

**RESOLUTION NO. 1064-19**

**RESOLUTION OF THE MOJAVE WATER AGENCY  
BOARD OF DIRECTORS ADOPTING THE PURCHASING POLICY  
RESCINDING RESOLUTION NO. 918-11**

The Board of Directors of the Mojave Water Agency hereby finds and declares as follows:

**WHEREAS**, the Mojave Water Agency is a public agency organized and operated pursuant to Water Code Appendix 97, and is required to award contracts according to Water Code Section 91-13(4) and the Public Contract Code; and

**WHEREAS**, there is a need to promote uniformity in the processing of requisitions, purchase orders, contracts for services and bids within the Mojave Water Agency; and

**WHEREAS**, this policy establishes spending authorities and procedures for the uniformity in the processing of requisitions, purchase orders, contracts for services and bids within the Mojave Water Agency; and

**WHEREAS**, this Resolution rescinds formerly adopted Resolution No. 749-03 and 750-03.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the Mojave Water Agency hereby adopts the attached Purchasing Policy to establish spending authorities and to provide uniformity in the processing of requisitions, purchase orders, contracts for services and bids within the Mojave Water Agency.

**ADOPTED** this 25<sup>th</sup> day of April 2019.

**SIGNED:**

  
Carl Coleman, President

**ATTEST:**

  
Jeanette Hayhurst, Secretary



# **PURCHASING POLICY**

Approved on April 25, 2019



**Mojave Water Agency  
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Apple Valley, CA 92307  
(760) 946-7000**

## TABLE OF CONTENTS

1.0 INTRODUCTION .....	1
1.1 Purpose .....	1
1.2 Scope and Intent.....	1
1.3 Authority to Purchase.....	1
1.4 Ethical Conduct in Purchasing .....	2
1.5 Responsibilities of the Chief Financial Officer .....	2
1.6 Responsibilities of Departments.....	2
2.0 GENERAL PURCHASING METHODS .....	3
2.1 Regular Purchase Orders .....	3
2.2 Open Purchase Orders .....	4
2.3 Contract Purchase Orders .....	4
2.4 Check Requests.....	5
2.5 Credit/Purchasing Card Usage .....	5
2.6 Petty Cash .....	6
2.7 Contracts .....	7
2.8 Invoices.....	7
2.9 Check Preparation .....	8
2.10 Purchase Order Change Orders .....	8
2.11 Emergency and Time-Sensitive Purchases .....	8
2.12 Sole Source Purchases .....	9
2.13 Travel Expenses .....	9
2.14 Mileage Reimbursement .....	9
2.15 Applicability of Prevailing Wages to Maintenance and Service Work.....	9
3.0 AUTHORIZATIONS FOR GENERAL PURCHASES .....	10
3.1 Definition: Equipment, Material and Supplies Purchases.....	10
3.2 \$100 to \$2,000 .....	10
3.3 \$2,000 to \$5,000 .....	10
3.4 \$5,000 to \$25,000 .....	10
3.5 \$25,000 and UP .....	11
4.0 AUTHORIZATIONS FOR PROFESSIONAL SERVICES .....	12
4.1 Definition: Work performed by outside consultants .....	12
4.2 Services up to \$2,000 .....	12

4.3 Services \$2,000 to \$5,000 .....	12
4.4 Services \$5,000 to \$25,000 .....	12
4.5 Services \$25,000 to \$75,000 .....	13
4.6 Services in Excess of \$75,000 .....	14
4.7 Services in Excess of \$500,000 or Change to Standard Contract Terms .....	14
5.0 AUTHORIZATIONS FOR PUBLIC WORKS CONTRACTS .....	15
5.1 Definition: Public Works Contracts .....	15
5.2 Public Works Projects from \$100 to \$2,000 .....	15
5.3 Public Works Projects from \$2,000 to \$5,000 .....	15
5.4 Public Works Projects from \$5,000 to \$25,000 .....	16
5.5 Public Works Projects from \$25,000 and up .....	16
6.0 AUTHORIZATIONS FOR REAL PROPERTY .....	18
6.1 Definition .....	18
6.2 Real Property up to \$25,000 .....	18
6.3 Real Property in excess of \$25,000 or greater than appraised value .....	18
7.0 AUTHORIZATIONS FOR EMPLOYEE EXPENSE/REIMBURSEMENT PROCEDURES .....	19
7.1 Definition .....	19
7.2 Overview .....	19
7.3 Travel Expenses .....	19

[Exhibit A - Request for Qualifications/Proposal \(RFQ/RFP\)](#)

[Exhibit B - Contract Form](#)

[Exhibit C - Travel/Expense Authorization](#)

[Exhibit D – Scoring bid sheet](#)

## 1.0 INTRODUCTION

### **1.1 Purpose**

To assure purchases are accomplished in a manner providing the greatest value at the minimum cost to the taxpayers of Mojave Water Agency (MWA), this policy provides uniform procedures for acquiring services and materials, and the construction and installation of facilities for the MWA. This policy also includes purchasing and bidding requirements as required by California law, including Government Code Section 54202 and California Public Contract Code 20680 et seq.

All purchases of services, materials, equipment or supplies, and the construction repair, maintenance, rehabilitating and installation of facilities, to be paid by MWA must adhere to the methods, authority, and dollar limits of this policy outlined below.

### **1.2 Scope and Intent**

The authorizations set forth in this section are controlling throughout the entirety of this document and shall be held to be controlling when not specifically referenced. This policy explicitly prohibits splitting purchase orders in a fiscal year for the purpose of evading the specified dollar limits.

### **1.3 Authority to Purchase**

The authority to purchase is dependent upon the total dollar amount of the goods or services to be purchased. Spending limit authorities are granted according to the following schedule:

<b>Position</b>	<b>&lt;\$1,000</b>	<b>&lt;\$2,000</b>	<b>&lt;\$15,000</b>	<b>&lt;\$25,000</b>	<b>&gt;\$25,000</b>
<b>Board of Directors</b>	Yes	Yes	Yes	Yes	Yes
<b>General Manager</b>	Yes	Yes	Yes	Yes	No
<b>Assistant General Manager Chief Financial Officer</b>	Yes	Yes	Yes	No	No
<b>Department Managers</b>	Yes	Yes	No	No	No
<b>Exempt</b>	Yes	No	No	No	No

Board of Directors authority shall be only by collective vote of the governing body and shall not be granted on an individual basis. All purchases shall be made in accordance with one of the MWA purchasing methods identified in Section 2 of this policy and in accordance with the procedures set forth in Sections 3 through 7, dependent upon the type of purchase or service.

#### **1.4 Ethical Conduct in Purchasing**

Ethical conduct in managing MWA's purchasing activities is an absolute essential. Staff must always be mindful that they represent the Board of Directors and share a professional trust with other staff and the general public. Therefore, when making a purchase, keep in mind the following factors: (1) Is this purchase necessary for the job at hand or for the Agency to carry on its normal business activities? (2) Is this a reasonable lowest possible cost for this type of purchase?

#### **1.5 Responsibilities of the Chief Financial Officer**

The Chief Financial Officer is responsible for: (1) administration of the purchasing policy; and (2) ensuring the Agency is obtaining the lowest reasonable cost that provides the maximum benefit.

#### **1.6 Responsibilities of Departments**

Each department shall be charged with the following purchasing responsibilities:

- A. Anticipate requirements sufficiently in advance of need to prevent downtime.
- B. Provide detailed and accurate specifications to ensure that purchases are consistent with requirements and expectations set out in this policy.
- C. Prepare requisitions in accordance with instructions to minimize transaction costs.
- D. Notify the Finance Department of vendor relation problems, shipping problems or any other circumstances that could affect purchasing.
- E. Minimize emergency and sole source purchases and provide written documentation if such purchases occur.
- F. Review budget monthly to ensure the total department expenditures do not exceed the total department budget.
- G. Ensure department requisitions are approved by the appropriate spending limits outlined in Section 1.3 and in accordance with the procedures in Sections 3-6.

## 2.0 GENERAL PURCHASING METHODS

**Below** are the various methods employees are required to use to purchase goods, materials, or services. Depending upon the type and amount of the purchase, certain methods may be the required alternative. ***Please look at the spending authority (Sections 3 through 7) first to determine the most appropriate method to follow, then follow the guidelines below.***

**Exceptions to these purchasing methods and spending authorities are specifically limited to the following:**

- a) Utility bills (phone, gas, electric, etc.)
- b) Payroll disbursements, payroll checks, deductions, deposits and tax payments that are supported by a payroll report
- c) Gasoline credit card purchases
- d) Insurance premiums (workers compensation, general liability, etc.)
- e) General Agency Legal Counsel; Watermaster Legal Counsel
- f) Software license maintenance
- g) Payments to Department of Water Resources and related expenses (State Water Contractors, Inc., and so forth)
- h) Permitting and other regulatory fees (construction permits, LAFCO payment, etc.)
- i) Watermaster Engineering Services

### **2.1 Regular Purchase Orders**

- i. Purchase orders are required for all purchases totaling more than \$1,000.
- ii. Purchase orders shall be issued **prior** to ordering supplies, equipment and services and not “after the fact” for work already done or materials already ordered.
- iii. The purpose of purchase orders is to manage the budget, not to pay invoices.
- iv. Purchase orders shall be prepared and signed by the Finance Department and forwarded to the vendor for the purchase.
- v. Each purchase order is electronically approved and stored for purposes of tracking and paying for the purchase.
- vi. A completed purchase order shall contain the following information, at a minimum:
  - Vendor name, address and telephone number;
  - Invoice amount and quantity ordered;
  - Purchase order preparation date;
  - Account number or numbers to be charged.
- vii. The department shall submit a requisition, which includes the recommended vendor, with all supporting documentation attached and sent to Accounts Payable.
- viii. Supporting documentation shall include complete specifications required for the purchase as well as any supporting documentation available, i.e. previously purchased item from a specific vendor.

- ix. Accounts Payable shall review the recommendation and supporting documentation and may request additional documentation if required.

## **2.2 Open Purchase Orders**

In the course of doing business, it may be necessary to make immediate and/or emergency purchases. If so,

- i. Upon request, departments may receive open purchase orders at the beginning of a fiscal year, or as needed for small, local purchases.
- ii. All open purchase orders shall be closed at the end of the fiscal year.
- iii. If granted, Accounts Payable shall send the open purchase order to the specified vendor and the purchasing party will be notified.
- iv. Equipment and supplies may then be purchased from the specified vendor according to the terms and conditions of the open purchase order. Such purchases should be kept to a minimum.
- v. Open purchase orders shall not be used to purchase services, capital assets or individual purchases in excess of \$1,000.
- vi. Any purchase over \$1,000 will be issued its own purchase order.

## **2.3 Contract Purchase Orders**

- i. The Agency may contract with certain vendors for supplies or services or may piggyback on other agencies' contracted amounts (i.e.: County of San Bernardino's bid for office supplies).
- ii. Contract purchase orders are the preferred method of purchasing repetitive-use items or services that may be common to several departments or within one department.
- iii. Establishing contract purchase orders provides a means of obtaining volume pricing based upon the combined needs of all departments and reduces the administrative costs associated with seeking redundant competitive bids.
- iv. Processing a purchase order each time an order is placed allows departments to order as needed, reducing the requirement to maintain large inventories of stock.
- v. If a contract purchase order exists, departments shall order all of their requirements from the successful vendor.
- vi. No other source shall be used without prior approval of the Chief Financial Officer.



