to share charging infrastructure.
- i. Summarize funding opportunities.
- j. Summarize operations and management changes.
- k. Develop Vehicle Fleet Electrification Feasibility Study and Conceptual Plan.
- l. Present to stakeholders.
- m. Provide Project Management and QAQC.

### Goal and Objectives

The goal of this project is to develop a strategy for OMWD to comply with the CARB ZEV requirements and other State regulations, which may include.

- The “Advanced Clean Cars II Regulations” requiring all new passenger vehicles sold in California to have zero emissions by 2035, including AB 1594 which provides exemptions for emergency vehicles for water districts.
- Senate Bill 20 Requirements for Transition to ZEVs.

The key objectives of the project include:

1. Understand how requirements apply to OMWD and its vehicle fleet.
2. Develop a needs assessment.
3. Identify vehicles eligible for exemptions and submit exemption request.
4. Develop a fleet replacement plan that meets the requirements.
5. Develop a charging infrastructure plan at HQ and remote sites.
6. Optimize facilities through sharing with neighboring public agencies.
7. Develop a power supply plan and coordinate with SDG&E.

8. Estimate costs and identify funding opportunities.
9. Develop a Vehicle Fleet Electrification Feasibility Study and Conceptual Plan and schedule for implementation.
10. Present to OMWD stakeholders.

This RFP describes the project, the required scope of services, the consultant selection process, and the minimum information that must be included in the Proposal. Failure to submit information in accordance with the RFP requirements and procedures may be cause for disqualification. OMWD reserves the right to waive minor proposal deviations or omissions at its sole discretion. It is important to OMWD that the selected consultants have an established local office.

Based on proposals, OMWD reserves the right to award only Phase 1 and may re-assess the approach to Phase 2 based on budgeting and the results of the CARB exemption application. The professional services agreement (PSA) may be structured with an option for OMWD to continue with the selected consultant for the final design of project facilities, following successful completion of the initial phases.

## 2.0 OLIVENHAIN MUNICIPAL WATER DISTRICT

OMWD is a municipal water district organized and operating pursuant to Water Code Sections 71000 et seq. OMWD serves approximately 87,000 people through approximately 22,000 potable water connections, (28,000 meters) in a 48 square-mile area including portions of the unincorporated County of San Diego, and the Cities of Carlsbad, Encinitas, Solana Beach, San Marcos, and San Diego. OMWD's mission statement is to serve present and future customers in a service-oriented manner by:

Water – Providing safe, reliable, high-quality drinking water while exceeding all regulatory requirements in a cost-effective and environmentally responsive manner.

Recycled Water/ Wastewater – Providing recycled water and wastewater treatment in the most cost-effective and environmentally responsive method.

Parks – Safely operating the Elfin Forest Recreational Reserve and providing users with a unique recreational, educational, and environmental experience.

Emergency Management – Complying with policies and procedures that adhere to local, state, and federal guidelines for national security and disaster preparedness.

Sustainable Operations – Pursuing alternatives and/or renewable resources with the most sustainable, efficient, and cost-effective approach.

### 3.0 BACKGROUND AND CIP BUDGET AND SCHEDULE

Planning, design, and construction for this project was included in OMWD’s Capital Improvement Program, within its fiscal years (FY) 2024 through FY 2027, as shown below.

	FY 24	FY 25	FY 26	FY 27	Total
Water	\$150,000	\$60,000	\$750,000	\$1,485,000	\$2,445,000
Wastewater	--	\$ 15,000	\$ 187,000	\$ 748,000	\$950,000
Total	\$150,000	\$75,000	\$937,000	\$2,233,000	\$3,395,000

OMWD will update the budget in the spring of 2024 as a part of its biennial budgeting process.

The anticipated project schedule is:

- FY 2024 – Initiate Phase 1 of feasibility study and conceptual plan. The Needs Assessment Tech Memo is anticipated within one year of the Notice to Proceed.
- FY 2025 –Initiate Phase 2 of feasibility study and conceptual plan.
- FY 2026 – initiate design, environmental, and permitting.
- FY 2027 – Initiate construction.

### 4.0 OMWD PROJECT MANAGEMENT

The project will be managed by the Operations Manager, Jesse Bartlett-May, during Phase 1 and Engineering Manager, Lindsey Stephenson, during Phase 2, or their designated representative. Engineering and Operations will stay closely coordinated throughout the project, and the consultant will be expected to work with both departments.

### 5.0 SCOPE OF SERVICES

OMWD’s stated objective is to receive proposals from qualified consultants who can assist OMWD with the planning of the fleet electrification project. It is essential the selected consultant have expertise in the State requirements, CARB exemptions, SDG&E requirements, ZEVs, charging infrastructure, the planning and design of support

infrastructure, and an understanding of how a water/wastewater agency completes its work.

The following items should be considered a framework for the scope of services to be used in proposal formation for the project. OMWD understands this RFP may not fully describe the services envisioned. There may also be tasks listed in the scope that are not needed. Therefore, OMWD will be relying on the Consultant to provide modifications or amplifying information to the scope of services described herein based on their professional expertise in this subject area to improve the project. The Consultant is encouraged to incorporate items deemed necessary to meet the needs of OMWD in completion of the project, including attending the necessary meetings with OMWD to gather information, receive input and approvals, and review preliminary results.

## **PHASE 1 – NEEDS ASSESSMENT**

### *Task 1.1 – Research*

Review the available data and information, perform site visits, and meet with OMWD to confirm the information and the approach. The information includes but is not limited to that listed in the introduction to the RFP.

Summarize the State requirements that apply to the OMWD vehicle fleet. Review the ZEV Milestone Option vs. traditional compliance and identify which is most appropriate for OMWD.

Layout general timeline for OMWD compliance. Identify and discuss what the consequences are for non-compliance.

Identify CARB reporting requirements and frequency via TRUCKR or similar.

### *Task 1.2 – Fleet Inventory*

Inventory the OMWD fleet, and review the OMWD fleet characteristics, replacement plans, parking locations, and historical data, including miles driven per day, anticipated job assignments such as towing, duty considerations, idling needs, typical down time (i.e., overnight), ZEV Milestone Option Group, Emergency Operations Center needs, and other relevant data. Identify whether each vehicle is appropriate for EV.

