

PAUMA VALLEY COMMUNITY SERVICES DISTRICT
REQUEST FOR PROPOSALS
FOR STORM DRAIN MAINTENANCE SERVICES

The Pauma Valley Community Services District (hereinafter "District") is soliciting proposals from qualified entities to provide storm drain maintenance services. This request seeks qualified contracting services to provide for the maintenance of approximately three thousand one hundred and ninety-two (**3,192**) feet of storm drainage infrastructure that includes underground storm drainage pipes and channels. Proposals may propose service to limited sections of the maintenance area as defined in "Exhibit A", or the entire area of requested maintenance as defined in "Exhibit A" ultimately found in "I.X. Attachments" of this Request for Proposal (hereinafter "RFP"). This infrastructure originates at private roadways within the Pauma Valley Country Club Estates, through the District's storm drainage conveyance system which then transitions to a drainage ditch located on the golf course ultimately terminating at the Upper San Luis Rey River. The intent is to establish a thorough initial "clean-up" followed by an optimal cleaning schedule tailored to the District's specific requirements. This "cleaning schedule" would be executed on an annual, or semiannual basis, excluding any as needed post response clean-up outlined in "IV. Scope of Services". The ideal proposal will bill the District via a "monthly basis" as opposed to an "upfront annual basis".

All questions relative to this project should be addressed in writing to the General Manager:

Eric Steinlicht

Pauma Valley Community Services District

Eric.Steinlicht@PaumaValleyCSD.ca.gov

Proposals will be received by the General Manager, preferably via email, at the email address listed above until **12:00 PM (local time) Thursday, May 23rd, 2024**.

The General Manager and District Board of Directors reserves the right to reject any or all Proposals and to waive any irregularities in the information contained therein.

Approved to Advertise as Written:



Eric Steinlicht, General Manager

Date: May 7th, 2024



Request for Proposal

Storm Drain Maintenance and Cleaning Services

For the

Pauma Valley Community Services District

Request for Proposal Issued:

May 7th, 2024, Tuesday, at 4:00 PM

Proposals Due By:

May 23rd, 2024, Thursday, at 12:00 PM

Pauma Valley Community Services District

33129 Cole Grade Road, Pauma Valley

California 92061

Attention:

Eric Steinlicht, General Manager

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I. INTRODUCTION

Qualified entities are invited to submit proposals that align with the District's needs for storm drain maintenance services. The proposal should detail strategies for an annual cleaning schedule, scope of area, and the maintenance of the specified storm drainage infrastructure. The District reserves the right to reject any or all proposals, waive minor deviations, or eliminate proposals with inaccurate or misleading information.

II. BACKGROUND

The Pauma Valley Community Services District, established in 1961 under California Government Code §61000, offers a range of services including security, gate access, and sewer and wastewater services. This RFP is issued in continuation of its mandate to enhance public safety, health, and welfare within its jurisdiction.

III. PURPOSE

The District seeks comprehensive maintenance services for its storm drain infrastructure to ensure efficient operation. Proposals from organizations with proven expertise in this field are solicited to meet these critical maintenance needs. Those interested in submitting proposals may do so based on a specific service area, that is limited to certain sections of the infrastructure defined in "Attachment A", and/or the entire storm drainage infrastructure in need of maintenance services as defined in "Attachment A".

IV. SCOPE OF SERVICES

The selected contractor will be required to:

- Review historical documents/data on the existing storm drain system.
- Conduct a kickoff meeting with written Work Plan (including Gantt chart and details about schedule) for 1-year of service.
- Monthly Progress Reports, followed by an Annual Technical Report.
- Perform Gap Analysis that identifies specific and necessary improvements to mitigate deficiencies and meet storm drainage and water quality objectives.
 - OR a simple Tech Memo that includes ideas for Capital Improvements in the future.
- Create Best Management Practices that support the sustainability of the Storm Drain and Stormwater System components, operation, and maintenance, with an objective to maximize cost efficiencies and reduce long-term liabilities.
- Define the precise area of work your organization proposes to perform based on "Attachment A".

- Create a payment schedule for the initial work, as well as ongoing maintenance services on a “monthly payment plan” basis, in addition to an upfront payment schedule.
 - An ongoing monthly payment plan is highly preferred and will be considered during the selection process.
- Provide necessary work in the case of an emergency,
- Provide cleanup after large or intense storms.
- Notification of illicit connections and discharges, with documentation.
- Notification of dry weather discharges at outfalls into the San Luis Rey River.
- Gain thorough knowledge of the storm drains and infrastructure needing maintenance.
- Assessment of the condition of storm drain infrastructure and reporting any damage or necessary repairs.
- Maintain effective communication with all relevant parties as directed by the General Manager and conduct regular meetings with the District's General Manager.
- Develop and adhere to the recommended cleaning schedule for regular inspection and cleaning of storm drain infrastructure.
- Removal of debris, sediment, and other obstructions from storm drain lines, catch basins, and other components.
- Implementation of erosion control measures as needed.
- Compliance with all relevant environmental regulations and permits.
- Minimize damage to the Pauma Valley Country Club golf course.
- Maintain professional conduct.
- Supply photographic evidence of maintenance areas pre-service and post-service.
- Provide a fee schedule based on a flat annual rate that can be paid via monthly payments.

V. PROPOSAL REQUIREMENTS

Proposals should be concise, limited to 3-5 pages (excluding references and credentials), and address the following:

- Experience and qualifications of the company and its personnel.
- Expertise and approach to storm drain maintenance.
- References from similar projects, particularly from California public agencies.
- Operational details, achievements, affiliations, legal history, and any additional qualifications.

- Disclosure of current and past clients within the District's boundaries and conflict of interest details.
- Proposed compensation structure.
- Insurance liability coverage and tax documentation (W9).

VI. SUBMITTAL REQUIREMENTS

Proposals must be submitted via email, or in five copies if provided via physical delivery, **by 12:00 PM local time on May 23rd, 2024**, to the attention of Eric Steinlicht, General Manager. The proposal must fulfill all stipulated requirements of this RFP to be considered.