- vii. Departments shall submit in writing to the Chief Financial Officer any performance problem encountered immediately following the occurrence so that corrective action may be taken.
- viii. Items bid through the Omnia Partners, Public Sector will also satisfy this requirement. For listing of items bid through Omni Partners, Public Sector, go to: <https://www.omniapartners.com/publicsector>.
- ix. Contract purchase orders are annual and may include an option for renewal of specific products, product types, or services at agreed upon prices or pricing structure and for a specific period of time.

## **2.4 Check Requests**

- i. Check requests may be made for purchases for which petty cash cannot be used and the order amount is less than \$1,000.
- ii. Examples of purchases for which check requests may be appropriate include, but are not limited to:
  - Education reimbursements;
  - Operating permits;
  - Conference registration fees less than \$100 (separate Travel Authorization Form used).
- iii. Check requests shall be made by use of a quote, estimate or invoice, which shall include the following information:
  - Date of purchase;
  - Date by which the check is needed;
  - Name of vendor or payee;
  - Address of vendor or payee;
  - Amount to be paid;
  - Explanation of purchase;
  - Authorized signature;
  - Account number or numbers to be charged.

## **2.5 Credit/Purchasing Card Usage**

Agency credit and purchasing cards will be issued in the name of the Agency and the individual designated by the Finance Department. It may only be used by the individual whose name is on the card. Anyone issued an Agency credit and purchasing cards shall sign a Credit and Purchasing Card User Agreement, thereby agreeing to abide by Agency purchasing policies and Agency credit and purchasing card use procedures. The cardholder is responsible for assuring that all credit and purchasing card charges are accurate and consistent with policy guidelines.

The cardholder must:

- a) Ensure the card is used only for legitimate business purposes.
- b) Maintain the card in a secure location at all times.
- c) Adhere to the Agency purchase limits and restrictions. A temporary exception may be granted by the General Manager or Chief Financial Officer for conference or other travel related expenditures.
- d) Obtain all sales slips, register receipts, and/or credit and purchase card receipts and submit to the Finance Department.
- e) Attempt to resolve disputes related to billing errors with the vendor directly or in conjunction with the Finance Department.
- f) Immediately report a lost or stolen card to the card issuer and or the Finance Department.
- g) Return the card to the HR Department upon terminating employment with the Agency.
- h) If the use of a personal purchase occurs, the employee shall inform the Finance Department in writing and the employee shall make immediate restitution of the personal purchase made.
- i) All business related purchases must be purchased using an Agency credit and purchasing card.

#### Agency Credit and Purchasing Cards Use and Spending Limits

Single item purchases shall be according to the Agency spending authority policy (Section 1.3). The credit and purchasing card may be used for the following purchases:

- Hotel, airline or shuttle reservations
- Food for the Agency committees, events, etc.
- Agency Board Member meals
- Office supplies, department specific supplies
- Variance for Travel (with the General Manager approval)
- Necessary products and/or services during an Agency declared emergency

#### 2.6 Petty Cash

- i. Petty cash is used for immediate-need or emergency purchases totaling not more than \$100 or for which all other approved methods or instruments of purchase are impractical.
- ii. A petty cash voucher shall be produced by the Senior Administrative Assistant for all expenditures of petty cash. The petty cash voucher shall include the following information:
  - Amount/Type of purchase;
  - Date of purchase;
  - Location of purchase;
  - Signature of purchaser
- iii. Immediately following the purchase, the receipt shall be stapled to the petty cash voucher. The Senior Administrative Assistant ensures that all petty cash vouchers have been properly authorized.

- iv. When funds are near depletion, the Senior Administrative Assistant prepares a reconciliation of the petty cash drawer and obtains approval from the Department Manager and then submits a request to Accounts Payable for petty cash replenishment.
- v. Only the designated Department Manager and the Chief Financial Officer shall designate and authorize an employee to hold the petty cash. In no case shall the total petty cash (combined cash and receipts) exceed \$1,000 Agency wide.

## **2.7 Contracts**

- i. Contracts are used in conjunction with purchase orders to minimize risk.
- ii. Approved contracts shall be accompanied by a purchase order processed in the amount of the contract.
- iii. The original contract shall be sent to the counterparty for signature.
- iv. Contract payments are requested by approved invoice or progress draw.
- v. **Only the General Manager may sign contracts.**
- vi. The Agency standard contract must be used, unless it is determined that an alternative contract is necessary. Any changes to the standard contract or alternative contract services must be submitted to Finance and legal counsel for review and approval.
- vii. All contracts must have a scope of work with clear beginning and end dates (included in Exhibit A, Statement of Work).
- viii. All Statement of Work and the standard contract agreements will be routed to the Chief Financial Officer and/or the General Manager designee for approval.

## **2.8 Invoices**

- i. The Accounting Department is responsible for invoicing goods and services and reconciling all relevant documentation.
- ii. Invoices shall be stamped with the date received by the Administrative Assistant.
- iii. All invoices shall identify the authorized purchase order number.
- iv. Accounts Payable shall match invoices to their corresponding purchase orders and receipt documentation to verify that:
  - The purchase order reconciles in all respects with the vendor's invoice
  - The goods have been received and the receiver signed the invoice or packing slip
  - The purchase order has been authorized in accordance with this policy.

## **2.9 Check Preparation**

- i. All Agency checks of any amount shall bear the signature of any two of the following:
  - General Manager
  - Assistant General Manager
  - Chief Financial Officer
  - Controller
  - President of the Board of Directors

Agency checks are controlled and stored by the Controller.

## **2.10 Purchase Order Change Orders**

- i. Once a purchase order has been issued, any subsequent change or cancellation thereof shall be done by an authorized change order via a revised purchase order.
- ii. The revised purchase order must be re-approved for the larger amount in accordance with the spending limits identified in this policy.
- iii. For change orders in excess of the General Manager's spending authority of \$25,000, the change order can only be authorized with Board approval. Change orders are not needed when the new cost remains at the same level of authorization or is within 10% of the original purchase order amount.

### **Examples:**

A contract is authorized by the Board for \$25,000 dollars and a Purchase Order is issued for \$25,000. Agency staff can authorize a contract change order up to \$2,500 or 10%, whichever is less without further Board authorization. If it *exceeds* the 10% contingency or \$2,500 an authorization by the Board is required and the purchase order amount is now reset to the revised amount.

A construction contract is authorized by the Board for \$2.5 million dollars and a Purchase Order is issued for the same amount. The General Manager can authorize a construction contract change order up to \$25,000 or 10%, whichever is less without further Board authorizations. If it exceeds the 10% contingency or \$25,000, an authorization by the Board is required and the Purchase Order amount is now reset to the revised amount.

## **2.11 Emergency and Time-Sensitive Purchases**

- i. For ***time-sensitive*** projects (including construction) and related purchase order change orders, the General Manager shall be authorized to approve such change orders in excess of the General Manager's spending authority. The purpose of the change order shall then be presented to the Board within one month of becoming aware of the occurrence in accordance with the contract terms (***must be submitted in writing by the contractor***), followed by formal approval once final estimates have been provided by the contractor or consultant *but no later than three months after final completion of work*.
- ii. In the case of an ***emergency***, the General Manager, is authorized to make and approve necessary expenditures in excess of the General Managers spending

authority. Expenditures approved under this section do not require prior Board approval and may be made without complying with comparative pricing or bidding requirements. The General Manager thereafter must promptly report to the Board concerning the type and amount of the expenditure and the emergency circumstances warranting the expenditure. Expenditures that ordinarily would require Board approval pursuant to this policy shall be subject to ratification by the Board at its next meeting after all costs are known.

### **2.12 Sole Source Purchases**

- i. Purchases may be made pursuant to this section *if and only if* needed supplies, materials, equipment, or services are of a proprietary nature, or are otherwise of such specific design, knowledge or construction as to be available from only one source.
- ii. After reasonable efforts to find alternative suppliers or contractors, the General Manager or General Manager designee may dispense with any proposal or bid requirements and recommend making the purchase from the sole source.

### **2.13 Travel Expenses**

- i. All travel must be approved in advance using the Travel Expense Authorization Form (Exhibit C).
- ii. All travel arrangements are to be prepared by the Executive Assistant only.
- iii. The General Manager must approve all travel prior to the travel being taken.
- iv. Itemized receipts must be provided within one week of return of travel.

### **2.14 Mileage Reimbursement**

Mileage will be paid at the current rate per mile as allowable by the IRS when an employee utilizes a vehicle other than an Agency vehicle. Mileage reimbursement must be submitted with all approvals by noon Monday to be included in that weeks' check run. NOTE: Exceptions may occur where checks are run bi-weekly.

### **2.15 Applicability of Prevailing Wages to Maintenance and Service Work**

The payment of prevailing wages applies to maintenance, service work, warranty and emergency work if the value of the work will exceed \$1,000.00 in one year. This includes: building repairs, cleaning of HVAC units, servicing of exit lights and fire alarms, landscape maintenance and any other task for the maintenance of Agency buildings or property.

#### **For Maintenance and Service Work which exceeds \$15,000.00:**

- a) PWC-100 form must be filed within 30 days after contract award, but not later than the first day the work is performed.
- b) Only registered with the Department of Industrial Relations contractors may perform this work.

## **3.0 AUTHORIZATIONS FOR GENERAL PURCHASES**

### **3.1 Definition: Equipment, Material and Supplies Purchases**

For purchases that include a combination of supplies, materials, equipment and professional services for the installation, repair or maintenance of the goods being purchased, the section on Professional Services must be followed. Splitting the purchase within a fiscal year is not allowed.

### **3.2 \$100 to \$2,000**

- i. For purchases totaling less than \$1,000, a purchase order may be issued to satisfy vendor requirements or to encumber departmental funds. A check or petty cash request may be used.
- ii. Purchases totaling more than \$1,000 shall be made pursuant to an authorized purchase order.
- iii. Exempt employees shall have the authority to authorize purchases of up to \$1,000.
- iv. Department Managers shall possess the sole authority to authorize purchases of up to \$2,000.
- v. All purchase related paperwork is to be submitted to the A/P department for payment processing.

### **3.3 \$2,000 to \$5,000**

- i. Department Managers shall not award a purchase order in excess of \$2,000 without the advanced approval of the General Manager or Chief Financial Officer.  
**EXCEPTION:** May approve in the event of an emergency or time sensitive purchase (See Section 2.11).
- ii. Comparative pricing shall be required when reasonable, except when obtaining would negate any price benefit.
- iii. If no comparative pricing, then must have a detailed explanation to accompany the proposals.
- iv. All purchase related paperwork is to be submitted to A/P department for payment processing.

### **3.4 \$5,000 to \$25,000**

- i. Purchase must have an advance authorization of the General Manager or his designee.