Conduct review meeting with staff to validate inventory.



Task 1.3 – Baseline Replacement Plan

Based on Fleet Inventory, recommend a phase-in of ZEVs, including types and makes based on purchase and operation and maintenance costs, availability and lead time, range, payload capacity, and other pertinent criteria. Develop replacement plan to identify how each vehicle would fit within ZEV Milestone Option, including year and Group. Identify any limitations on the vehicle conversions. Discuss feasibility of electric vehicles vs. other Zero Emission Vehicle options, such as hydrogen. Describe how the plan meets regulatory requirements.

Task 1.4 – Exemption Request

Identify vehicles that could be eligible for emergency vehicle exemption request under AB 1594 on behalf of OMWD.

Identify any other exemptions or extensions that could be applicable, including the mutual aid exemption or site electrification extension based on feedback from SDG&E.

Prepare an exemption request for OMWD to submit to CARB.

Task 1.5 – Estimate Load for Baseline Replacement Plan and Initiate Coordination with SDG&E

Estimate the maximum capacity for the load by site assuming all vehicles in the Baseline Replacement Plan would be electrified under the ZEV Milestone Option. Compare that to OMWD’s existing loads. Estimate the gap electrical loads and equipment required for charging vehicles, and other information required by SDG&E.

Initiate coordination with SDG&E on conservative load requirements at each site. Identify which grid each site is located in and other public agency fleets that will be electrifying under the same mandate in the same grid.

Task 1.6 – Initiate Coordination with Neighboring Public Agencies

Identify neighboring public agencies, including the San Diego County Water Authority, who may have similar charging infrastructure needs. OMWD will make the initial contact with the agencies and the consultant will follow-up to survey their approaches and coordinate and identify opportunities for efficiency and cost savings.

Task 1.7 – Identify Regulatory Agencies

Identify agencies with project review and approval authority and coordinate with them to determine requirements.

Task 1.8 - Identify Financing Opportunities

Identify opportunities for grants, rebates, and low-interest loan financing, and requirements, including but not limited to those offered by SDG&E and the San Diego

County Air Pollution Control District. Identify and analyze financing mechanisms and strategies to support the transition to ZEVs, including but not limited to:

- Energy or carbon savings performance contracting
- Utility grants and rebates
- Revolving fund loans
- Federal and State grant programs
- Private third-party financing
- Fleet management services
- Leasing
- Vehicle use optimization
- Vehicle to grid technology

*Task 1.9 – Planning Level Cost Estimate*

Provide a planning level cost estimate to support OMWD budgeting, assuming baseline replacement plan.

*Task 1.10 – Needs Assessment Tech Memo*

Prepare a Tech Memo that summarizes Phase 1. Submit a draft report, meet with staff to review, and submit a final report.

*Task 1.11 – Phase 1 Project Management and QAQC*

This task addresses the management responsibilities associated with proper scheduling review, budget control, and invoice preparation. Provide project management to achieve the project objectives and stay within budget and on schedule. Notify OMWD immediately if any budget or schedule variances are expected. Submit biweekly progress emails to OMWD and the team. The email should include:

- Budget status (past billings, current billings, to date billings, % complete)
- Work completed over the past reporting period
- Progress anticipated over the next reporting period
- Next deliverable due date
- Information required from OMWD
- Any issues which would delay delivery of the project on time

Prior to submitting any materials to OMWD or other agencies, provide quality assurance and quality control (QA/QC) reviews in accordance with the internal processes and procedures. The reviews will provide an independent check of the work. All submittals will indicate the name of the reviewer.

Task 1.12 – Phase 1 Coordination and Meetings

Budget and schedule as many meetings as necessary to complete the scope of work.

Prepare meeting agendas and minutes for each of these meetings, which will be distributed to all attendees. In addition to these meetings, as a part of their scope of work, support ongoing less formal coordination.

**PHASE 2 – INFRASTRUCTURE PLANNING**

Following Needs Assessment and response from CARB on exemption request, complete infrastructure planning for OMWD. For purposes of the proposal budgeting, assume Phase 2 will be completed for the entire fleet at all three sites. OMWD anticipates reviewing Phase 2 assumptions and fee estimates with the selected consultant prior to initiating Phase 2.

Task 1.13 – Refined Replacement Plan

Based on results from exemption request, update the Replacement Plan to exclude exempted vehicles.

Determine electrification charging requirements. Estimate greenhouse gas (GHG) reduction.

Task 1.14 – Prepare a Charging/ Refueling Infrastructure Needs Assessment

Prepare a charging infrastructure needs assessment for the planned OMWD vehicle fleet. Consider where the vehicles are typically stored and range. Identify needs by geographic location including power requirements, types and numbers of charging equipment, and support facilities, including quick/accelerated charge stations and/or generators. Evaluate cost, availability, and equipment lead times. Address duty-operator’s home charging.

Task 1.15 – Evaluate the Feasibility of Charging Locations

Evaluate the feasibility of installing charging infrastructure in the storage locations, and other locations, if required. If the sites are not feasible, recommend alternatives. Determine site charging capacity and identify any gaps in capacity and power availability.

Assess option to provide a public charging station and how to manage those.

Task 1.16 – Update Estimated Electrical Loads for Charging and Coordinate with SDG&E

Refine the estimated gap in electrical loads and equipment required for charging vehicles, and other information required by SDG&E. Identify which grid each site is located in and other public agency fleets that will be electrifying under the same mandate in the same grid.

Coordinate with SDG&E on power supply infrastructure, improvements, equipment, requirements, design, implementation schedules, costs and rebates/grants.

Review OMWD's Three Phase Renewable agreement and identify any opportunities.

Task 1.17 - Recommend Project Sites and Facilities

Recommend project sites and layout facilities including the number of EV charging stations. Prepare preliminary layouts for and compare the alternatives. Provide input on engineering issues to assist OMWD in making a decision. Identify property and right-of-way acquisitions that will be required.

Identify any areas within the project requiring special construction techniques or permits.

Provide the services to adequately develop the base mapping to support the concept plan. Existing mapping is expected to be adequate for this phase of the project. Recommend to OMWD any new mapping that is required.