VII. EVALUATION AND SELECTION PROCESS

Proposals will be evaluated based on their compliance, qualifications, proposed methodology, proposed area of service, and fee structure. The evaluation will be conducted by the Board of Directors or a Standing Committee. Proposals must include an executive summary, qualifications, fee proposal, references, and an acknowledgement of agreement with the RFP terms.

VIII. GENERAL CONDITIONS

The District reserves the right to modify or cancel the RFP language as described here:

- Act as an independent contractor.
- Adhere to non-discrimination policies.
- Claim ownership of work products.
- Require compliance with conflict-of-interest statutes.

Selected proposers must sign the Standard Professional Services Agreement as attached in this RFP as seen in "EXHIBIT B" and meet District insurance requirements.

Proposals become the property of the District and are subject to public record laws. By submitting a proposal, the proposer agrees to all conditions outlined in this RFP.

For inquiries, contact: Eric Steinlicht, General Manager

Email: Eric.Steinlicht@PaumaValleyCSD.ca.gov

Phone: 760-742-1909

XI. ATTACHMENTS

EXHIBIT A

(see the following page)

EXHIBIT A.1

The "Yellow Arrows" indicate the beginning and end points of the Storm Drain Maintenance Area. "Red Arrows" indicate discharge points on the 8th Fairway golf course. The "Red Lines" indicate the length of the Storm Drain Maintenance and Cleaning Area Required (subject to modification at the discretion of the District General Manager or Board of Directors).



EXHIBIT A.2

Below illustrates the concrete storm drain channel located on the Pauma Valley Country Club property, utilizing a measurement tool on the District Geographic Information System (GIS), it is approximately one thousand feet of a storm drainage channel.



EXHIBIT A.3

Below indicates the storm drainage channel origination point on Paauwe Drive. Utilizing a measurement tool on the District GIS, it is approximately three hundred and fifty-eight (358) feet.

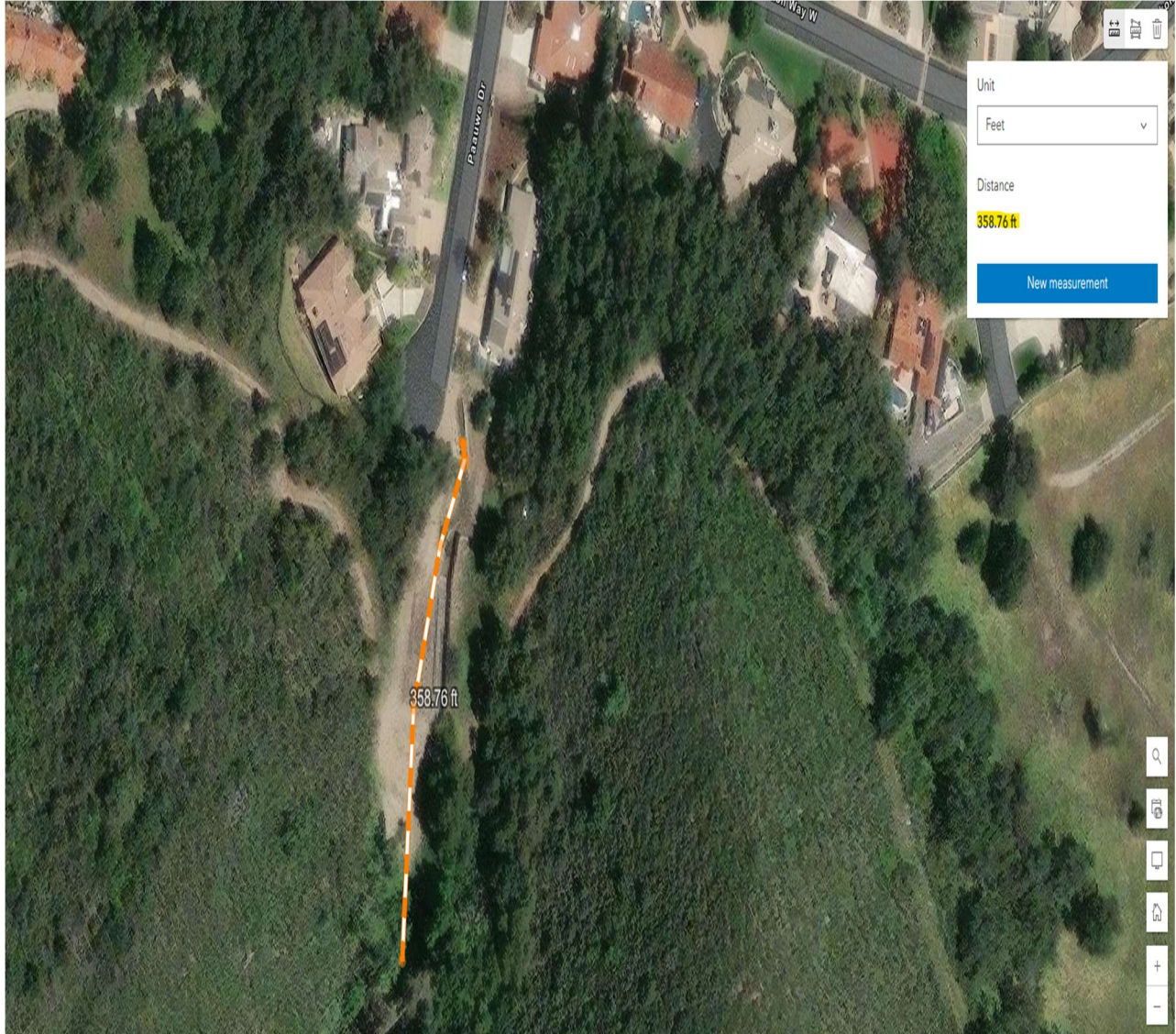


EXHIBIT A.4

Below indicates the storm drainage pipe on Paauwe Drive. Utilizing a measurement tool on the District GIS, it is approximately seven hundred and two (702) feet.