- ii. The General Manager or his designee shall not award purchase orders in excess of \$25,000 except in the event of an emergency or a time sensitive purchase.
- iii. Must have three quotes from vendors providing their lowest responsible and monetary quote and has the required expertise and financial viability to perform work and provide product to be purchased.
- iv. The General Manager or his designee may make an award to the lowest responsible quote. The General Manager or Chief Financial Officer may also reject any and all quotes and attempt to obtain better terms.
- v. If no comparative pricing, then must have a detailed explanation to accompany the proposals.
- vi. All purchase related paperwork is to be submitted to the A/P department for payment processing.

### **3.5 \$25,000 and UP**

- i. Purchase of supplies and equipment with an estimated value of \$25,000 or more requires an authorization from the Board of Directors.
- ii. Department Managers are required to prepare the necessary staff reports needed for obtaining Board approval.
- iii. At least three quotes will be required.  
**EXCEPTION:** In instances where three quotes cannot be obtained, or are not provided or where obtaining such quotes do not add value, reduce cost, or is a sole source vendor or vendor specialization that qualifies under sole source in Section 2.12.
- iv. All purchase related paperwork is to be submitted to the A/P department for payment processing.

## **4.0 AUTHORIZATIONS FOR PROFESSIONAL SERVICES (Other than Public Works contracts)**

### **4.1 Definition: Work performed by outside consultants**

Work performed by outside consultants because of specialized knowledge or expertise or for limited time/project oriented work. This also includes work performed by outside resources for the installation, maintenance or repair of specialized equipment and or materials when the purchase is a combination thereof; i.e., purchase/installation of computer software and hardware by one vendor.

### **4.2 Services up to \$2,000**

- i. Exempt employees have the authority to authorize services up to \$1,000.
- ii. Department Managers have the authority to authorize services up to \$2,000.

### **4.3 Services \$2,000 to \$5,000**

- i. Requires advanced authorization of the General Manager, or Chief Financial Officer.
- ii. Department Managers shall not award purchase orders in excess of \$2,000 without the approval of the General Manager or Chief Financial Officer.
- iii. Comparative pricing is required when reasonable.  
**EXCEPTION:** If comparison would negate any price or time sensitive benefit than is not necessary.
- iv. All authorized purchase orders made without the use of comparative pricing then must have a detailed explanation to accompany the purchase order.
- v. The General Manager or Chief Financial Officer may make an award to the lowest responsible quote. The lowest responsible quote means a quote from a vendor that provides the lowest monetary quote in the timeframe required and has the required expertise and financial viability to perform the work, and provide product to be purchased.
- vi. The General Manager or the Chief Financial Officer may also reject any and all proposals and attempt to obtain better terms.
- vii. All purchase related paperwork is to be submitted to the A/P department for payment processing.

### **4.4 Services \$5,000 to \$25,000**

- i. Requires advance authorization of the General Manager or his designee and requires a formal agreement for services prepared on an Agency standard contract form.



- ii. **Only the General Manager may sign contracts.**
- iii. The threshold of \$5,000 is deemed to be met when the **combined** total for that vendor in any fiscal year meets or exceeds \$5,000.
- iv. Must have three quotes from vendors who provide the lowest responsible and monetary quote and has the required expertise and financial viability to perform work and provide product to be purchased in the required timeframe.  
**EXCEPTION:** In instances where three quotes cannot be obtained, or are not provided or where obtaining such quotes do not add value, reduce cost, or is a sole source vendor or vendor specialization that qualifies under sole source in Section 2.12.
- v. The General Manager or Chief Financial Officer may make an award to the lowest responsible quote. The lowest responsible quote means a quote from a vendor that provides the lowest responsible and monetary quote in the timeframe required and has the required expertise and financial viability to perform the work and provide product to be purchased.
- vi. The General Manager or the Chief Financial Officer may reject any and all proposals and attempt to obtain better terms.
- vii. All authorized purchase orders made **without** the use of comparative pricing then must have a detailed explanation to accompany the purchase order.

#### **4.5 Services \$25,000 to \$75,000**

- i. Services from an outside vendor with an estimated value to \$25,000 or more requires an authorization by the Board of Directors.
- ii. At least three quotes will be required.  
**EXCEPTION:** In instances where three quotes cannot be obtained, or are not provided or where obtaining such quotes do not add value, reduce cost, or is a sole source vendor or vendor specialization that qualifies under sole source in Section 2.12.
- iii. Requires a formal services agreement.
- iv. The threshold of \$25,000 is deemed to be met when the **combined** total for that vendor in any fiscal year meets or exceeds \$25,000.
- v. The General Manager or his designee shall not award purchase orders or contracts in excess of \$25,000 except in the event of an emergency or time sensitive purchase (see Section 2.10 for emergency purchases.)
- vi. Department Managers are responsible for submitting the staff report and obtaining Board approval.
- vii. The Executive Assistant will prepare the contract using the Agency's standard contract form.

#### **4.6 Services in Excess of \$75,000**

- i. A formal RFP/RFQ must be prepared using the Agency's standard RFP format as well as a scoring sheet. (See Exhibit D). This will be required for all services anticipated to exceed \$75,000.  
**EXCEPTION:** In instances where three quotes cannot be obtained, or are not provided or where obtaining such quotes do not add value, reduce cost, or is a sole source vendor or vendor specialization that qualifies under sole source or time sensitive in Section 2.12.
- ii. A scoring sheet must be used to substantiate the purchase. (See Exhibit D).
- iii. If sole sourcing is being used, documentation for the reason of sole sourcing must be in writing and included with the Purchase Order.
- iv. If the standard RFP needs to be modified, the General Manager or Chief Financial Officer must review and approve the requested changes.
- v. Department Managers are required to oversee the RFP/RFQ process and ensure that all specifications are provided to the departmental Senior Administrative Assistant.
- vi. When the prequalification of the vendor is desired, Request for Qualifications will be solicited. When received, the Agency will create a short list of qualified firms which will be invited to participate in the RFP process. When the proposals are received, a determination will be made on the award of a contract.
- vii. Executive Assistant will prepare the contract using the Agency's standard services agreement form for Professional Services.
- viii. The contract will be forwarded to the Department Manager for review before forwarding to the CFO for final approval. (See Exhibit B).
- ix. Final negotiations of the contract will be between the Department Manager and the vendor.
- x. Only the General Manager may sign contracts.
- xi. Items bid through the Omnia Partners, Public Sector will also satisfy this requirement. For listing of items bid through the Omnia Partners, Public Sector, go to <https://www.omniapartners.com/publicsector>.

#### **4.7 Services in Excess of \$500,000 or Change to Standard Contract Terms**

- i. For any agreement of services in excess of \$500,000, legal counsel must review prior to finalizing the contract terms. Any changes to the contract terms will also require legal counsel review.
- ii. The Chief Financial Officer or General Manager designee will take the lead in working with the contractor and legal counsel for any material changes the Agency standard contract form.

## **5.0 AUTHORIZATIONS FOR PUBLIC WORKS CONTRACTS** **(Including Maintenance Work)**

### **5.1 Definition: Public Works Contracts**

Work performed by outside contractors for the construction, erection, alteration repair, maintenance work or improvement of any public structure, building, road, or other public improvement of any kind. (See California Public Contractor Code. PPC 2202 (c) excl. (d) for bidding purposes, if applies.)

### **5.2 Public Works Projects from \$100 to \$2,000**

- i. For purchases totaling less than \$100, a purchase order may be issued to satisfy vendor requirements or to encumber departmental funds.
- ii. Purchases totaling more than \$1,000 shall be made pursuant to an authorized purchase order.
- iii. Exempt employees have the authority to authorize projects up to \$1,000.
- iv. Department Managers shall have the sole authority to authorize projects of up to \$2,000.
- v. An Agency standard contract or other contract form approved by the Chief Financial Officer or legal counsel is required. The vendor is required to provide insurance and pay prevailing wages when contracts exceed \$1,000.
- vi. All purchase related paperwork is to be submitted to the A/P department for payment processing.

### **5.3 Public Works Projects from \$2,000 to \$5,000**

- i. Requires the advance authorization of the General Manager or the Chief Financial Officer.
- ii. Comparative pricing shall be required when reasonable, except when obtaining would negate any price benefit.
- iii. All authorized purchase orders made *without* the use of comparative pricing, must have a detailed explanation to accompany the purchase order.
- iv. Department Managers shall not award purchase orders in excess of \$2,000 without the approval of the General Manager, Assistant General Manager or Chief Financial Officer, *except* in the event of an emergency or time sensitive.
- v. An explanation of the emergency or time sensitive must be provided with the requisition for the project.
- vi. All purchase related paperwork is to be submitted to the A/P department for payment processing.

- vii. An Agency standard contract is required. The vendor is required to provide insurance and pay prevailing wages.

#### **5.4 Public Works Projects from \$5,000 to \$25,000**

- i. Requires a contract and advance authorization of the General Manager or his designee.
- ii. The General Manager or his designee shall not award the purchase orders or contracts in excess of \$25,000 except in the event of an emergency purchase (See Section 2.10)
- iii. The threshold of \$5,000 is deemed to be met when the **combined** total for the vendor in any fiscal year meets or exceeds \$5,000.
- iv. Must have three quotes from vendors who provide the lowest monetary quote and has the required expertise and financial viability to perform work in the required timeframe and provide product to be purchased.
- v. A formal contract is to be prepared by the Executive Assistant on the Agency standard contract form along with a purchase order for the contracted amount.
- vi. The Vendor is required to provide insurance and pay prevailing wages.
- vii. Once the contract is completed, it is to be reviewed by the Department Manager.
- viii. Once all the paperwork is completed, it is to be submitted to the A/P department for payment.

#### **5.5 Public Works Projects from \$25,000 and up**

- i. The use of services from outside vendors with an estimated value of \$25, 000 or more requires authorization by the Board of Directors and a contract reviewed by legal counsel.
- ii. The Department Manager is responsible for obtaining Board approval.
- iii. Pursuant to the California Public Contract Code, the MWA Act and this Policy, all contracts for the construction of any unit of work estimated to cost in excess of \$25,000 shall be awarded to the lowest responsive bidder after competitive bidding.
- iv. The Board shall have the right to reject any or all bids, in which case the Board may call for new bids.
- v. All public works project bid packages will be reviewed by legal counsel prior to letting the bids and prior to finalizing contract. Items bid through the Omnia Partners, Public Sector may also satisfy this requirement. For a listing of items bid through the Omnia Partners, Public Sector, go to <https://www.omniapartners.com/publicsector>.

- vi. The vendor must be a registered public works vendor or contractor at the time of the bid. All listed subcontractors must also be registered as a public works vendor or contractor at the time of the bid. This includes those performing surveyor or inspection work, material testing and/or trucking. If a bid contains individuals or companies, which are not registered as public works contractors the Agency:
  - 1. May reject the bid as being nonresponsive; or
  - 2. Provide the prime contractor with 24 hours (one business day) to correct any registration deficiency. If the registration deficiency is not corrected, the bid will be rejected as non-responsive.

The vendor is required to be registered with Department of Industrial Relations (DIR). The Agency will file a Notice of award with the DIR and the vendor is required to submit a prevailing wage payroll to the DIR.

- vii. The vendor is required to submit certified payroll electronically to the DIR.
- viii. Ancillary costs for the permitting of the project are deemed to be approved once the contract is let.