Recommend the technology for chargers to meet any grant requirements and current best-practices. Recommend data tracking capabilities. Identify options for charging software program, summarize what other local water districts are using, and recommend power management technology and software.

Task 1.18 – Develop Project Implementation Phasing Plan

Develop a phasing plan to implement the project, including timelines to replace vehicles and to implement infrastructure.

Task 1.19- Estimate Costs

Estimate project capital and operation and maintenance costs. Summarize by implementation phase. Cost estimates should include but are not limited to:

- Vehicle acquisition
- Charging and refueling infrastructure for all sites, including software management
- Land and right of way acquisition
- Power supply infrastructure upgrades
- Staffing for charging and maintenance

Describe financial and other barriers to transitioning to an electric vehicle fleet.

Consultant shall prepare an opinion of probable construction cost broken down by the major items of work and by implementation phase. The costs shall be in current dollars and also escalated to the mid-point of construction. If the estimate exceeds OMWD's budget, identify phasing or other changes to stay within budget. Prepare a construction

schedule showing, at a minimum, completion of the plans, bidding, award, construction, and start-up. Identify key sequencing and constraints. Costs and schedules shall be updated with the draft and final reports.

*Task 1.20 – Continue Coordination with Neighboring Public Agencies*

Continue coordinating with neighboring public agencies, who may have similar charging infrastructure needs, to understand their approaches and coordinate opportunities for partnerships for efficiency and cost savings.

*Task 1.21 – Review Alternative Ownership and Onsite Power Generation*

Review and provide a recommendation of ownership, lease, and third-party ownership options for charging equipment. Consider return on investment, impacts of rapidly changing technology, staff capacity, costs and options for operations and maintenance agreements, and optimal schedules.

Evaluate the opportunities, capital and operating costs, and pay-back periods for on-site power generation and storage.

*Task 1.22 - Describe Permitting and Regulatory Approvals*

Summarize required permits and regulatory approvals including submittal requirements, schedule, and cost. Permits and approvals include but are not limited to environmental, interagency, power supplier, building/construction, and land use.

*Task 1.23 – Refine Financing Opportunities*

Refine the financing opportunities identified in Phase 1 and recommend most appropriate.

*Task 1.24 – Recommend Workforce Development and Staffing Levels*

Provide recommendations on workforce development to maintain, service, and repair a ZEV fleet and charging infrastructure including but not limited to:

- Estimates of hours
- Recommendations for future staffing levels and comparison to existing staffing levels
- Review of current and future job descriptions and identify opportunities in ZEV and charging equipment maintenance
- Develop training and education plans and schedules
- Estimate costs

Describe new or revised management and operations procedures. Describe management and operational software alternatives. Describe on-going fleet monitoring plan and compliance reporting requirements.

*Task 1.25 – Prepare a Draft Vehicle Fleet Electrification Feasibility Study and Conceptual Plan*

Prepare a draft report summarizing the work completed and recommending a concept plan. Meet with OMWD to present and discuss the draft report.

Prepare and submit three (3) hard copies and one (1) electronic copy (with electronic bookmarking) of the Draft Concept Report to OMWD for review. Incorporate OMWD comments after the review, allowing up to three (3) weeks for OMWD to review.

*Task 1.26 – Present Draft to Stakeholders*

Present the draft Feasibility and Concept Plan to the General Manager. Incorporate feedback. Then present to the Board at a Facilities Committee or full Board meeting.

*Task 1.27 – Prepare Final Vehicle Fleet Electrification Feasibility Study and Conceptual Plan*

Prepare a final report incorporating OMWD comments. Upon acceptance by OMWD, submit three (3) copies of the Final Concept Plan along with one (1) electronically submitted copy of the documents (with electronic bookmarking).

*Task 1.28 – Phase 2 Project Management and QAQC*

This task addresses the management responsibilities associated with proper scheduling review, budget control, and invoice preparation. Provide project management to achieve the project objectives and stay within budget and on schedule. Notify OMWD immediately if any budget or schedule variances are expected. Submit biweekly progress emails to OMWD and the team. The email should include:

- Budget status (past billings, current billings, to date billings, % complete)
- Work completed over the past reporting period, progress anticipated over the next reporting period
- Next deliverable due date
- Information required from OMWD
- Any issues which would delay delivery of the project on time

Prior to submitting any materials to OMWD or other agencies, provide quality assurance and quality control (QA/QC) reviews in accordance with the internal processes and procedures. The reviews will provide an independent check of the work. All submittals will indicate the name of the reviewer.

Task 1.29 – Phase 2 Coordination and Meetings

Budget and schedule as many meetings as necessary to complete the scope of work.

Prepare meeting agendas and minutes for each of these meetings, which will be distributed to all attendees. In addition to these meetings, as a part of their scope of work, support ongoing less formal coordination.

**Future Tasks – ENVIRONMENTAL DOCUMENTATION SUPPORT, PUBLIC OUTREACH SUPPORT. FINAL DESIGN, BID SERVICES, AND ENGINEERING SERVICES DURING CONSTRUCTION**

Following successful completion of the initial phases of the project facilities, the consultant may be selected to continue with additional future tasks, including environmental documentation support, public outreach support, final design, bid services, and engineering services during construction. Those services would be negotiated at that time and authorized separately.

6.0 PROPOSED MODIFICATIONS TO THE SCOPE OF SERVICES

OMWD is interested in the Consultant’s creative ideas to improve the scope of services and they should be clearly identified in the Proposal.

7.0 OMWD FURNISHED SERVICES TO SELECTED CONSULTANT

The following information and services will be made available to the Consultant by OMWD:

- Provide information on its current and planned vehicle fleet and current charging stations.
- Arrange for meetings with its engineering and operations staff to gather information and review approaches, planning, and designs.
- Furnish copies of record drawings, project reports and related materials. Any original materials provided by OMWD or developed by the Consultant during the duration of the project shall be returned to OMWD upon the completion of services.
- Answer questions regarding the Project at any time during all phases of the work.
- Make initial contact with agencies and assist Consultant with coordination.

8.0 SPECIAL CONSIDERATIONS

None.