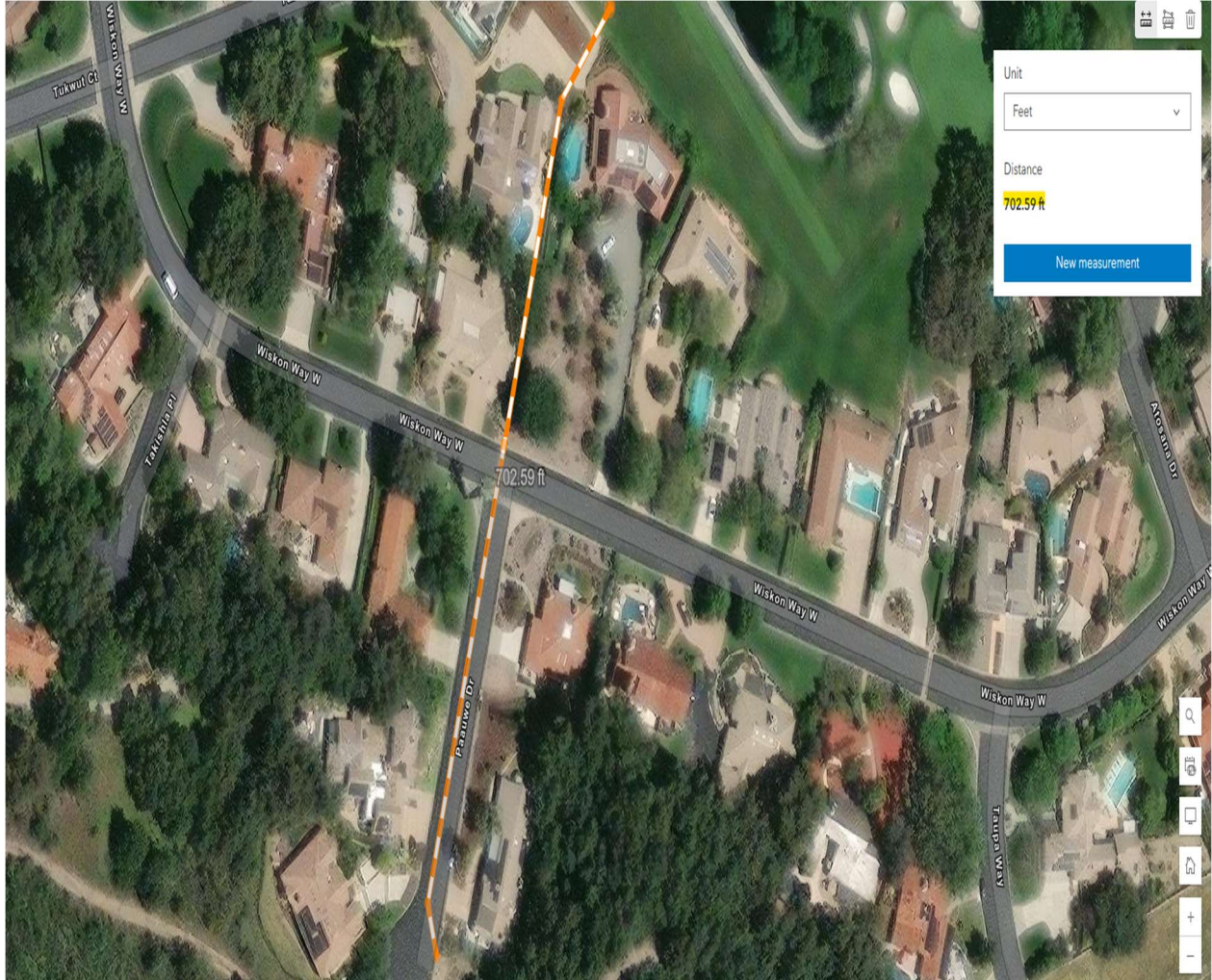


EXHIBIT A.5

Below indicates the storm drainage pipe on Tukwut Court. Utilizing a measurement tool on the District GIS, it is approximately one thousand one hundred and thirty-one (1,131) feet.