## **6.0 AUTHORIZATIONS FOR REAL PROPERTY**

### **6.1 Definition**

Land purchased or easements obtained for the construction of public works projects, or land purchased for other reasonable and necessary operations of the Agency.

### **6.2 Real Property up to \$25,000**

- i. Real property purchases up to \$25,000 may be authorized by the General Manager.

### **6.3 Real Property in excess of \$25,000 or greater than appraised value**

- i. Board authorization is required for all real property being purchased in excess of \$25,000

## **7.0 AUTHORIZATIONS FOR EMPLOYEE EXPENSE/REIMBURSEMENT PROCEDURES**

### **7.1 Definition**

Any reasonable and necessary employee expense incurred on behalf of or for the benefit of the Agency.

### **7.2 Overview**

- i. All employee reimbursements require an appropriately detailed purchase order, Travel Request Form, or other approved method of purchasing outlined in Section 2.0, with the signature of a Department Manager.
- ii. Department Managers cannot sign off on their own expense reimbursements; they must have the approval of the General Manager.
- iii. It is the responsibility of the employee to turn in all receipts. All receipts that are food related **MUST** be itemized. If there is no itemized receipt it will be up to the employee to either obtain the itemized receipt or have the meal approved by General Manager.
- iv. Any missing receipts will be the responsibility of the employee and will need to be paid by the employee, unless authorized by the General Manager.

### **7.3 Travel Expenses**

Additional considerations when traveling are:

#### **MEALS:**

- i. Itemized receipts are required for reimbursement as well as for substantiation of meal charges placed on an Agency purchasing card in accordance with IRS rules. (Rev. Rul. 2003-106)
- ii. Meals for two or more must contain additional justification of the business purpose.
- iii. Meals should be kept at a reasonable cost, at or near \$30 for dinner, \$25 for lunch and \$20 for breakfast. Tip shall be no more than 20% of the cost of the meal.

**Under no circumstances will the Agency reimburse or pay for alcohol.**

#### **TRANSPORTATION:**

- i. Transportation will be paid at no greater than the actual cost for authorized airfare and car rental, if necessary.

- ii. In cases where the employees' personal car is used, mileage will be reimbursed at the current federal rate along with all parking fees. However, the cost of reimbursement may not exceed the cost of alternative travel (i.e.: vehicle reimbursement exceeds cost of flight and parking). In such cases, the lesser cost will be reimbursed.



MOJAVE WATER AGENCY  
REQUEST FOR PROPOSALS  
For  
PROFESSIONAL AUDITING SERVICES

**EXHIBIT A SAMPLE RFP**



Kathy Cortner  
Chief Financial Officer  
Mojave Water Agency  
22450 Headquarters Drive  
Apple Valley, CA 92307

**MOJAVE WATER AGENCY**  
**REQUEST FOR PROPOSALS**  
**PROFESSIONAL AUDITING SERVICES**

**TABLE OF CONTENTS**

I. INTRODUCTION .....	1
A. General Information.....	1
B. Term of Engagement.....	2
II. NATURE OF SERVICES REQUIRED .....	2
A. Scope of Work to be Performed .....	2
B. Auditing Standards to be Followed .....	3
C. Working Paper Retention.....	3
D. Irregularities and Illegal Acts .....	3
E. Reports to be Issued.....	4
III. DESCRIPTION OF THE GOVERNMENT .....	4
A. Agency Overview .....	4
B. Component Units .....	5
C. Magnitude of Finance Operations .....	5
D. Computer Systems .....	5
E. Availability of Prior Reports and Work Papers .....	6
IV. TIME REQUIREMENTS .....	6
A. Proposal Calendar.....	6
B. Date Audit May Commence .....	6
C. Date Reports Are Due.....	6
V. ASSISTANCE TO BE PROVIDED TO THE AUDITOR AND REPORT PREPARATION.....	6
A. Finance Department and Clerical Assistance .....	6
B. Work Area, Telephone, and Office Equipment .....	7
C. Report Preparation .....	7
VI. PROPOSAL REQUIREMENTS .....	7
A. General Requirements .....	7
B. Format for Technical Proposal .....	8
C. Contents of Technical Proposal .....	8
D. Contents of Cost proposal .....	11

**TABLE OF CONTENTS (Continued)**

VII. EVALUATION PROCEDURES ..... 11

    A. Review of Proposals ..... 11

    B. Evaluation Criteria ..... 12

ATTACHMENT A

    Audit Work Cost Proposal Form ..... 13

ATTACHMENT B

    Estimate of Cost ..... 14

**MOJAVE WATER AGENCY  
REQUEST FOR PROPOSALS  
PROFESSIONAL AUDITING SERVICES**

**I. INTRODUCTION**

**A. *General Information***

The Mojave Water Agency is requesting proposals from qualified certified public accountant firms to audit its financial statements for the five fiscal years beginning with the fiscal year ending June 30, 2011, in addition to performing other financial audits and reviews as specified below. These audits are to be performed in accordance with auditing standards generally accepted in the United States of America, the standards set forth for financial audits contained in *Government Auditing Standards (1994)* issued by the Comptroller General of the United States, and the U.S. Office of Management and Budget (OMB) Circular A-133 *Audits of State and Local Governments and Non-Profit Organizations*.

There is no expressed or implied obligation for the Mojave Water Agency to reimburse responding firms for any expenses incurred in preparing proposals in response to this request. Materials submitted by respondents are subject to public inspection under the California Public Records Act (Government Code Sec. 6250 et seq.), unless exempt.

To be considered, five (5) copies of a proposal as well as one electronic copy must be received by Kathy Cortner, Chief Financial Officer at 22450 Headquarter Drive, Apple Valley, CA 92307 by 5:30 P.M. on Tuesday, February 22, 2011. The Agency reserves the right to reject any or all proposals submitted.

During the evaluation process, the Mojave Water Agency reserves the right, where it may serve the Agency's best interest, to request additional information or clarification from proposers, or to allow corrections of errors or omissions. At the discretion of the Mojave Water Agency, firms submitting proposals may be requested to make oral presentations as part of the evaluation process.

The Agency reserves the right to retain all proposals submitted and to use any idea(s) in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in the request for proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the Mojave Water Agency and the firm selected.

It is anticipated the selection of a firm will be completed by March 3, 2011. Following the notification of the selected firm, a recommendation will be prepared for review and approval by the Agency's Board of Directors at its March 10, 2011 meeting. The Agency reserves the right to reject any or all proposals, to waive any non-material irregularities or information in any proposal, and to accept or reject any items or combination of items.

**B. Term of Engagement**

It is the intent of The Agency to contract for the services presented herein for a term of five (5) years. The Mojave Water Agency reserves the right to terminate contract for services upon unsatisfactory work.

The proposal package shall present all inclusive audit fees for each year of the contract term.

**II. NATURE OF SERVICES REQUIRED**

**A. Scope of the Work to be Performed**

The Mojave Water Agency desires a Comprehensive Annual Financial Report (CAFR) and its component unit financial statements for the Mojave Water Agency and financial statements for the Mojave Basin Area Watermaster to be prepared by the independent auditor and be fully compliant for GASB 34 for the fiscal year ended June 30, 2011 and each of the subsequent years of the audit firm's contract with The Agency. The Agency will be planning to submit the CAFR to the Government Finance Officers Association (GFOA) for review in their Certificate of Achievement for Excellence in Financial Reporting program.

The selected independent auditor will be required to perform the following tasks.

1. The audit firm will perform an audit of all funds of the Mojave Water Agency. The audit will be conducted in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*, issued by the Comptroller of the United States. The Agency's Comprehensive Annual Financial Report (CAFR) will be prepared and word processed by the audit firm. The CAFR will be in full compliance with GASB 34. The audit firm will render their auditors' report on the basic financial statements which will include both Government-Wide Financial Statements and Fund Financial Statements. The audit firm will also apply limited audit procedures to Management's Discussion and Analysis (MD&A) and required supplementary information pertaining to the General Fund and each major fund of The Agency.

The audit firm will conduct a financial and compliance audit of the Mojave Basin Area Watermaster. The compliance audit shall include the provisions of laws and regulations identified by the State Controller. The auditors shall prepare GASB 34 compliant component unit financial statements for each year of the engagement.

2. The audit firm will perform a single audit on the expenditures of federal grants, as needed, in accordance with OMB Circular A-133 and render the appropriate audit reports on Internal Control over Financial Reporting based upon the audit of the Agency's financial statements in accordance with *Government Auditing Standards* and the appropriate reports on compliance with Requirements Applicable to each Major Program, Internal Control over Compliance and on the Schedule of Expenditures of Federal Awards in Accordance with OMB Circular A-133. The single audit report will include appropriate schedule of expenditures of federal awards, footnotes, findings and questioned costs, including reportable conditions and material weaknesses, and follow up on prior audit findings where required. A copy of the latest Single Audit is attached for your review.

3. The audit firm shall issue a separate “management letter” that includes recommendations for improvements in internal control, accounting procedures and other significant observations that are considered to be non-reportable conditions. Management letters shall be addressed to the Agency’s General Manager.
4. The audit firm shall prepare the Annual State Controller’s Reports for the Mojave Water Agency.

**B.     *Auditing Standards to be Followed***

To meet the requirements of this Request for Proposals, the audit shall be performed in accordance with:

1. Generally accepted auditing standards (GAAS) as set forth by the American Institute of Certified Public Accounts;
2. The standards applicable to financial audits contained in *Government Auditing Standards* (1994 Revision), issued by the Comptroller General of the United States;
3. The provisions of the Single Audit Act of 1984, as amended in 1996; and
4. The provisions of U. S. Office of Management and Budget (OMB) Circular A-133, *Audits of State and Local Governments and Non-Profit Organizations*, Audits of State and Local Governments.
5. Minimum audit requirements and reporting guide lines for Special Districts pursuant to California Code of Regulations, State Controller, Subchapter 5, 1131.2 “Minimum Audit Requirements and Reporting Guidelines for Special Districts”.

**C.     *Working Paper Retention***

All working papers and reports must be retained at the auditor's expense for a minimum of seven (7) years, unless the firm is notified in writing by the Mojave Water Agency of the need to extend the retention period. The auditor will be required to make working papers available to the Mojave Water Agency or any government agencies included in the audit of federal grants. In addition, the firm shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance.

**D.     *Irregularities and Illegal Acts***

Auditors shall be required to make an immediate, written report of all irregularities and illegal acts or indications of illegal acts of which they become aware to the following parties: General Manager; Agency Attorney; and the Chief Financial Officer.

***E. Reports to be Issued***

Following the completion of the audit of the fiscal year's financial statements, the auditor shall issue:

1. A report on the fair presentation of the financial statements in conformity with generally accepted accounting principles, including an opinion on the fair presentation of the supplementary schedule of expenditures of federal awards in relation to the audited financial statements.
2. A report on compliance and internal control over financial reporting based on an audit of the financial statements.
3. A report on compliance and internal control over compliance applicable to each major federal program.
4. Special District's Financial Transaction Report to the State Controller.

In the required reports on compliance and internal controls, the auditor shall communicate any reportable conditions found during the audit. A reportable condition shall be defined as a significant deficiency in the design or operation of the internal control structure, which could adversely affect the organization's ability to record, process, summarize and report financial data consistent with the assertions of management in the financial statements. Reportable conditions that are also material weaknesses shall be identified as such in the report.