## 9.0. PROPOSAL REQUIREMENTS

Written proposals are to include at a minimum a detailed a discussion of the Consultant's approach to the project including a breakdown and explanation of project tasks, an estimation of hours for individual tasks and sub-tasks by the Consultant and any sub-consultant(s), and documentation of the Consultant's and subconsultant(s) qualifications for the Scope of Work. An estimation of hours with costs are to be provided with the Proposal. The cost analysis shall include the identity, classification, and estimated hours for personnel and allowable direct costs.

The Proposal should be concise, well organized, and should demonstrate the responder's qualifications and experience related to the project. Responders will be evaluated based on the information submitted according to the following.

### Executive Summary

Include a short summary of the entire Proposal describing the highlights of the Proposal.

### Identification of Responder

- Legal name and address of company.
- Legal form of company (partnership, corporation, joint venture, etc.). If the company is a joint venture, identify the members of the joint venture and provide all information required under this section for each member. If company is a wholly owned subsidiary of a "parent company," identify the "parent company."
- Number of years the company has maintained a local office.
- Number of employees in the office.
- Name, title, address, and telephone number of person to contact concerning the Proposal.
- Name, title, address, and telephone number of person who will sign the agreement if selected for the project.

### Experience

Describe the Consultant's experience in completing similar consulting efforts. List at least three (3) successfully completed similar projects, and include the following information about the client for each project: the client's name, project manager/contact person, and phone numbers. Also describe the type of work performed, date initiated, date completed (if applicable), and value of consulting contract. OMWD will consider consulting projects currently being performed. Identify the role of the key personnel proposed for OMWD's project. Present the experience of any specialty consultants.

### Proposed Approach to Accomplish the Work

The project approach section shall set forth the Consultant's plan and ideas for organizing the work and achieving the objectives identified in this RFP. It should identify specific



stages of the work, project constraints, tasks, task order and work products. The Proposal should: 1) discuss the Consultant's plan for coordinating efficiently and effectively with OMWD staff, 2) provide an overview project schedule for completing the planning and design work considering your staff and current workload, 3) include a list of anticipated deliverables, and 4) offer creative ideas or enhancements to improve project approach and scope and meet OMWD's objectives.

#### Project Team, Project Organization, and Key Personnel

Provide an organization chart and proposed staffing plan, based upon the scope of work, and estimated project schedule, showing personnel by title, position, and name. Staff shown in the Proposal will be assumed to be available for the duration of the contract. For each of the key personnel identify their main work location.

Describe the specific qualifications and capabilities of the designated project manager and support staff. The Proposal should identify all individuals who will perform and oversee work on this project. Indicate the role and responsibilities of the prime consultant and all subconsultants. Key personnel assigned to the project shall not be reassigned without prior approval and the Consultant shall request approval of OMWD before any new personnel are assigned to the project. OMWD reserves the right to reject or remove personnel performing services in this contract in its sole discretion.

#### Statement on Conflicts of Interest and Comments on OMWD Standard PSA

The Consultant shall submit a statement verifying personal and organizational conflicts of interest prohibited by law do not exist, in conformance with OMWD's Standard Agreement for Professional Services (Exhibit A). Any documentation required by OMWD shall be submitted by the Consultant and all subconsultants.

The Consultant shall provide as a separate appendix to their Proposal (not part of the maximum page count), any substantive comments or exceptions related to their ability and willingness to sign OMWD's Standard Agreement for Professional Services. Any significant or substantive comments brought forth by the selected Consultant after the selection process is completed may be cause for rejection.

#### Consultant Proposed Scope of Work, Hours, and Cost Proposal

A proposed Scope of Work shall be submitted as an Appendix to the Proposal. The Consultant shall use the draft scope as the minimum work expected for completion of the project. If the Consultant determines additional scope items are required for the project, they shall include them in the scope of work and identify them as such. Provide a brief description of each item in the proposed scope of work which clearly describes the level of effort for that item. Consultant shall provide a Scope of Work for the Concept Plan only.

A cost proposal shall also be submitted with the Proposal which states a total fee, not-to-exceed upper limit for the work. Payment for professional services will be time and material based on: (1) actual base hourly labor rates, and (2) direct costs. The only direct costs allowed to be billed by the Consultant and subconsultants are: mileage at the IRS rate, report printing, blueprinting, and postage. OMWD will not pay any markup for reproduction costs, or other direct costs. Costs for IT, MIS, computer usage, overhead resource charges, and similar related costs should be included in each individual labor rate. Separate charges or multipliers will not be considered by OMWD.

Provide an estimated cost analysis for the following items:

- Total fee for each task listed in the Scope of Work
- Labor (personnel classifications, estimated hours and hourly rates)
- Direct costs
- Subcontracts

The Consultant's fee estimate shall fully detail estimated costs. Columns shall be used to present labor hours and billing rate for each labor category or individual and each subcontractor. Columns shall be included for total estimated labor hours, total labor cost, total direct cost, and overall total cost. Cost lines shall be presented for each task and summarized by phase. The Fee Estimates shall be provided in a single table with a total sum at the bottom for both efforts.

Based on proposals, OMWD reserves the right to award only Phase 1 and may re-assess the approach to Phase 2 based on budgeting and the results of the CARB exemption application. The professional services agreement (PSA) may be structured with an option for OMWD to continue with the selected consultant for the final design of project facilities, following successful completion of the initial phases.

Monthly invoices shall identify each person's actual hours on the project and must include a narrative of the work performed during the previous month, as well as invoiced previously, current invoice amount, and contract remaining. Supporting invoices for direct and subcontracted costs must be included with invoice. Provide an hourly rate schedule for each labor classification for the Consultant and each subconsultant. Rate schedules shall specify an effective term and a maximum annual increase for time extending beyond the effective term. The rates may be used as the basis of payment for extra work outside the contract scope of services, but which is performed by the Consultant after specifically requested in writing by the Consultant and authorized in writing by OMWD.

## 10.0 SUBMITTAL REQUIREMENTS

Submit to OMWD, one (1) executed document, in an electronic format (smart PDF) with navigable bookmarks via email to [prebid@olivenhain.com](mailto:prebid@olivenhain.com).