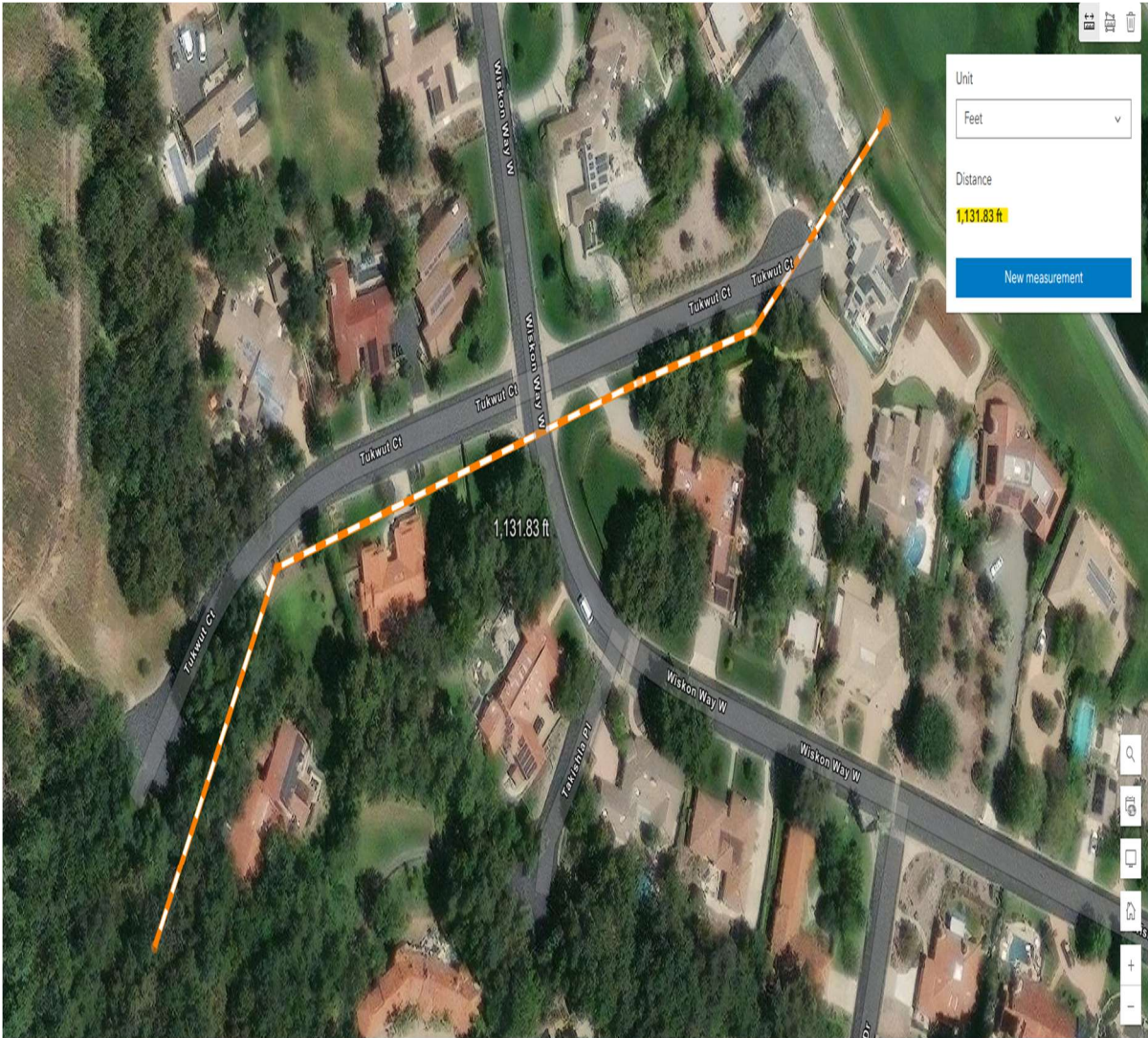


EXHIBIT B

**PROFESSIONAL SERVICES AGREEMENT BETWEEN THE
PAUMA VALLEY COMMUNITY SERVICES DISTRICT AND
(AWARDED CONTRACTOR) FOR
STORM DRAIN MAINTENANCE AND CLEANING SERVICES**

This Professional Services Agreement (“Agreement”) is made on this (INSERT DAY) day of (INSERT MONTH), 2024, between PAUMA VALLEY COMMUNITY SERVICES DISTRICT (“PVCSD”), and (CONTRACTOR AWARDED) (“CONTRACTOR”), an independent contractor, with a principal place of business in (LOCATION), California.

**ARTICLE 1
TERM OF CONTRACT**

1.01 This Agreement will become effective on the date stated above, and will continue in effect until the earlier of the completion of services provided for in this Agreement or until terminated as provided under Article 7.

**ARTICLE 2
SERVICES TO BE PERFORMED BY CONTRACTOR**

Specific Services

2.01 CONTRACTOR will perform the deliverables within the scope described in “Exhibit A” found in “Attachment’s on the Request for Proposal”. CONTRACTOR will provide PVCSD with periodic reports regarding the progress of services performed, at request pf PVCSD. Any changes to the scope of services or timeframes identified in “Request for Proposal for Storm Drain Maintenance Services” must be authorized by PVCSD in writing and shall be set forth as an amendment to this Agreement.

2.02 CONTRACTOR will determine the method, details, and means of performing the above-described services.

Status of CONTRACTOR

2.03 CONTRACTOR and its employee(s) are engaged in an independent contractor relationship with PVCSD in performing all work, duties and obligations hereunder. PVCSD shall not exercise any control or direction over the methods by which CONTRACTOR shall perform its work and functions. PVCSD’s sole interest and responsibility is to ensure that the services covered by this Agreement are

performed and rendered in a competent, satisfactory and legal manner. The parties agree that no work, act, commission or omission of CONTRACTOR or its employee(s) pursuant to this Agreement shall be construed to make CONTRACTOR or its employee(s) the agent, employee or servant of PVCSD. CONTRACTOR and its employee(s) are not entitled to receive from PVCSD vacation pay, sick leave, retirement benefits, Social Security, workers' compensation, disability benefits, unemployment benefits or any other employee benefit of any kind.

Payment of Income Taxes

2.04 CONTRACTOR shall be solely responsible for paying all federal and state employment and income taxes, for carrying workers' compensation insurance and for otherwise complying with all other employment law requirements with respect to CONTRACTOR or its employee(s).

2.05 To the maximum extent allowable by law, CONTRACTOR agrees to indemnify, defend and hold PVCSD harmless from any and all liability, damages or losses (including attorneys' fees, costs, penalties and fines) PVCSD suffers as a result of (a) CONTRACTOR's failure to meet its obligations under paragraph 2.04, or (b) a third party's designation of CONTRACTOR or its employee as an employee of PVCSD, regardless of any actual or alleged negligence by PVCSD.

Compliance with Laws/Rules

2.06 CONTRACTOR will perform all services under this Agreement in good faith and in the best interests of PVCSD. In performing the services specified in this Agreement, CONTRACTOR agrees to comply with all laws, rules, regulations and ordinances, whether federal, state or local, and any and all PVCSD policies, procedures, departmental rules and other directives applicable to the services to be performed and provided by PVCSD's Project Manager to the CONTRACTOR, including, but not limited to, PVCSD's Contractor Safety Policies and Procedures. Any changes to PVCSD policies and procedures that relate to CONTRACTOR will be provided to CONTRACTOR in writing. CONTRACTOR agrees to review such policies, procedures, rules and directives the contents of which CONTRACTOR will be deemed to have knowledge.

2.07 CONTRACTOR shall ensure that any report generated under this Agreement complies with California Government Code section 7550.

2.08 CONTRACTOR shall comply with all of the following requirements with respect to any services as a Building/Construction Inspector, Field Soils and Material Tester, or Land Surveyor, as those trades are defined by the California Department of Industrial Relations ("DIR").