Nonreportable conditions discovered by the auditors shall be reported in a separate letter to the management (the "Management Letter") which shall be referred to in the reports on compliance and internal controls.

**III. DESCRIPTION OF THE GOVERNMENT**

***A. Agency Overview***

The Mojave Water Agency is a public agency that is one of twenty nine State Water Project contracting agencies and is governed by a seven (7) member elected Board of Directors. It is located in the high desert of San Bernardino County and serves nearly 5,000 square miles of the Mojave Desert. Day to day management of the MWA is delegated to the General Manager who reports directly to the Board of Directors.

The California State Legislature authorized the formation of the Mojave Water Agency (MWA) in 1959 for the purpose of managing declining groundwater levels in the Mojave Basin Area, El Mirage Basin and Lucerne Basin. The Legislature's act required the vote of the residents within the boundaries of the proposed agency, which would finalize the creation of the agency. With the vote of the people, MWA was formed on July 21, 1960. MWA was expanded by annexation in 1965 to include Johnson Valley and Morongo Basin areas.

Triggered by the rapid growth within the Mojave Water Agency service area, particularly in the Victor Valley area, the City of Barstow and the Southern California Water Company filed a complaint in 1960 against upstream water users claiming that the increased withdrawals and lowering of groundwater levels reduced the amount of natural water available to downstream users. Through an adjudication

process, the resulting judgment appointed the Mojave Water Agency the court appointed Watermaster for the Mojave Basin.

**B.     *Component Units***

The Agency is defined, for financial reporting purposes, in conformity with the Governmental Accepting Standards Board's *Codification Governmental Accounting and Financial Reporting Standards*, Section 2100. Using these criteria, component units are included in the Agency's financial statements.

The management of the Agency identified the following component unit (with fiscal year ending June 30) for inclusion in the Agency's financial statements:

Mojave Basin Area Watermaster

This component unit is to be audited as part of the audit of the Agency's financial statements. The contact person and record location is the same as the primary unit. A separate audit report is required for filing with the courts.

**C.     *Magnitude of Finance Operations***

The Finance Department is headed by Kathy Cortner, Chief Financial Officer and consists of 4 employees. The principal functions performed and the number of employees assigned to each are as follows:

<u>Function</u>	<u>Number of Employees</u>
Accounting	1
Financial Analyst	1
Controller	1
Personnel	1

**D.     *Computer Systems***

The Agency's computerized systems are run on a Local Area Network (LAN). The accounting functions are computerized using Tyler/Incode VX. The applications operating on this system are general ledger, accounts payable, payroll, purchase order, job cost, accounts receivable and bank reconciliation. The agency recently converted to Tyler/Incode from Sage MAS90 in FY 2009/10.



**F. Availability of Prior Reports and Work Papers**

Mayer, Hoffman, McCann PC of Irvine, CA conducted The Agency's most recent audit. The work papers of the previous audits are the property of the previous auditor and can be reviewed by the successful Proposer. The following financial statements were prepared or audited by Mayer, Hoffman, McCann PC

1. Mojave Water Agency Comprehensive Annual Financial Report;
2. Component Unit Financial Statements for the Mojave Basin Area Watermaster

**TIME REQUIREMENTS**

**A. Proposal Calendar**

The following is a list of key dates up to, and including, the date proposals are to be submitted:

<u>Date</u>	<u>Activity</u>
01/28/2011	Request for Proposal issued
02/22/2011	Due date for proposals (due by 5:30 p.m.)
03/10/2011	Contract awarded by Board of Directors

**B. Date Audit May Commence**

Audit planning, documentation of systems of internal control and compliance and transaction testing should be completed during interim stage. It is expected the Agency will close its books and be ready for the final audit by early to mid August, 2011.

**C. Date Reports Are Due**

The auditor shall provide all drafts and recommendations for improvements to the Chief Financial Officer within a reasonable time period after the last day of field work. The auditor should be available for any meetings that may be necessary to discuss the draft audit reports. Once all issues of discussion are resolved, the completed CAFR, component unit financial statements, Single Audit report and other reports shall be delivered to the Chief Financial Officer. It is anticipated that this process will be completed and the final products to be delivered by the end of October.

**V. ASSISTANCE TO BE PROVIDED TO THE AUDITOR AND REPORT PREPARATION**

**A. *Finance Department and Clerical Assistance***

The Finance Department staff will be available during the audit to assist the firm by providing information, documentation, and explanations. Debbie Cain will be responsible for acting as the liaison between the audit firm and the accounting personnel.

**B. *Work Area, Telephone, and Office Equipment***

The Agency will provide the auditor with reasonable work space, desks and chairs. The auditor will also be provided access to a telephone, photocopying, FAX machines and internet access.

**C. *Report Preparation***

Report preparation and editing shall be the responsibility of the auditor.

1. *Comprehensive Annual Financial Report – Agency will print and bind.*
2. *Single Audit Report (10)*
3. *Mojave Basin Area Watermaster (10)*

In addition to the reports above, the audit firm will also provide an electronic copy of each report noted above to the Agency.

**VI. PROPOSAL REQUIREMENTS**

**A. *General Requirements***

1. Inquiries concerning the Request for Proposals and the subject of the Request for Proposals must be made to:

Kathy Cortner  
Chief Financial Officer  
22450 Headquarters Drive  
Apple Valley, CA 92307  
(760) 946-7000  
[kcortner@mojavewater.org](mailto:kcortner@mojavewater.org)

**CONTACT WITH PERSONNEL OF THE AGENCY OTHER THAN THE ABOVE REGARDING THIS REQUEST FOR PROPOSALS MAY BE GROUNDS FOR ELIMINATION FROM THE SELECTION PROCESS.**

1. Submission of Proposal. Five (5) copies of the Proposal and one electronic copy shall be received in the office of the Finance Department of the Mojave Water Agency by 5:30 p.m. on February 22, 2011 for a proposal to be considered. The Proposal should address the items listed in sections C and D below.

The Proposal should be addressed as follows:

**Mojave Water Agency  
Kathy Cortner  
Chief Financial Officer  
22450 Headquarters Drive  
Apple Valley, CA 92307**

***B. Format for Technical Proposal***

1. Title Page showing the request for proposals subject; the firm's name; the name, address and telephone number of the contact person; and the date of the proposal.
2. Table of Contents identifying the materials submitted by section and page number. Cross-referencing to section and page number in the RFP would be helpful.
3. Signed Transmittal Letter briefly stating the Proposer's understanding of the work to be done; the commitment to perform the work within the time period; and the name(s) of the person(s) authorized to represent the Proposer, title, address, and telephone number.
4. Detailed Proposal following the order set forth in Section C below.

***C. Contents of Technical Proposal***

The purpose of the Technical Proposal is to demonstrate the qualifications, competence and capacity of the firm seeking to undertake an independent audit of the Agency in conformity with the requirements of this request for proposals. As such, the substance of proposals will carry more weight than the form or manner of presentation. The Technical Proposal should demonstrate the qualifications of the firm and of the particular staff to be assigned to this engagement. It should also specify an audit approach that will meet the request for proposals requirements.

The Technical Proposal should address all points outlined in the request for proposals (excluding any cost information which should only be included in the Sealed Dollar Cost Bid). The proposal should be prepared simply and economically, providing a straightforward, concise description of the proposer's capabilities to satisfy the requirements of this request for proposals. While additional data may be presented, the following subjects must be included. They represent the criteria against which the proposal will be evaluated.

1. *License to Practice in California*

An affirmative statement is required verifying the firm and all assigned key professional staff are properly licensed to practice in California.

2. *Independence*

The firm must be able to provide an affirmative statement that it is independent of the Mojave Water Agency as defined by auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

3. *Firm Qualifications and Experience*

**To qualify, the firm must have extensive experience conducting high quality audits of local government and/or water agencies as well as experience with preparation of Comprehensive Annual Financial Statements in GASB 34 format.** The Proposer should state the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this engagement is to be performed, and the number and nature of the professional staff to be employed in this engagement on a full-time basis and the number and nature of the staff to be so employed on a part-time basis. Staff consistency is an important consideration.

The Proposer should provide the range of activities performed by the local office, e.g., audit, accounting, tax service and/or management consulting services.

The Proposer must provide a list of all current municipal clients.

The Proposer is also required to submit a copy of a report on its most recent external quality control review (peer review), with a statement whether that quality control review included a review of specific government engagements (required by Government Audit Standards (1994).

The Proposer shall also provide information on the results of any Federal or State desk reviews or field reviews of its audits during the past three (3) years. In addition, the Proposer shall provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past three (3) years with State regulatory bodies or professional organizations.

Single Audit: Significant experience performing compliance audits as required by the United States Office of Management and Budget (OMB) Circular A-133 *Compliance Supplement*, and certain provisions of the Transportation Development Act, including Public Utilities Code Section 99245 as enacted and amended by statute.

4. *Partner, Supervisory and Staff Qualifications and Experience*

Identify the principal supervisory and management staff, including engagement partners, managers, other supervisors and specialists who would be assigned to this engagement. Include resumes, indicating whether each such person is registered or licensed to practice as a certified public account in California. Provide information on the government auditing experience of each person, including information on relevant continuing professional education for the past (3) three years and membership in professional organizations relevant to the performance of this audit.

Provide as much information as possible regarding the number, qualifications, experience and training, including relevant continuing professional education, of the specific staff to be assigned to this engagement. Indicate how the quality of staff over the term of the agreement will be assured.

Engagement partners, managers, other supervisory staff and specialists may be changed if those personnel leave the firm, are promoted or are assigned to another office. These personnel may also be changed for other reasons with the express prior written permission of the Agency. However, in either case, the Agency retains the right to approve or reject replacements.

Other audit personnel may be changed at the discretion of the Proposer provided that replacements have substantially the same or better qualifications or experience.

**5. *Similar Engagements with Other Government Entities***

For the firm's office that will be assigned responsibility for the audit, list the most significant engagements (maximum - 5) performed in the last three (3) years that are similar to the engagement described in this request for proposals. These engagements should be ranked on the basis of total staff hours. Indicate the scope of work, date, engagement partners, total hours, and the name and telephone number of the principal client contact. Also, please indicate whether the audit was part of a Comprehensive Annual Financial Report prepared in conformance with the GASB 34 requirements. Information should be provided regarding clients that the firm serves that have received the CSMFO and GFOA awards.

Please provide a list of not less than five client references for whom services similar to those outlined in the RFP are currently being provided. For each reference listed, provide the name of the organization, dates for which the service(s) are being provided, type of service(s) being provided and the name, address and telephone number of the responsible person within the reference's organization. The Agency reserves the right to contact any or all of the listed references regarding the audit services performed by the Proposer.

**6. *Specific Audit Approach***

The proposal should set forth a work plan, including an explanation of the audit methodology to be followed, to perform the services required in Section II of this request for proposals. In developing the work plan, reference should be made to such sources of information as Mojave Water Agency's budget and related materials, organizational charts, manuals, programs, and financial and other management information systems.