The Proposal shall not exceed fifteen (15) one-sided pages (8-1/2" x 11") in length, excluding front and back cover, dividers, resumes and organizational chart, and appendices. Limit resumes to a maximum of two (2) pages each. The Proposal shall be signed by an individual or individuals authorized to execute legal documents on behalf of the Consultant. Proposals and/or modifications thereto received subsequent to the hour and date specified herein will not be considered. Limit the use of standardized marketing literature. Excessive marketing literature may not be reviewed.

**The Proposal must be received no later than 2:00 p.m. PST, on Thursday, February 8, 2024 to:**

prebid@olivenhain.com  
OLIVENHAIN MUNICIPAL WATER DISTRICT  
ATTN: Diana Spencer  
Engineering Department Assistant

#### 11.0 PRE-SUBMITTAL ACTIVITIES

Questions concerning this RFP should be directed in writing by email to prebid@olivenhain.com. The header of the email should clearly state the reference project. **The deadline to submit questions is 2 pm, Friday, January 26, 2024.**

The Consultant shall not contact other agencies potentially involved in the Project.

No pre-proposal meeting will be held regarding this RFP. Individual 30-minute technical meetings with consultant teams who are seriously competing for the project will be scheduled. The meetings are intended to answer questions and discuss ideas, which will be kept confidential. Do not discuss team qualifications at the meetings. Prior to the meetings, the interested consultant teams should have thoroughly reviewed background materials. The proposed consultant project manager and project engineer should attend the meeting at a minimum. **To schedule a meeting, please submit a request to Diana Spencer, Engineering Department Assistant, at [prebid@olivenhain.com](mailto:prebid@olivenhain.com) by Wednesday, January 17, 2024.** Technical meetings will be held no later than Wednesday, January 24, 2024; so consultant teams are encouraged to schedule meetings as soon as possible after the RFP is released.

OMWD reserves the right to revise the RFP before the date Proposals are due. Revisions to the RFP will be posted to website for all potential proposers. OMWD reserves the right to extend the date by which the Proposals are due.

## 12.0 CONSULTANT NOMINATION AND SELECTION PROCESS

A Consultant Selection Panel (Panel) will be established for this project and will include representatives from OMWD, and possibly outside agencies. The Panel will evaluate the Proposals based on the information submitted.

OMWD anticipates selecting a consultant based on the proposals received but reserves the right to interview selected consultants. OMWD will rank the finalists as to qualifications and select the successful consultant.

If necessary, OMWD will enter into negotiations with the selected consultant. The scope of work provided in the Proposal will be used as a basis for contract negotiations. Negotiations will cover: scope of work, contract terms and conditions, and price. If OMWD is unable to reach an acceptable agreement with the selected consultant, OMWD will terminate negotiations with the selected consultant and negotiations with the second ranked consultant will be initiated.

After negotiating a proposed agreement that is fair and reasonable, the negotiating team will recommend to the General Manager to enter into the proposed agreement. Depending on the negotiated scope and fee, the agreement may be presented to the Board of Directors for consideration at the next regularly scheduled meeting.

## 13.0 EVALUATION CRITERIA

The Proposals will be evaluated based on the minimum following criteria. Other factors may be taken into account by OMWD during Proposal review.

### 13.1 Approach to Work (30%)

- Understanding of project and objectives
- Responsiveness to issues identified in RFP
- Level of detail discussed
- Creative, efficient, and cost-effective ideas and methods for the design and construction of the project
- Other issues not addressed in RFP but deemed essential to the effective conduct of the project
- Tasks clearly defined
- Activities well-coordinated
- Flexibility to changes in scope and schedule
- Provisions for technical and quality control
- Completeness of the fee estimate considering the proposed scope of work

13.2 Project Manager and Team Qualifications (30%)

- Specialized Qualifications and geographic location of the Project Manager and Team
- Involvement and commitment of key personnel
- Ability to perform within schedule with assigned staff
- Current depth of technical expertise in the Consultant and its subconsultants

13.3 Project Experience (40%)

- Experience and Performance of the project team on similar projects
- Proven specialization of the project team on similar projects in the industry
- Complexity and geographic location of the project experience

14.0 SCHEDULE FOR NOMINATION, SELECTION, AND AWARD

OMWD anticipates the process for nominating and selecting a consultant, and awarding the contract, will be according to the following tentative schedule:

- |   |                                 |
|---|---------------------------------|
| • RFP Issued                              | December 29, 2023               |
| • Deadline to Request a Technical Meeting | January 17, 2024                |
| • Last Day for Technical Meeting          | January 24, 2024;               |
| • Deadline for Questions                  | January 26, 2024; 2 pm PST      |
| • Proposals Due                           | February 8, 2024; 2 pm PST      |
| • Interviews (If Needed)*                 | Late February/Early March, 2024 |
| • Notification of Selection*              | March 2024                      |
| • Contract Negotiations*                  | March/April 2024                |
| • Board Award (if Needed)*                | April/May, 2024                 |
| • Notice to Proceed*                      | May/June, 2024                  |

\*Anticipated date; scheduled date impacted if consultant interviews are added to selection process.

15.0 SPECIAL CONDITIONS

This RFP does not commit OMWD to award a contract, to defray any costs incurred in the preparation of a proposal pursuant to this RFP, or to procure or contract for work.

All proposals submitted in response to this RFP become the property of OMWD and are public records, and as such may be subject to public review.

OMWD reserves the right to cancel, in part or in its entirety, this RFP including, but not limited to selection schedule, submittal date, and submittal requirements. OMWD reserves the right to reject all proposals and terminate the project. If OMWD cancels or

revises the RFP, rejects all proposals or terminates the project, all proposers will be notified in writing by OMWD.

OMWD reserves the right to request additional information and/or clarifications from any or all proposers to this RFP.

The selected consultant will be required to sign an Agreement for Professional Services (Exhibit A) and to provide the Insurance Certificates and all other required documentation within ten (10) calendar days of notification of selection.