2.08.1 CONTRACTOR agrees to comply with and require its subcontractors to comply with the requirements of California Labor Code sections 1720 et seq. and 1770 et seq., and California Code of Regulations, title 8, section 16000 et seq. (collectively, "Prevailing Wage Laws") and any additional applicable California Labor Code provisions related to such work including without limitation payroll recordkeeping requirements. CONTRACTOR and its subcontractors shall pay not less than the prevailing rate of per diem wages as determined by the Director of the DIR for all services described in Section 2.08 of this Agreement and as required by law. The general prevailing wage determinations can be found on the DIR website at: <http://www.dir.ca.gov/dslr>. Copies of the prevailing rate of per diem wages may be accessed at PVCSD's administrative office, and shall be made available upon request. CONTRACTOR shall make copies of the prevailing rates of per diem wages for each craft,

classification or type of worker needed to execute the services described in Section 2.08 of this Agreement available to interested parties upon request, and shall post and maintain copies at CONTRACTOR'S principal place of business and at all site(s) where services are performed. Penalties for violation of Prevailing Wage Laws may be assessed in accordance with such laws. For example, CONTRACTOR shall forfeit, as a penalty to PVCSD, Two Hundred Dollars (\$200) for each calendar day, or portion thereof, for each workman paid less than stipulated prevailing rates for services performed under this Agreement by him, or any subcontractor under him, in violation of Prevailing Wage Laws. CONTRACTOR shall defend, indemnify and hold PVCSD and each of their respective officials, officers, directors, employees, agents and volunteers free and harmless from any claims, liabilities, costs, penalties or interest arising out of the failure or alleged failure of CONTRACTOR or its subcontractors to comply with Prevailing Wage Laws.

- 2.08.2 CONTRACTOR and each of its subcontractors shall keep accurate payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by CONTRACTOR or subcontractor in connection with the services performed pursuant to this Agreement. Each payroll shall be certified, available for inspection, and copies thereof furnished as prescribed in California Labor Code section 1776, including any required redactions. CONTRACTOR shall keep PVCSD informed as to the location of the records and shall be responsible for the compliance with these requirements by all subcontractors. CONTRACTOR shall inform PVCSD of the location of the payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of any change of location and address. Penalties for noncompliance include a forfeiture of One Hundred Dollars (\$100) per calendar day, or portion thereof, for each worker until strict compliance is effectuated, which may be deducted from any moneys due CONTRACTOR.
- 2.08.3 Eight (8) hours of work shall constitute a legal day's work. CONTRACTOR and any subcontractors shall forfeit, as a penalty to PVCSD, Twenty-Five Dollars (\$25) for each worker employed in the execution of services pursuant to this Agreement by CONTRACTOR or any of its subcontractors for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one (1) calendar day and forty (40) hours in any calendar week in violation of the provisions of the California Labor Code, in particular, sections 1810 to 1815, thereof, inclusive, except services performed by employees of CONTRACTOR and its subcontractors in excess of eight (8) hours per day at not less than one and one-half (1 ½) times the basic rate of pay, as provided in California Labor Code section 1815.
- 2.08.4 CONTRACTOR'S attention is directed to the provisions of California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning employment of apprentices by CONTRACTOR or any of its subcontractors. If applicable to the services to be performed under this Agreement, CONTRACTOR shall comply with such apprenticeship requirements and submit apprentice information to PVCSD. Information relative to apprenticeship standards, wage schedules and other requirements may be obtained from the DIR or from the Division of Apprenticeship Standards. Knowing violations of section 1777.5 will result in forfeiture not to exceed One Hundred Dollars (\$100) for each calendar day of non-compliance pursuant to section 1777.7.
- 2.08.5 CONTRACTOR shall require any subcontractors performing services under this Agreement to comply with all of the above.

**ARTICLE 3
PROJECT TEAM**

3.01 PVCSD has a primary interest in maintaining the individual services of the following key project team members:

1. (CONTRACTOR AWARDED PRINCIPAL IN CHARGE), CONTRACTOR

No member of the project team shall be removed from the project team or reassigned by CONTRACTOR without prior approval of PVCSD. Such approval shall not be unreasonably withheld or delayed. CONTRACTOR shall be required to immediately inform PVCSD should any of the key members become unavailable. The credentials for substitutes for key project members must be submitted to PVCSD for review and approval. An interview may also be required if so desired by PVCSD.

**ARTICLE 4
COMPENSATION**

4.01 Compensation for all work performed under this Agreement shall be calculated on a time and materials basis. Compensation for the services described in Attachment A shall not exceed (TO BE DETERMINED) (\$). This amount shall not be exceeded unless there is a change in scope of work, in writing and agreed to by both parties and set forth in an amendment to this Agreement. Such amendment shall identify any change in compensation as a result of the change in scope of work. The parties agree that this compensation was developed in accordance with the customary and prevailing compensation level in the community and surrounding area for comparable services. CONTRACTOR and PVCSD agree that this fee was arrived at through arm's length negotiations between the parties.

Payment of Expenses and Monthly Invoices

4.02 PVCSD will reimburse CONTRACTOR for all reasonable expenses incurred in performing services under this Agreement as the work progresses, provided that such reasonable expenses shall be included in and subject to the maximum compensation amount stated above in Section 4.01. CONTRACTOR shall submit invoices to PVCSD'S Project Manager once per month. Such invoices shall include a brief narrative description of the work performed, as well as detailed time expenditures on a task-by-task basis pursuant to Attachment A. The term "expenses" means telephone bills, and federal express charges, mailing charges and any other pre-approved expenses by PVCSD. CONTRACTOR will provide PVCSD with receipts for all expenses. PVCSD shall make payment to CONTRACTOR within forty- five (45) days of receipt of an approved invoice.

**ARTICLE 5
OBLIGATIONS OF CONTRACTOR**

Non-Exclusive Relationship

5.01 CONTRACTOR may represent, perform services for, and contract with as many additional clients, persons, or companies as CONTRACTOR, in its sole discretion, sees fit.