Proposers will be required to provide the following information on their audit approach:

- a. Proposed segmentation for the engagement;
- b. Level of staff and number of hours to be assigned to each proposed segment of the engagement;
- c. Sample size and the extent to which statistical sampling is to be used in this engagement;
- d. Extent of use of EDP software in this engagement;

- e. Type and extent of analytical procedures to be used in this engagement;
- f. Approach to be taken to gain and document an understanding of The Agency's internal control structure;
- g. Approach to be taken in determining laws and regulations that will be subject to audit test work; and
- h. Approach to be taken in drawing audit samples for purposes of tests of compliance.

7. *Identification Anticipated Potential Audit Problems*

The proposal should identify and describe any anticipated potential audit problems, the firm's approach to resolving these problems and any special assistance that will be requested from the Agency.

8. *Identify any exceptions to the attached standard, agency contract.*

D. Contents of Cost Proposal

1. *Total All-Inclusive Maximum Price*

The cost proposal should contain all pricing information relative to performing the audit engagement as described in this request for proposal. The total all-inclusive maximum price to be bid is to contain all direct and indirect costs including all out-of-pocket expenses. Costs should be identified separately for the single audit.

The Agency will not be responsible for expenses incurred in preparing and submitting the technical proposal or the sealed dollar cost bid. Such costs should not be included in the proposal.

The cost proposal should be submitted in the format provided in Attachment A, "AUDIT WORK COST PROPOSAL FORM" and Attachment B, "ESTIMATE OF COST."

2. *Manner of Payment*

Progress payment will be made on the basis of hours of work completed during the course of the engagement and out-of-pocket expenses incurred in accordance with the firm's proposal. Interim billings shall cover a period of not less than a calendar month.

**VII. EVALUATION PROCEDURES**

**A. *Review of Proposals***

Agency Staff will evaluate submitted proposals and make a recommendation to the Board.

**B. *Evaluation Criteria***

Proposals will be evaluated using three (3) sets of criteria. Firms meeting the mandatory criteria will have their proposals evaluated and scored for both technical qualifications and price. The following represent the principal selection criteria, which will be considered during the evaluation process.

1. Mandatory Elements

- a. The audit firm is independent and licensed to practice in California.
- b. The firm has no conflict of interest with regard to any of the work performed by the firm for The Agency.
- c. The firm adheres to the instructions in this request for proposals on preparing and submitting the proposal.
- d. The firm submits a copy of its last external quality control review report and the firm has a record of quality audit work.
- e. The firm's past experience and performance on comparable water district engagements.
- f. The quality of the firm's professional personnel to be assigned to the engagement and the quality of the firm's management support personnel to be available for technical consultation.
- g. Adequacy of proposed staffing plan for various segments of the engagement.
- h. Thoroughness of approach to conducting the audit of the Agency and demonstration of the understanding of the objectives and scope of the audit.
- i. Commitment to timeliness in the conduct of the audit.
- j. Maximum fees to conduct the audit.
- k. Adequacy of sampling techniques.
- l. Adequacy of analytical procedures.

Cost will not be the primary factor in the selection of an audit firm.

Oral Presentation: During the evaluation process, the Agency may, at its discretion, request any one or all firms to make oral presentations. Such presentations will provide firms with an opportunity to answer any questions there may be on a firm's proposal. Not all firms will be asked to make such oral presentations.

“Attachment A”

**AUDIT WORK COST PROPOSAL FORM**

**NAME OF FIRM:**\_\_\_\_\_

<b>Service</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>	<b>2013/14</b>	<b>2014/15</b>
Agency Audit & Related Reports	\$	\$	\$	\$	\$
Single Audit and Related Reports	\$	\$	\$	\$	\$
Mojave Basin Area Watermaster Audit	\$	\$	\$	\$	\$
Total for Fiscal Year (not-to exceed)	\$	\$	\$	\$	\$



“Attachment B”

**ESTIMATE OF COST**

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Contact Email: \_\_\_\_\_

**1. Auditor’s Standard Billing Rates**

<b>Auditors Standard Hourly Billing Rates</b>						
<b>POSITION</b>	<b>No. of Hours</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>	<b>2013/2014</b>	<b>2014/15</b>
<b>Partner</b>		\$	\$	\$	\$	\$
<b>Manager</b>		\$	\$	\$	\$	\$
<b>Senior Accountant</b>		\$	\$	\$	\$	\$
<b>Staff Accountant</b>		\$	\$	\$	\$	\$
<b>Clerical</b>		\$	\$	\$	\$	\$

**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
MOJAVE WATER AGENCY**

**AND**

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (hereinafter referred to as the "Effective Date"), by and between the MOJAVE WATER AGENCY, a public agency organized and operating pursuant to California Water Code Appendix Section 97-1 et seq. (hereinafter referred to as the "AGENCY"), and \_\_\_\_\_ (hereinafter referred to as "CONTRACTOR"). AGENCY and CONTRACTOR may individually be referred to as "Party" or collectively as "Parties" in this Agreement.

**RECITALS**

WHEREAS, the AGENCY desires to contract with CONTRACTOR to provide \_\_\_\_\_ for the Mojave Water Agency.

WHEREAS, CONTRACTOR is willing to contract with the AGENCY to provide such services for the Project; and

WHEREAS, CONTRACTOR holds itself as duly licensed, qualified, and capable of performing said services for the Project; and

WHEREAS, this Agreement establishes the terms and conditions for the AGENCY to retain CONTRACTOR to provide the services described herein for the Project.

**COVENANTS**

NOW, THEREFORE, in consideration of the faithful performance of the terms and conditions set forth herein, the Parties hereto agree as follows:

**ARTICLE I**  
**ENGAGEMENT OF CONTRACTOR**  
**AND AUTHORIZATION TO PROCEED**

1.1 ENGAGEMENT: The AGENCY hereby engages CONTRACTOR, and CONTRACTOR hereby accepts the engagement, to perform certain services described in Section 2.1 of this Agreement for the term set forth in Section 5.1 of this Agreement.

1.2 AUTHORIZATION TO PROCEED: Authorization for CONTRACTOR to proceed with all or a portion of the work described in Section 2.1 of this Agreement will be granted in writing by the AGENCY as soon as both Parties sign the Agreement and all applicable insurance and other security documents required pursuant to Section 6.3 of this Agreement are received and approved by the AGENCY. CONTRACTOR shall not proceed with said work until so authorized by the AGENCY, and shall commence work immediately upon receipt of the Notice to Proceed.

1.3 NO EMPLOYEE RELATIONSHIP: CONTRACTOR shall perform the services provided for herein as an independent contractor, and not as an employee of the AGENCY. The AGENCY shall have ultimate control over the work performed for the Project, but not over the means or methods used by CONTRACTOR in the performance of such work. CONTRACTOR is not to be considered an agent or employee of the AGENCY for any purpose, and shall not be entitled to participate in any pension plans, insurance coverage, bonus, stock, or similar benefits that the AGENCY provides for its employees. CONTRACTOR shall indemnify the AGENCY for any tax, retirement contribution, social security, overtime payment, or workers' compensation payment which the AGENCY may be required to make on behalf of CONTRACTOR or any agent or employee of CONTRACTOR.

**ARTICLE II**  
**SERVICES OF CONTRACTOR**

2.1 SCOPE OF SERVICES: The scope of services to be performed by the CONTRACTOR under this Agreement are described in the \_\_\_\_\_ attached hereto as Exhibit "A" and incorporated herein by this reference (hereinafter

referred to as the "Scope of Work"), and shall, where not specifically addressed, include all related services ordinarily provided by the CONTRACTOR under same or similar circumstances and/or otherwise necessary to satisfy the requirements of Section 3.3 of this Agreement. In case of conflict between the terms of this Agreement and the provisions of the Scope of Work, this Agreement shall govern.

2.2 PREVAILING WAGES: To the extent required by the California Labor Code, CONTRACTOR shall pay not less than the prevailing rate of per diem wages as determined by the Director, Department of Industrial Relations, State of California. Copies of such prevailing rate of per diem wages are on file at the AGENCY's office, which copies will be made available to any interested party upon request. CONTRACTOR shall post a copy of such determination at each job site. If applicable, CONTRACTOR shall forfeit to the AGENCY the amount of the penalty set forth in Labor Code Section 1775, and 1813, or any subsequent amendments thereto, for each calendar day, or portion thereof, for each worker paid less than the specified prevailing rates for such work or craft in which such worker is employed, whether paid by CONTRACTOR or by any subcontractor.

2.3 HOURS AND WORKING CONDITIONS: The AGENCY is a public entity in the State of California and is subject to the provisions of the Government Code and the Labor Code of the State. It is stipulated and agreed that all provisions of law applicable to public contracts are a part of this Agreement to the same extent as though set forth herein and will be complied with by CONTRACTOR. CONTRACTOR shall comply with all applicable provisions of the California Labor Code relating to working hours and the employment of apprentices on public works projects, and shall be solely liable and responsible for any violation of the California Labor Code.

2.4 No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

2.5 No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a registered "public

works contractor” with the DIR AT THE TIME OF BID. Where the prime contract is less than \$15,000 for maintenance work or less than \$25,000 for construction alteration, demolition or repair work, registration is not required.

2.6 This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

2.7 The Agency shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted and reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., the Agency may continue to hold sufficient funds to cover estimated wages and penalties under the contract.

### **ARTICLE III RESPONSIBILITIES OF THE AGENCY AND OF CONTRACTOR**

3.1 DUTIES OF THE AGENCY: The AGENCY, without cost to CONTRACTOR, will provide all pertinent information necessary for CONTRACTOR's performance of its obligations under this Agreement that is reasonably available to the AGENCY unless otherwise specified in the Scope of Work, in which case the CONTRACTOR is to acquire such information. The AGENCY does not guarantee or ensure the accuracy of any reports, information, and/or data so provided. To the extent that any reports, information, and/or other data so provided was supplied to the AGENCY by persons who are not employees of the AGENCY, any liability resulting from inaccuracies and/or omissions contained in said information shall be limited to liability on behalf of the party who prepared the information for the AGENCY.

3.2 REPRESENTATIVE OF AGENCY: The AGENCY will designate as the person to act as the AGENCY's representative with respect to the work to be performed under this Agreement. Such person will have complete authority to transmit instructions, receive information, and interpret and define the AGENCY's policies and decisions pertinent to the work. In the event the AGENCY wishes to make a change in the AGENCY's representative, the AGENCY shall notify the

CONTRACTOR of the change in writing.

3.3 DUTIES OF CONTRACTOR: CONTRACTOR shall perform all services for the Project work in such a manner as to fully comply with all applicable professional standards of care, including professional quality, technical accuracy, timely completion, and other services furnished and/or work undertaken by CONTRACTOR pursuant to this Agreement. The CONTRACTOR shall cause all work and deliverables to conform to all applicable federal, state, and local laws and regulations.

3.4 APPROVAL OF WORK: The AGENCY's approval of work or materials furnished hereunder shall not in any way relieve CONTRACTOR of responsibility for the technical adequacy of its work. Neither the AGENCY's review, approval or 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. Where approval by the AGENCY is indicated in this Agreement, it is understood to be conceptual approval only and does not relieve the CONTRACTOR of responsibility for complying with all laws, codes, industry standards, and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of the CONTRACTOR or its subcontractors. CONTRACTOR's obligation to defend, indemnify, and hold harmless the AGENCY, and its directors, officers, employees and agents as set forth in Section 6.9 of this Agreement also applies to the actions or omissions of the CONTRACTOR or its subcontractors as set forth above in this paragraph.