**Proposals are due February 8, 2024 at 2:00 p.m.**

Attachments:

Exhibit A – Draft Professional Services Agreement

**PROFESSIONAL SERVICES AGREEMENT**  
**[INSERT PROJECT NAME OR PROVIDED SERVICES]**  
**FOR THE OLIVENHAIN MUNICIPAL WATER DISTRICT**

23AGR0XX  
PROJECT NUMBER

This Agreement is entered into by and between the Olivenhain Municipal Water District, a Municipal Water District organized and operating pursuant to Water Code Sections 71000 *et seq.* (hereinafter the District) and CONSULTANT NAME, a California corporation organized and operating in the State of California (hereinafter “CONSULTANT”).

**R-E-C-I-T-A-L-S**

1. The District is a public agency organized and operating pursuant to Water Code Sections 71000 *et seq.*, which provides water, recycled water, and sewer service within certain areas of Northern San Diego County.
2. The District requires the services of an [TYPE OF COMPANY] to provide [SERVICES] with in the District boundaries.
3. CONSULTANT is an [TYPE OF COMPANY] licensed to do business in the State of California with [EXPERTISE]
4. The District desires to retain CONSULTANT to provide [SERVICES TO BE PROVIDED].

**C-O-V-E-N-A-N-T-S**

1. Services to Be Performed. CONSULTANT agrees to perform [SERVICES TO BE PERFORMED AND PROJECT NAME]. The services to be provided by CONSULTANT are more particularly described in the Scope and Cost Proposal attached hereto as Exhibit “A” and incorporated herein by reference. All work performed by CONSULTANT shall be subject to review and approval by the District. The District shall have no obligation to approve any work found defective by the District, in its sole discretion.

2. Correction of Defective Work. CONSULTANT agrees to correct all labor or materials found defective by the District at its sole cost and expense. All work found defective by the District shall be corrected in the time specified by the District by written notice to CONSULTANT.

3. Price for Work. CONSULTANT agrees to perform all work described in Exhibit "A" for a total price not to exceed \$XX,XXX. No increase in this price shall be allowed without the express written consent of the District. The District shall have no obligation to grant this consent and may deny consent to any price increase, in its sole discretion.

4. Payment for Work. CONSULTANT shall bill the District monthly for all labor and materials provided during the previous month. All billings shall include a complete description of all work completed during the previous month, including hours and costs of each person performing the work and shall also include a detailed description of progress to date on each task of work described in Exhibit "A". All bills shall be subject to review and approval by the District. Invoices approved by the District will be paid on a monthly basis thirty (30) days after the invoice has been approved by the District. The District shall have no obligation to pay for any work not expressly approved by the District. The District's approval shall not be unreasonably withheld. CONSULTANT shall provide the District with any additional information requested by the District from time to time to support any item contained on an invoice no later than seven (7) days after a written request for this information from the District. Markup on subconsultants as specified in the Request for Proposal (RFP).

5. Extra Work. The District may request additional work or services from CONSULTANT from time to time, as the District shall determine, in its sole discretion. CONSULTANT shall not commence any extra work without a written change order expressly approved by the District, in writing. Work performed by CONSULTANT without an approved change order signed by the District will not be paid for by the District. In the event the District determines that additional work is justified, the parties shall agree on the additional work to be performed and the price to be paid for this additional work prior to commencement of any additional work by CONSULTANT. It is understood by the parties that CONSULTANT shall not be entitled to any payment for extra work unless the District determines that it desires extra



work to be performed and a written change order has been executed by the parties. Attached as Exhibit “B” is the Request for Additional Work Form required by the District for all requests for additional work or task transfers.

6. Standard of Care. In performing all work and services required by this Agreement, CONSULTANT agrees to use the highest degree of skill and expertise ordinarily exercised, under similar circumstances, by a [INSERT CONSULTANT TYPE] with expertise in [EXPERTISE] and the other services described in the Scope and Cost Proposal attached as Exhibit “A”. As a material term of this Agreement, CONSULTANT warrants and represents that it has secured all licenses required by federal or California law to perform all work and services required by this Agreement. CONSULTANT agrees to perform all work required by this Agreement at all times in strict accordance with all applicable federal, state, and local laws and regulations which apply to the labor or materials being provided.

7. Work Performance Standards. CONSULTANT agrees to perform all work and services required by this Agreement in a manner which complies with all federal and state health and safety standards and in a manner which avoids damage or injury to any real or personal property of any person or entity, including any real or personal property of the District. CONSULTANT agrees to perform the work at all times in a manner which avoids the creation of any trespass or private or public nuisance during conduct of the work.

8. Liability for Work of Agents, Independent Contractors, and Subcontractors. CONSULTANT shall be solely liable and responsible for all labor and materials provided by any director, officer, agent, employee, subcontractor, supplier, or independent contractor hired or retained by CONSULTANT to perform any work or to provide any materials or supplies. The District shall have no liability whatsoever for any work or services performed or any materials or supplies provided by CONSULTANT or its directors, officers, agents, employees, subcontractors, suppliers, or independent contractors.

9. Time for Completion of Services. As a material term of this Agreement, CONSULTANT agrees to complete all work and services required by this agreement by no later than DATE. The breach of this paragraph shall constitute a material breach of this Agreement.

10. District Termination Right. The District shall have the express right to terminate this Agreement at any time without cause by giving seven (7) consecutive days advance written notice to CONSULTANT. This Agreement shall be automatically terminated without further action of any party upon expiration of the seven (7) day period. Promptly upon receipt of any termination notice from the District, CONSULTANT shall cease all further work and services, except as otherwise expressly directed by the District in the written termination notice. In the event the District exercises its termination right, CONSULTANT shall be paid only for work and services performed and approved by the District to the date this Agreement terminates. The District shall have the express right to withhold any payment otherwise due CONSULTANT to correct any labor or materials determined to be defective by the District at the time of termination. All plans, maps, drawings, reports, designs, or other writings of any type or nature prepared by CONSULTANT as a result of this Agreement shall become and remain the sole property of the District. All such writings shall be provided to the District not later than seven (7) consecutive days after termination of this Agreement for any reason. All labor, supplies, work and materials provided by CONSULTANT in conjunction with this Agreement shall become and remain the sole property of the District.