Tools, Materials, and Equipment

5.02 CONTRACTOR will supply all tools materials, and equipment required to perform the services under this Agreement.

CONTRACTOR's Qualifications

5.03 CONTRACTOR represents that its employee(s) has the qualifications and skills necessary to perform the services under this Agreement in a competent, professional manner, without the advice or direction of PVCSD. This means CONTRACTOR is able to fulfill the requirements of this Agreement. Failure to perform all the services required under this Agreement constitutes a material breach of the Agreement. CONTRACTOR has complete and sole discretion for the manner in which the work under this Agreement will be performed. Acceptance by PVCSD of reports, and incidental professional work or materials furnished hereunder, shall not in any way relieve CONTRACTOR of responsibility for the technical adequacy of its work. Neither PVCSD's acceptance of, nor payment for any of the services, shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

Indemnity, Hold Harmless and Defense

5.04 To the maximum extent allowable by law, CONTRACTOR agrees to indemnify, defend, and hold PVCSD and each of their respective officials, officers, directors, employees, agents and volunteers (collectively referred to as the "Indemnified Parties") free and harmless from all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, attorneys' fees, and costs (collectively referred to as "Liabilities") that such entities or persons may incur that pertain to, arise out of or relate to or are in any manner directly or indirectly connected with the services to be performed pursuant to this Agreement, however caused, including any errors, acts or omissions of CONTRACTOR, including CONTRACTOR's officers, officials, directors, employees, subcontractors, agents, representatives, volunteers, successors, assigns or anyone for whom CONTRACTOR is legally responsible, or a breach by CONTRACTOR of any representation or agreement contained in this Agreement. CONTRACTOR's indemnification, hold harmless and defense obligation shall apply regardless of any negligence of Indemnified Parties, except to the extent caused by the sole negligence or willful misconduct of the Indemnified Parties.

5.04.1 CONTRACTOR shall cooperate with and do whatever is necessary to protect Indemnified Parties from any such Liabilities.

5.04.2 CONTRACTOR shall defend Indemnified Parties, at CONTRACTOR's own cost, expense and risk, from any and all such aforesaid Liabilities asserted in claims, demands, actions, causes of action, arbitration, mediations or other proceedings of any kind that may be brought or instituted against Indemnified Parties. CONTRACTOR and Indemnified Parties shall be jointly represented by legal counsel, unless there is a conflict of interest, and CONTRACTOR shall pay Indemnified Parties' reasonable attorneys' fees and costs as they are incurred. Indemnified Parties shall be consulted regarding and approve the selection of legal counsel. Should separate legal counsel be necessary for Indemnified Parties, as determined by PVCSD, CONTRACTOR shall pay for the reasonable attorneys' fees and costs including expert witness fees, as such fees and costs are incurred and within thirty (30) days of receipt of an invoice, for Indemnified Parties' legal counsel in addition to CONTRACTOR's own legal fees and costs. In all circumstances, Indemnified Parties reserve the right to retain their own attorneys. CONTRACTOR shall not agree without Indemnified Parties' prior written consent to any

settlement on Indemnified Parties' behalf.

5.04.3 If CONTRACTOR is obligated to defend Indemnified Parties pursuant to this Article 5, Section 5.04, and fails to do so after reasonable notice from PVCSD, Indemnified Parties may defend themselves and/or settle such claims, suit or assertion, and CONTRACTOR shall pay to Indemnified Parties any and all Liabilities incurred in relationship with Indemnified Parties' defense and/or settlement of such proceeding.

5.04.4 CONTRACTOR shall pay and satisfy any judgment, award, liability or decree that may be awarded, imposed or rendered against Indemnified Parties as a result of any claims, demands, suits, actions, causes of action, arbitrations, mediations or other proceedings whether legal, administrative or otherwise, including any settlement related thereto.

5.04.5 CONTRACTOR's indemnification, hold harmless and defense obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR, subcontractor, supplier or other person under workers' compensation acts, disability acts or other employee acts or the insurance required by this Agreement. CONTRACTOR's indemnification, hold harmless and defense obligation shall not be restricted to insurance proceeds, if any, received by CONTRACTOR or Indemnified Parties. Provision of insurance coverage as required by this Agreement shall not affect CONTRACTOR's indemnity obligations.

5.04.6 CONTRACTOR's indemnification, hold harmless and defense obligation shall survive the termination or expiration of this Agreement.

Insurance

5.05 CONTRACTOR shall procure and maintain in full force and effect for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONTRACTOR, its agents, representatives, employees or subcontractors. Insurance policies shall be on an occurrence basis, and coverage shall be at least as broad and in the minimum amounts as follows:

5.05.1 California Workers' Compensation Insurance, as required by the State of California, with statutory limits.

5.05.2 General Liability Insurance [occurrence form CG 0001], covering bodily injury, personal injury and property damage with a combined single limit of no less than Two Million Dollars (\$2,000,000) per occurrence, and a minimum annual aggregate of Two Million Dollars (\$2,000,000). If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be three times the required occurrence limit.

5.05.3 Automobile Liability Insurance [form number CA 0001, covering code 1 (any auto)] covering bodily injury and property damage, with a combined single limit of no less than One Million Dollars (\$1,000,000) per claim for bodily injury and property damage.

5.05.4 Employer's Liability Insurance with a combined single limit of no less than One Million Dollars (\$1,000,000) per claim for bodily injury or disease.

5.05.5 Error and Omissions Insurance appropriate to CONTRACTOR's services, with a combined single limit of no less than One Million Dollars (\$1,000,000) per claim, and Two Million Dollars (\$2,000,000) policy aggregate.

5.06 The following are required provisions:

5.06.1 CONTRACTOR will provide additional insured insurance coverage and policy endorsements for PVCSD and each of their respective officers, officials, directors, employees, volunteers or agents (collectively referred to as the "Insured Parties") under the general liability and automobile liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the Insured Parties. General liability coverage can be provided in the form of an endorsement to CONTRACTOR's insurance (at least as broad as ISO Form CG 20 10, 11 85, or both CG 20 10 and CG 20 37 forms if later revisions to CG 20 10 are used).