## **ARTICLE IV**

### **PAYMENTS TO CONTRACTOR**

4.1 PAYMENT: The AGENCY will pay CONTRACTOR for work performed under this Agreement, which work can be verified by the AGENCY, on the basis of the following: CONTRACTOR shall exercise its good faith best efforts to facilitate a full and clear definition of the scope of all assigned work so that the amount set forth in Section 4.3 of this Agreement will cover all tasks necessary to complete the work. The amount set forth in Section 4.3 of this Agreement is the maximum compensation to which CONTRACTOR may be entitled for the

performance of services to complete the work for the Project, unless the Scope of Work or time to complete the work is changed by the AGENCY in writing in advance of the work to be performed thereunder. Adjustments in the total payment amount shall only be allowed pursuant to Section 6.4 of this Agreement. In no event shall CONTRACTOR be entitled to compensation greater than the amount set forth in Section 4.3 of this Agreement where changes in the Scope of Work or the time for performance are necessitated by the negligence of CONTRACTOR or any sub-contractor performing work on the Project.

4.2 PAYMENT TO CONTRACTOR: Payment will be made by the AGENCY within thirty (30) calendar days after receipt of an invoice from CONTRACTOR, provided that all invoices are complete and product and services are determined to be of sufficient quality by the AGENCY and all prevailing wage compliance documentation has been submitted, is correct and complete. CONTRACTOR shall invoice AGENCY monthly for services performed under this Agreement.

4.3 ESTIMATED CHARGES: The total estimated charges for all work under this Agreement are identified on the attached "Scope of Work" Exhibit(s) and such amount is the cost ceiling as described herein. The total estimated charges stated herein constitute the total amount agreed to.

4.4 COST FOR REWORK: CONTRACTOR shall, at no cost to the AGENCY, prepare and perform any necessary rework occasioned by CONTRACTOR's negligent act or omission or otherwise due substantially to CONTRACTOR's fault.

## **ARTICLE V**

### **COMPLETION SCHEDULE**

5.1 TERM: The Term of this Agreement shall begin on the Effective Date of this Agreement, and shall continue until \_\_\_\_\_ unless this Agreement is earlier terminated pursuant to the provisions of Section 6.8 below. Notwithstanding the above, the provisions of Sections 1.3, 2.2, 2.3, 3.3 and 3.4 and Articles IV, V, and VI herein shall survive the expiration and/or termination of this Agreement.

5.2 TASK SCHEDULE: The services to be performed by CONTRACTOR under this Agreement shall be completed in accordance with the timeframe set forth

in the Scope of Work.

5.3 TIME OF ESSENCE: CONTRACTOR shall perform all services required by this Agreement in a prompt, timely, and professional manner in accordance with the above schedule. Time is of the essence in this Agreement.

## **ARTICLE VI GENERAL PROVISIONS**

6.1 COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS: CONTRACTOR shall at all times observe all applicable provisions of Federal, State, and Local laws and regulations including, but not limited to, as well as those related to Equal Opportunity Employment.

6.2 SUBCONTRACTORS AND OUTSIDE CONSULTANTS: No subcontract shall be awarded by CONTRACTOR unless prior written approval thereof is obtained from the AGENCY. CONTRACTOR shall be responsible for payment to subcontractors used by them to perform the services under this Agreement. If CONTRACTOR subcontracts any of the work to be performed, CONTRACTOR shall be as fully responsible to the AGENCY for the performance of the work, including errors and omissions of CONTRACTOR's subcontractors and of the persons employed by the subcontractor, as CONTRACTOR is for the acts and omissions of persons directly employed by the CONTRACTOR. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor of CONTRACTOR and the AGENCY. CONTRACTOR shall bind every subcontractor and every subcontractor of a subcontractor to the terms of this Agreement that are applicable to CONTRACTOR's work unless specifically noted to the contrary in the subcontract in question and approved in writing by the AGENCY.

6.3 INSURANCE: CONTRACTOR shall secure and maintain in full force and effect, until the satisfactory completion and acceptance of the Project by AGENCY, such insurance as will protect it and the AGENCY in such a manner and in such amounts as set forth below. The premiums for said insurance coverage shall be paid by the CONTRACTOR. The failure to comply with these insurance requirements may constitute a material breach of this Agreement, at the sole discretion of the AGENCY.

(a) Certificates of Insurance: Prior to commencing services under this



Agreement, and in any event no later than ten (10) calendar days after execution of this Agreement, CONTRACTOR shall furnish AGENCY with Certificates of Insurance and endorsements verifying the insurance coverage required by this Agreement is in full force and effect. The AGENCY reserves the right to require complete and accurate copies of all insurance policies required under this Agreement.

- (b) Required Provisions: The insurance policies required by this Agreement shall include the following provisions or have them incorporated by endorsement(s):
- (1) Primary Coverage: The insurance policies provided by CONTRACTOR shall be primary insurance and any self-insured retention and/or insurance carried by or available to the AGENCY or its employees shall be excess and non-contributory coverage so that any self-insured retention and/or insurance carried by or available to the AGENCY shall not contribute to any loss or expense under CONTRACTOR's insurance.
  - (2) Additional Insured: The policies of insurance provided by CONTRACTOR, except Workers' Compensation and Professional Liability, shall include as additional insured: the AGENCY, its directors, officers, employees, and agents when acting in their capacity as such in conjunction with the performance of this Agreement. Such policies shall contain a "severability of interests" provision, also known as "cross liability" or "separation of insured".
  - (3) Cancellation: Each certificate of insurance and insurance policy shall provide that the policy may not be non-renewed, canceled (for reasons other than non-payment of premium) or materially changed without first giving thirty (30) days advance written notice to the AGENCY, or ten (10) days advance written notice in the event of cancellation due to non-payment of premium.
  - (4) Waiver of Subrogation: The insurance policies provided by CONTRACTOR shall contain a waiver of subrogation against AGENCY, its directors, officers, employees and agents for any claims arising out of the services performed under this Agreement

by CONTRACTOR.

- (5) Claim Reporting: CONTRACTOR shall not fail to comply with the claim reporting provisions or cause any breach of a policy condition or warranty of the insurance policies required by this Agreement that would affect the coverage afforded under the policies to the AGENCY.
  - (6) Deductible/Retention: If the insurance policies provided by CONTRACTOR contain deductibles or self-insured retentions, any such deductible or self-insured retention shall not be applicable with respect to the coverage provided to AGENCY under such policies. CONTRACTOR shall be solely responsible for any such deductible or self-insured retention and the AGENCY, in its sole discretion, may require CONTRACTOR to secure the payment of any such deductible or self-insured retention by a surety bond or an irrevocable and unconditional letter of credit.
  - (7) Sub-Contractors: CONTRACTOR shall include all sub-contractors as additional insureds under the insurance policies required by this Agreement to the same extent as the AGENCY or shall furnish separate certificates of insurance and policy endorsements for each sub-contractor verifying that the insurance for each sub-contractor complies with the same insurance requirements applicable to CONTRACTOR under this Agreement.
- (c) Insurance Company Requirements: CONTRACTOR shall provide insurance coverage through insurers that have at least an "A" Financial Strength Rating and a "VII" Financial Size Category in accordance with the current ratings by the A. M. Best Company, Inc. as published in *Best's Key Rating Guide* or on said company's web site. In addition, any and all insurers must be admitted and authorized to conduct business in the State of California and be a participant in the California Insurance Guaranty Association, as evidenced by a listing in the appropriate publication of the California Department of Insurance.
- (d) Policy Requirements: The insurance required under this Agreement

shall meet or exceed the minimum requirements as set forth below:

- (1) Workers' Compensation: CONTRACTOR shall maintain Workers' Compensation insurance as required by law in the State of California to cover CONTRACTOR's obligations as imposed by federal and state law having jurisdiction over CONTRACTOR's employees and Employers' Liability insurance, including disease coverage, of not less than \$1,000,000.
- (2) General Liability: CONTRACTOR shall maintain Comprehensive General Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence or claim and \$1,000,000 aggregate. The policy shall include, but not be limited to, coverage for bodily injury, property damage, personal injury, products, completed operations and blanket contractual to cover, but not be limited to, the liability assumed under the indemnification provisions of this Agreement. In the event the Comprehensive General Liability insurance policy is written on a "claims made" basis, coverage shall extend for two years after the satisfactory completion and acceptance of the Project by AGENCY.
- (3) Automobile Liability: CONTRACTOR shall maintain Commercial Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence for any owned, hired, or non-owned vehicles.
- (4) Professional Liability: CONTRACTOR shall maintain Professional Liability insurance covering errors and omissions arising out of the services performed by the CONTRACTOR or any person employed by him, with a limit of not less than \$1,000,000 per occurrence or claim and \$1,000,000 aggregate. In the event the insurance policy is written on a "Claims made" basis, coverage shall extend for two years after the satisfactory completion and acceptance of the Project by AGENCY.
- (5) Property Coverage – Valuable Papers: Property coverage on an all-risk, replacement cost form with Valuable Papers insurance sufficient to assure the restoration of any documents, memoranda,

reports, plans or other similar data, whether in hard copy or electronic form, relating to the services provided by CONTRACTOR under this Agreement.

6.4 CHANGES IN SCOPE OR TIME: If the AGENCY requests a change in the Scope of Work or time of completion by either adding to or deleting from the original scope or time of completion, an equitable adjustment shall be made and this Agreement shall be modified in writing accordingly. CONTRACTOR must assert any claim for adjustment under this clause in writing within thirty (30) calendar days from the date of receipt from CONTRACTOR of the notification of change unless the AGENCY grants a further period of time before the date of final payment under this Agreement.

6.5 NOTICES: All notices to either Party by the other shall be made in writing and delivered or mailed to such Party at their respective addresses as follows, or to other such address as either Party may designate, and said notices shall be deemed to have been made when delivered or, if mailed, five (5) days after mailing.

To AGENCY: Mojave Water Agency  
13846 Conference Center Drive  
Apple Valley, CA 92307  
Attn:

To CONTRACTOR: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6.6 CONTRACTOR'S ASSIGNED PERSONNEL: CONTRACTOR designates \_\_\_\_\_ to have immediate responsibility for the performance of the work for the Project and for all matters relating to performance under this Agreement. Substitution of any assigned personnel shall require the prior written approval of the AGENCY. If the AGENCY determines that a proposed substitution is not acceptable, then, at the request of the AGENCY, CONTRACTOR shall substitute with a person acceptable to the AGENCY.

6.7 CONFIDENTIALITY:

- (a) Privileged Information. The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; AGENCY information or data which is not subject to public disclosure; AGENCY operational procedures; and knowledge of selection of contractors, subcontractors or suppliers in advance of official announcement.
- (b) Non-Disclosure. The CONTRACTOR shall protect from unauthorized disclosure any and all sensitive or confidential information, names and other identifying information, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the AGENCY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the AGENCY, any such information to anyone other than the AGENCY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

6.8 TERMINATION:

- (a) If the engagement of CONTRACTOR is not extended by the mutual written consent of the AGENCY and CONTRACTOR, then this Agreement shall expire on the latest date set forth in the schedule contained in the Scope of Work for completion of tasks for the Project.
- (b) Notwithstanding the above, the AGENCY may terminate this Agreement or abandon any portion of the Project by giving ten (10)

days written notice thereof to CONTRACTOR. CONTRACTOR may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days written notice only in the event of substantial failure by the AGENCY to perform in accordance with the terms of this Agreement through no fault of the CONTRACTOR.