11. Hazardous and Toxic Waste. For purposes of this section, the term “hazardous or toxic waste” means any solid, liquid, or gaseous product classified as a hazardous or toxic waste under any federal, state, or local laws, rules, regulations, or ordinances, and all gas and oil products and by-products of every kind or nature. CONSULTANT shall be solely liable and responsible for the proper clean-up and removal of all hazardous or toxic waste used, handled, stored, or spilled by CONSULTANT or any director, officer, agent, employee, subcontractor, independent contractor or representative of CONSULTANT. CONSULTANT shall pay all fees, costs, expenses and fines necessary to clean-up or remediate any hazardous or toxic waste for which CONSULTANT is liable under this paragraph in strict accordance with all federal, state and local laws, rules and regulations at CONSULTANT’s sole cost and expense. CONSULTANT shall not be liable for any hazardous or toxic waste used, handled, stored or spilled by the District or its directors, officers, employees or contractors.

In the event any third party, including any regulatory agency, brings any claim or cause of action against the District to clean-up or remediate any hazardous or toxic waste for which

CONSULTANT is liable under this section, CONSULTANT shall also indemnify and hold harmless the District and its directors, officers, agents, and employees from all claims, actions, losses, costs, fees, expenses, fines, and penalties, of whatever type or nature, including all costs of defense and attorneys fees, upon written demand for indemnity from the District.

12. Independent Contractor. As a material term of this Agreement, it is expressly agreed between the parties that CONSULTANT is performing all work and services for the District pursuant to this Agreement as an independent contractor and not as an agent or employee of the District. The parties further agree and acknowledge that the District expects CONSULTANT to make its own independent determination of the means and methods to perform all work required by this Agreement, and will not be directed as to any of these means or methods by the District.

13. Conflicts of Interest Prohibited. As a material term of this Agreement, CONSULTANT shall not in any way attempt to use its position to influence any decision of the District in which it knows, or has reason to know, its has a financial interest other than the compensation provided in this agreement. As a material term of this Agreement, CONSULTANT warrants and represents that it does not, to the best of its knowledge, have any economic interests which would conflict with any of its duties under this Agreement. CONSULTANT agrees not to secure any economic interest during the performance of this Agreement which conflicts with its duties to the District under this Agreement.

14. Breach. The breach of any term or provision of this Agreement by CONSULTANT shall constitute a material breach of this Agreement.

15. District Remedies for Breach. In the event CONSULTANT breaches any term, covenant, or condition of this Agreement or fails to perform any work or services required by this Agreement, the District shall be entitled to elect all or any of the following remedies at the District's sole option:

15.1 Unilateral Termination. Unilaterally terminate this Agreement by written notice to CONSULTANT. Upon election of this remedy by the District, Paragraph 10 governing District Termination Right shall apply; or

15.2 Specific Enforcement. Enforce any provision of this Agreement by specific performance. If this remedy is elected by the District, CONSULTANT agrees that specific performance is appropriate and reasonable given the unique and special services being performed by CONSULTANT and expressly waives the right to contest the right of the District to seek specific performance in any subsequent action or proceeding between the parties; or

15.3 File suit against CONSULTANT for damages arising from breach of this Agreement. In the event the District elects this remedy, it shall be entitled to recover all damages authorized by law; and/or

15.4 The District shall be entitled to withhold such amounts as the District determines are appropriate, in its sole discretion, to complete the work or services required by this Agreement, or to correct any labor or materials resulting from CONSULTANT's negligence.

In the event the District is required to pay any sum or amount to complete any labor or materials services required by this Agreement, or to correct any labor or materials resulting from CONSULTANT's negligence, amounts paid by the District shall earn interest at the rate of one percent (1%) per month from the date of payment until the District is repaid in full.

16. Insurance. At all times during the term of this Agreement, CONSULTANT must maintain a commercial liability insurance policy, workers' compensation insurance, and professional liability insurance in strict accordance with all terms of this paragraph. The insurance required by this paragraph shall be provided as follows:

16.1 Liability Insurance. Following execution of this Agreement, and prior to commencement of any work, CONSULTANT shall provide the District with proof of liability insurance coverage with an insurance company licensed to do business in the State of California and acceptable to the District, providing \$1,000,000 of coverage per occurrence and \$2,000,000 minimum aggregate. The liability insurance coverage shall include each of the following types of insurance:

**A. General Liability:**

- |                                  |   |
|----------------------------------|---|
| 1. Comprehensive Form            | 6. Contractual Insurance                                      |
| 2. Premises-Operations           | 7. Broad form Property Damage, Including Completed Operations |
| 3. Explosion and Collapse Hazard | 8. Independent Contractors                                    |
| 4. Underground Hazard            |   |

5. Projects/Completed Operations Hazard 9. Personal Liability

**B. Auto Liability**

1. Comprehensive Form
2. Owned
3. Hired

The policy shall include contractual coverage sufficiently broad to insure the matters set forth in the section entitled “Indemnity” in this Agreement. The deductible amount shall not exceed \$5,000.00. Also included in such insurance shall be a “cross-liability” or “severability of interest” clause.

16.2 Workers’ Compensation Insurance. Following execution of this Agreement and prior to commencement of any work, CONSULTANT shall submit proof of insurance showing they have obtained, for the period of the agreement, full workers’ compensation insurance coverage for no less than the statutory limits covering all persons whom CONSULTANT employs or may employ in carrying out the work under this agreement.

16.3 Professional Liability Insurance. Following execution of this Agreement, and prior to commencement of any work, CONSULTANT shall provide the District with proof of professional liability insurance with an insurance provider licensed to do business in the State of California, providing \$1,000,000 of coverage per occurrence and \$2,000,000 minimum aggregate. This insurance shall have a deductible not to exceed \$5,000.

16.4 ACORD Certificate of Liability Insurance and Additional Insured Endorsements. All insurance required by Paragraph 16.1, 16.2, and 16.3 of this agreement shall be submitted on an ACORD Certificate of Liability Insurance. Insurers must be authorized to do business and have an agent for service of process in the State of California and have an ‘A’ financial strength rating and a financial size rating of at least Class VI in accordance with the most current A.M. Best’s Rating Guide. Additional Insured Endorsements must be provided for the Liability Insurance called out in Paragraph 16.1 with the **Olivenhain Municipal Water District (District), the District’s Engineer/Architect, the District’s Representatives, Consultants, and each of the District’s Directors, Officers, Agents, and Employees** named as additional insureds. The insurance must include a Waiver of Subrogation and must be Primary

and non-Contributory. The additional insured endorsements must be provided on Form CG 20 10 10 01. The insurance certificate and endorsements shall be cancelable with notice delivered to the District in accordance with the policy provisions.