5.06.2 CONTRACTOR's insurance shall be primary insurance as respects Insured Parties, and each of them. Any insurance, self-insurance or other coverage maintained by Insured Parties shall be excess of CONTRACTOR's insurance and shall not contribute to it.

5.06.3 Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to Insured Parties.

5.06.4 CONTRACTOR'S insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of insurer's liability.

5.06.5 Liability insurance shall include indemnification against loss from liability imposed by law upon, or assumed under contract by, CONTRACTOR or its subcontractors for damages on account of bodily injury, including death resulting therefrom, suffered or alleged to have been suffered by any person or persons, other than employees, resulting from the performance or execution of this Agreement by CONTRACTOR or its subcontractors.

5.06.6 Liability insurance shall cover accidents arising out of the use and operation of owned, non-owned and hired automobiles, trucks and/or other mobile equipment.

5.06.7 Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be cancelled or materially modified by the insured or insurer without thirty (30) days prior written notice by certified mail to PVCSD.

5.06.8 All policies shall specifically cover any contractual liability incurred hereunder.

5.07 CONTRACTOR hereby agrees to waive rights of subrogation which any insurer of CONTRACTOR may acquire from CONTRACTOR by virtue of the payment of any loss. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Insured Parties for all work performed by CONTRACTOR, its employees, agents and subcontractors.

5.08 Insurance will be purchased from insurance companies with a current A.M. Best's rating of no less than A:VII, unless otherwise agreed to in writing by PVCSD.

5.09 Any deductibles or self-insured retention limits must be disclosed to and approved by PVCSD prior to the execution of this Agreement. At the option of PVCSD, either: the insurer shall reduce or eliminate

such deductibles as respects the Insured Parties; or CONTRACTOR shall provide a financial guarantee satisfactory to PVCSD guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

5.10 CONTRACTOR will furnish PVCSD with certificates of insurance prior to the commencement of work under this Agreement, and as may be periodically requested by PVCSD. CONTRACTOR shall include all endorsements necessary to comply with this Agreement, including additional insured endorsements, signed by the insurer's representative. Such evidence shall include confirmation that coverage includes or has been modified to include all provisions required by this Agreement. CONTRACTOR shall, upon request of PVCSD at any time, deliver to PVCSD complete, certified copies of the policies of insurance, including endorsements, and receipts for payment or premiums thereon, required by this Agreement. Failure to obtain the required documents prior to the work beginning shall not waive CONTRACTOR's obligation to provide them.

5.11 If any of the required coverages expire during the term of this Agreement, CONTRACTOR shall deliver the renewed certificate(s) including the general liability and auto liability additional insured endorsements to PVCSD at least ten (10) days prior to the expiration date.

5.12 In the event that CONTRACTOR employs subcontractors to perform any portion of the services to be performed pursuant to this Agreement, it shall be CONTRACTOR's responsibility to require and confirm that each subcontractor meets the minimum insurance requirements specified in this Agreement.

Conflict of Interest

5.13 Upon the award of this Agreement and periodically thereafter, CONTRACTOR may be required to complete and file with PVCSD a Conflict of Interest form, to be provided to CONTRACTOR by PVCSD.

Assignment

5.14 Neither this Agreement nor any duties or obligations under this Agreement may be assigned or subcontracted by CONTRACTOR without the prior written consent of PVCSD. PVCSD has entered into this Agreement in order to receive the professional services of CONTRACTOR. The provisions of this Agreement shall apply to any subcontractor to CONTRACTOR. PVCSD shall have the right to approve any subcontractor agreements, in addition to the written consent required by this Section 5.14.

Safety

5.15 CONTRACTOR shall be solely and completely responsible for the safety of all CONTRACTOR personnel, including personnel of any subcontractors, during performance of the services. CONTRACTOR shall fully comply with all laws, rules, regulations and ordinances relating to safety of the public and workers, whether federal, state or local. CONTRACTOR shall also comply with all contract provisions and PVCSD's policies, procedures, departmental rules and other directives, as provided by PVCSD's Project Manager to CONTRACTOR, relating to the safety of the public and workers, including, but not limited to, PVCSD's Contractor Safety Policies and Procedures and any project specific requirements.

**ARTICLE 6
OBLIGATIONS OF PVCSD**

- 6.01 PVCSD agrees to comply with all reasonable requests of CONTRACTOR and provide access to all documents reasonably necessary to the performance of CONTRACTOR's duties under this Agreement.

Place of Work

- 6.02 PVCSD agrees to furnish space on PVCSD premises for use by CONTRACTOR while performing the above-described services.

Indemnity

- 6.03 PVCSD agrees to indemnify, defend, and hold CONTRACTOR free and harmless from all claims, demand, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, attorneys' fees, and costs, that CONTRACTOR may incur as a result of a breach by PVCSD of any representation or agreement contained in this Agreement.

**ARTICLE 7
TERMINATION OF AGREEMENT**

Termination for Default

7.01 If either party defaults in the performance of this Agreement or materially breaches any of its provisions, the non-breaching party may immediately terminate this Agreement by giving written notification to the breaching party. Termination will take effect immediately on receipt of notice by the breaching party or five (5) days after mailing of notice, whichever occurs first. For the purposes of this paragraph, material breach of this Agreement includes, but is not limited to, the following:

- 7.01.1 CONTRACTOR's failure to complete the services specified in Article 2 of this Agreement.
- 7.01.2 CONTRACTOR's material breach of any representation or term contained in this Agreement.
- 7.01.3 PVCSD's material breach of any representation or agreement contained in this Agreement.

Termination Without Cause

- 7.02 Either party may terminate this Agreement without cause upon thirty (30) days written notice.