17. Job Site Safety. CONSULTANT shall be solely liable and responsible for complying with all federal, state and local laws, rules and regulations pertaining to job safety for all agents, employees, subcontractors, suppliers, and independent contractors retained by CONSULTANT to perform any work or services or to provide any materials required by this Agreement. However, CONSULTANT shall not be liable or responsible for overall job site safety or the job site safety for any workers or agents employed by any construction contractor performing any work for the District on any construction project.

18. Indemnity. As a material term of this Agreement, CONSULTANT agrees to hold harmless, indemnify, and defend the District and its directors, officers, employees, agents, and representatives from and against any and all demands, liability, claims, suits, actions, damages, costs, fees, expenses, fines, and penalties, of whatever type or nature, including, but not limited to, reasonable attorney fees, to the extent arising out of, pertaining to, or relating to the willful misconduct, recklessness, or negligence of CONSULTANT, including its directors, officers, employees, agents, subcontractors, sub-consultants, suppliers, independent contractors, or other persons and entities employed or utilized by CONSULTANT in the performance of this Agreement. In the event that any administrative proceeding, litigation or arbitration is instituted naming the District or any other indemnified parties as a defendant, the District and such other indemnified parties shall be entitled to appoint their own independent counsel to represent them, and CONSULTANT agrees to pay all reasonable attorneys fees, expert fees and costs, and litigation costs associated with this defense within thirty (30) days of any billing; provided however, that the CONSULTANT's obligation shall be limited as provided by Civil Code Section 2782.8 to the extent that the CONSULTANT establishes its proportionate percentage of fault by stipulation of all the parties to the proceeding or a final adjudicatory determination.

19. Miscellaneous Provisions.

19.1 California Law Governs. This Agreement shall be governed by California law.

19.2 Jurisdiction and Venue. In the event of any legal or equitable proceeding to enforce or interpret the terms and conditions of this Agreement, the parties agree that jurisdiction and venue shall lie only in the federal or state courts in or nearest to the North County Judicial District, County of San Diego, State of California.

19.3 Modification. This Agreement may not be altered in whole or in part except by a written modification approved by the Board of Directors of the District and executed by all the parties to this Agreement.

19.4 Attorneys' Fees. In the event any arbitration, action or proceeding is initiated to challenge, invalidate, enforce or interpret any of the terms of this Agreement, the prevailing party shall be entitled to all attorneys' fees, all expert fees and costs, and all litigation fees, costs, and expenses in addition to any other relief granted by law. This provision shall apply to the entire Agreement.

19.5 Entire Agreement. This Agreement, together with all exhibits attached hereto, contains all representations and the entire understanding between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, or agreements, whether or not such correspondence, memoranda or agreements are in conflict with this Agreement, are intended to be replaced in total by this Agreement and its exhibits. CONSULTANT warrants and represents that no District representative has made any oral representations or oral agreements not contained in this Agreement. CONSULTANT further warrants and represents that CONSULTANT has not relied upon any oral statements or promises made by any District representative or agent in executing this Agreement. The parties mutually declare that this Agreement and its exhibits constitute a final, complete and integrated agreement between the parties.

19.6 Prohibition on Assignment. CONSULTANT shall not be entitled to assign or transfer all or any portion of its rights or obligations in this Agreement without obtaining the express prior written consent of the District. The District shall have no obligation

to give its consent to any assignment and may deny any requested assignment, in its sole discretion.

19.7 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties and on their respective purchasers, successors, heirs and assigns.

19.8 Unenforceable Provisions. The terms, conditions, and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and remain enforceable.

19.9 Representation of Capacity to Contract. Each party to this Agreement represents and warrants that he or she has the authority to execute this Agreement on behalf of the entity represented by that individual. This representation is a material term of this Agreement.

19.10 Opportunity to be Represented by Independent Counsel. Each of the parties to this Agreement warrants and represents that it has been advised to consult independent counsel of its own choosing and has had a reasonable opportunity to do so prior to executing this Agreement.

19.11 No Waiver. The failure of either party to enforce any term, covenant or condition of this Agreement on the date it is to be performed shall not be construed as a waiver of that party's right to enforce this, or any other, term, covenant, or condition of this Agreement at any later date or as a waiver of any term, covenant, or condition of this Agreement. No waiver shall occur unless the waiver is expressly stated in writing and signed by the person for the party having the authority to expressly waive the benefit or provision, in writing. No oral waivers shall be effective against either party.

19.12 No Joint Venture and No Third Party Beneficiaries. Nothing in this Agreement is intended to create a joint venture, partnership or common enterprise relationship of any kind between the District and CONSULTANT. No third parties shall be construed as beneficiaries of any term, covenant or provision of this Agreement.



19.13 Time of Essence. The parties agree that time is of the essence as to all matters specified in this Agreement. The parties mutually declare that this is a material term of this Agreement.

19.14 Notices. All letters, statements, or notices required pursuant to this Agreement shall be deemed effective upon receipt when personally served, transmitted by facsimile machine, or sent certified mail, return receipt requested, to the following addresses or facsimile numbers:

To: "CONSULTANT"  
FULL NAME  
Attn:  
ADDRESS  
CITY, STATE, ZIP  
Fax No. :(XXX) XXX-XXXX

To: "District"  
Olivenhain Municipal Water District  
Attn: General Manager  
1966 Olivenhain Road  
Encinitas, California 92024

19.15 Effective Date. The effective date of this Agreement executed in counterparts in Olivenhain, California, within the North County Judicial District, County of San Diego, State of California, is \_\_\_\_\_, 20XX.

Dated: \_\_\_\_\_, 20XX

Olivenhain Municipal Water District,  
a public agency

By: \_\_\_\_\_  
Kimberly A. Thorner  
General Manager

Dated: \_\_\_\_\_, 20XX

CONSULTANT

By: \_\_\_\_\_

Title: \_\_\_\_\_

DRAFT