Compensation Upon Termination

- 7.03 Upon termination by either party under Sections 7.01 or 7.02 above, PVCSD will pay to CONTRACTOR any outstanding service fees minus any costs reasonably incurred by PVCSD related to CONTRACTOR's services under this Agreement prior to the notice of termination.

**ARTICLE 8
PROPRIETARY RIGHTS**

Confidential Information

- 8.01 Any written, printed, graphic, or electronically or magnetically recorded information furnished by PVCSD for CONTRACTOR's use are the sole property of PVCSD. This proprietary information includes, but is not limited to, customer requirements, customer lists, marketing information, and information concerning PVCSD employees, products, services, prices, operations, and subsidiaries.
- 8.02 CONTRACTOR and its employee(s) will keep this confidential information in the strictest confidence, and will not disclose it by any means to any person except with PVCSD approval, and only to the extent necessary to perform the services under this Agreement. This prohibition also applies to CONTRACTOR's employees, agents, and subcontractors. On termination of this Agreement, CONTRACTOR will promptly return any confidential information in its possession to PVCSD.

**ARTICLE 9
GENERAL PROVISIONS**

Notices

- 9.01 Any notices required to be given under this Agreement by either party to the other may be effected by personal delivery in writing or by mail, first class, registered or certified, postage prepaid with return receipt requested. Mailed notices must be addressed to the parties at the addresses below, but each party may change the address by giving written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of the day of receipt or the fifth (5th) day after mailing, whichever occurs first.

To PVCSD: Pauma Valley Community
Services District
33129 Cole Grade Road
Pauma Valley, California 92061
Attention: Eric Steinlicht, General Manager

To CONTRACTOR: (CONTRACTOR AWARDED)

(CITY), California (ZIP)
Attention: (PRINCIPAL IN CHARGE), Project Manager

Entire Agreement of the Parties

- 9.02 This Agreement contains the entire understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements, or conditions, express or implied, oral or written, except as herein contained. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof. This Agreement may not be modified or

amended other than by an agreement in writing signed by the parties.

Partial Invalidity

- 9.03 If any non-material provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

Attorneys' Fees

- 9.04 If any legal action, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees, 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 that party may be entitled.

Document and Materials Ownership

- 9.05 All original drawings, diskettes, and other copies of documents and materials developed for the project, including detailed calculations, shall be furnished to and become the property of PVCSD. PVCSD agrees to indemnify CONTRACTOR for claims, damages, or liabilities caused by any use by PVCSD of the plans, drawings, specifications, and all information gathered by CONTRACTOR on any project other than the one for which such plans, drawings, and specifications were prepared and information gathered by CONTRACTOR.

Patent and Copyright Indemnity

- 9.06 CONTRACTOR represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software ("Contractor Products") provided to PVCSD under this Agreement infringe any patent, copyright or other proprietary right. CONTRACTOR shall defend, indemnify and hold harmless PVCSD from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, "Losses") arising out of or in connection with an assertion that any Contractor Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. PVCSD will: (1) notify CONTRACTOR promptly of such claim, suit or assertion; (2) permit CONTRACTOR to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable CONTRACTOR to do so. CONTRACTOR shall not agree without PVCSD's prior written consent to any settlement which would require PVCSD to pay money or perform some affirmative act in order to continue using Contractor Products.

9.06.1 If CONTRACTOR is obligated to defend PVCSD pursuant to this section 9.06 and fails to do so after reasonable notice from PVCSD, PVCSD may defend itself and/or settle such proceeding, and CONTRACTOR shall pay to PVCSD any and all losses, damages and expenses (including attorney's fees and costs) incurred in relationship with PVCSD's defense and/or settlement of such proceeding.

9.06.2 In the case of any such claim of infringement, CONTRACTOR shall either, at its option, (1) procure for PVCSD the right to continue using Contractor Products; or (2) replace or modify Contractor Products so that that they become non-infringing, but equivalent in functionality and performance.

9.06.3 Notwithstanding this section 9.06, PVCSD retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right.

9.06.4 All provisions of Section 5.04, including the subsections thereunder, shall apply to CONTRACTOR's obligation pursuant to this Section 9.06.

Audits

9.07 If this Agreement involves an expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), the Agreement is subject to examination and audit of the State Auditor, at the request of PVCSD or as part of any audit of PVCSD, for a period of three (3) years after final payment under the Agreement. CONTRACTOR shall cooperate with PVCSD, including any authorized representative of PVCSD, regarding such audit at no charge to PVCSD.

Counterparts

9.08 This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same agreement, and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

Provisions Required By Law

9.09 Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein, and the Agreement shall be read and enforced as though they were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the request of either party, the Agreement shall forthwith be physically amended to make such insertion.

Governing Law

9.10 This Agreement and all questions relating to its validity, interpretation, performance, and enforcement (including, without limitation, provisions concerning limitations of actions), shall be governed by and construed in accordance with the laws of the State of California, notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary and without the aid of any canon, custom, or rule of law requiring construction against the draftsman.

Jurisdiction, Forum and Venue

9.11 The proper jurisdiction, forum and venue for any claims, causes of action or other proceedings concerning this Agreement shall be in the state and federal courts located in the State of California, County of San Diego. PVCSD and CONTRACTOR agree not to bring any action or proceeding arising out of or relating to this Agreement in any other jurisdiction, forum or venue. PVCSD and CONTRACTOR hereby submit to personal jurisdiction in the State of California for the enforcement of this Agreement and hereby waive any and all personal rights under the law of any state to object to jurisdiction within the State of California for the purposes of any legal action or proceeding to enforce this Agreement, whether on grounds of inconvenient forum or otherwise.

Signature Authority

9.12 PVCSD and CONTRACTOR do covenant that the individual executing this Agreement on their behalf is a person duly authorized and empowered to execute this Agreement for such party.

Executed in San Diego County, California, on (INSERT DATE OF SIGNING).

PAUMA VALLEY COMMUNITY SERVICES DISTRICT

CONTRACTOR

By: _____
Eric Steinlicht, General Manager

(AUTHORIZED SINGER), Contractor