- (c) In the event of termination of this Agreement or abandonment of any portion of the Project, the AGENCY shall be immediately given title to all original drawings and other documents developed for the Project, and the sole right and remedy of CONTRACTOR shall be to receive payment for all amounts due and not previously paid to CONTRACTOR for services completed or in progress in accordance with the Agreement prior to such date of termination. If termination occurs prior to completion of any task for which payment has not been made, the fee for services performed during such task shall be based on an amount mutually agreed to by the AGENCY and CONTRACTOR. Such payments available to the CONTRACTOR under this paragraph shall not include costs related to lost profit associated with the expected completion of the work or other such payments relating to the benefit of this Agreement.

6.9 ATTORNEYS' FEES: In the event that either the AGENCY or CONTRACTOR brings an action or proceeding for damages for an alleged breach of any provision of this Agreement, to interpret this Agreement or determine the rights of and duties of either Party in relation thereto, the prevailing Party shall be entitled to recover as part of such action or proceeding all litigation, arbitration, mediation and collection expenses, including witness fees, court costs, and reasonable attorneys' fees. Such fees shall be determined by the Court in such litigation or in a separate action brought for that purpose. Mediation will be attempted if both Parties mutually agree before, during, or after any such action or proceeding has begun.

6.10 INDEMNITY:

- (a) CONTRACTOR shall defend, indemnify and hold AGENCY, including its directors, officers, employees and agents, harmless from and against

any and all claims, demands, causes of action, suits, debts, obligations, liabilities, losses, damages, costs, expenses, attorney's fees, awards, fines, settlements, judgments or losses of whatever nature, character, and description, with respect to or arising out of the work to be performed under this Agreement, including without limitation, any and all such claims, demands, causes of action, suits, debts, obligations, liabilities, losses, damages, costs, expenses, attorney's fees, awards, fines, settlements, judgments or losses of whatever nature, character, and description, arising by reason of death or bodily injury to one or more persons, including the employees of CONTRACTOR; injury to property of any kind, including loss of use; or economic damages of any kind, caused by, or arising out of, any alleged or actual act or omission, regardless of whether such act or omission is active or passive, by CONTRACTOR, any of CONTRACTOR's sub-contractors or AGENCY, including their respective directors, officers, employees, agents and assigns, excepting only such matters arising from the sole negligence or willful misconduct of the AGENCY.

- (b) CONTRACTOR shall defend, indemnify and hold AGENCY, including its directors, officers, employees and agents, harmless from and against any and all claims, demands, causes of action, suits, debts, obligations, liabilities, losses, damages, costs, expenses, attorney's fees, awards, fines, settlements, judgments or losses of whatever nature, character, and description, with respect to or arising out of any infringement or alleged infringement of any patent, copyright or trademark and arising out of the use of any equipment or materials furnished under this Agreement by the CONTRACTOR or CONTRACTOR'S sub-contractors, including their respective directors, officers, employees, agents and assigns, or out of the processes or actions employed by, or on behalf of, the CONTRACTOR or CONTRACTOR's sub-contractors, including their respective directors, officers, employees, agents and assigns, in connection with the performance of services under this Agreement. CONTRACTOR shall have the right, in order to avoid such claims or actions, to substitute at its expense non-infringing equipment, materials or processes, or to

modify at its expense such infringing equipment, materials, and processes so they become non-infringing, provided that such substituted and modified equipment, materials, and processes shall meet all the requirements and be subject to all the provisions of this Agreement.

- (c) CONTRACTOR shall defend, indemnify and hold AGENCY, including its directors, officers, employees and agents, harmless from and against any and all claims, demands, causes of action, suits, debts, obligations, liabilities, losses, damages, costs, expenses, attorney's fees, awards, fines, settlements, judgments or losses of whatever nature, character, and description, with respect to or arising out of any breach by CONTRACTOR or CONTRACTOR's sub-contractors, including their respective directors, officers, employees, agents and assigns, of the aforesaid obligations and covenants, and any other provision or covenant of this Agreement.
- (d) It is the intent of the Parties to this Agreement that the defense, indemnity and hold harmless obligation of CONTRACTOR under this Agreement shall be as broad and inclusive as may be allowed under *California Civil Code* Sections 2778 through 2784.5, or other similar state or federal law.

6.11 SAFETY: CONTRACTOR shall perform the work in full compliance with applicable State and Federal safety requirements including, but not limited to, Occupational Safety and Health Administration requirements.

- (a) CONTRACTOR shall take all precautions necessary for the safety of, and prevention of damage to, property on or adjacent to the Project site, and for the safety of, and prevention of injury to, persons, including AGENCY's employees, CONTRACTOR's employees, and third persons. All work shall be performed entirely at CONTRACTOR's risk. CONTRACTOR shall comply with the insurance requirements set forth in Section 6.3 of this Agreement.
- (b) CONTRACTOR shall also furnish the AGENCY with a copy of any injury prevention program established for the CONTRACTOR's employees pursuant to Labor Code Section 6401.7, including any necessary documentation regarding implementation of the program. CONTRACTOR hereby certifies that its employees have been trained



in the program, and procedures are in place to train employees whenever new substances, processes, procedures, or equipment are introduced. CONTRACTOR shall demonstrate compliance with Labor Code Section 6401.7 by maintaining a copy of its Injury and Illness Prevention Plan at the Project site and making it available to the AGENCY.

6.12 EXAMINATION OF RECORDS: All original drawings, specifications, reports, calculations, and other documents or electronic data developed by CONTRACTOR for the Project shall be furnished to and become the property of the AGENCY. CONTRACTOR agrees that the AGENCY will have access to and the right to examine any directly pertinent books, documents, papers, and records of any and all of the transactions relating to this Agreement.

6.13 OWNERSHIP OF SOFTWARE:

- (a) Subject to payment of all compensation due under this Agreement and all other terms and conditions herein, CONTRACTOR hereby grants AGENCY a non-exclusive, transferable, royalty-free license to use the Software furnished to AGENCY by CONTRACTOR under this Agreement. The license granted herein shall authorize AGENCY to:
  - (1) Install the Software on computer systems owned, leased or otherwise controlled by AGENCY;
  - (2) Utilize the Software for its internal data-processing purposes; and
  - (3) Copy the Software and distribute as desired to exercise the rights granted herein.
- (b) CONTRACTOR retains its entire right, title and interest in the Software developed under this Agreement. AGENCY acknowledges that CONTRACTOR owns or holds a license to use and sublicense various pre-existing development tools, routines, subroutines and other programs, data and materials that CONTRACTOR may include in the Software developed under this Agreement. This material shall be referred to hereafter as "Background Technology."
- (c) AGENCY agrees that CONTRACTOR shall retain any and all rights CONTRACTOR may have in the Background Technology.

CONTRACTOR grants AGENCY an unrestricted, nonexclusive, perpetual, fully paid-up worldwide license to use the Background Technology in the Software developed and delivered to AGENCY under this Agreement, and all updates and revisions thereto. However, AGENCY shall make no other commercial use of the Background Technology without CONTRACTOR's written consent.

6.14 INTEGRATION AND AMENDMENT: This Agreement contains the entire understanding between the AGENCY and CONTRACTOR as to those matters contained herein. No other representations, covenants, undertakings or other prior or contemporaneous agreements, oral or written, respecting those matters, which are not specifically incorporated herein, may be deemed in any way to exist or to bind any of the Parties hereto. Each Party acknowledges that it has not executed this Agreement in reliance on any promise, representation or warranty not set forth herein. This Agreement may not be amended except by a writing signed by all Parties hereto.

6.15 ASSIGNMENT: Neither Party shall sign or transfer its interest in this Agreement without written consent of the other Party. All terms, conditions, and provisions of this Agreement shall inure to and shall bind each of the Parties hereto, and each of their respective heirs, executors, administrators, successors, and assigns.

6.16 GOVERNING LAW: This Agreement shall be construed as if it was jointly prepared by both Parties hereto, and any uncertainty or ambiguity contained herein shall not be interpreted against the Party drafting same. This Agreement shall be enforced and governed by the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state court situated in the County of San Bernardino, State of California, or in a federal court with in rem jurisdiction over the Project.

6.17 HEADINGS: Article and Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, and conditions of this Agreement.

6.18 PARTIAL INVALIDITY: If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby.

6.19 EFFECT OF AGENCY'S WAIVER: Any failure by the AGENCY to enforce any provision of this Agreement, or any waiver thereof by the AGENCY, shall not constitute a waiver of its right to enforce subsequent violations of the same or any other terms or conditions herein.

6.20 AUTHORITY: The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to sign this Agreement on behalf of and to so bind their respective legal entities.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

CONTRACTOR

AGENCY

By: \_\_\_\_\_ By: \_\_\_\_\_  
Thomas D. McCarthy  
General Manager

**EXHIBIT A**

## SCOPE OF WORK



# TRAVEL REQUEST FORM

REQUESTED BY: \_\_\_\_\_  
 DATE OF TRAVEL: \_\_\_\_\_  
 EVENT NAME: \_\_\_\_\_  
 PURPOSE: \_\_\_\_\_  
 LOCATION: \_\_\_\_\_

DATE: \_\_\_\_\_

**GENERAL GUIDELINES**  
 Employee may attend no more than 5 events a year and no more than 3 employees to attend a single event.

DATE	<small>*Maximum reimbursable amount including tip. Amount not to be advanced. Per employee per day.</small>			METHOD OF PAYMENT	LAST 4 #'S OF CC	ESTIMATED TOTAL	ACTUAL TOTAL	G/L ACCT CODE
	BREAKFAST \$20/DAY	LUNCH \$25/DAY	DINNER \$30/DAY					
				<input type="checkbox"/> cash <input type="checkbox"/> check <input type="checkbox"/> cc		\$ -		
				<input type="checkbox"/> cash <input type="checkbox"/> check <input type="checkbox"/> cc		\$ -		
				<input type="checkbox"/> cash <input type="checkbox"/> check <input type="checkbox"/> cc		\$ -		
				<input type="checkbox"/> cash <input type="checkbox"/> check <input type="checkbox"/> cc		\$ -		

  

AIRFARE ☐ cash ☐ check ☒ cc  
 Preferred airline: \_\_\_\_\_ Departure Date: \_\_\_\_\_ Time: \_\_\_\_\_  
 Return Date: \_\_\_\_\_ Time: \_\_\_\_\_

HOTEL ☐ cash ☐ check ☐ cc  
 Preferred hotel: \_\_\_\_\_  
 Check-in date: \_\_\_\_\_  
 Check-out date: \_\_\_\_\_

REGISTRATION ☐ cash ☐ check ☒ cc

CAR RENTAL ☐ cash ☐ check ☐ cc

TAXI/SHUTTLE ☐ cash ☐ check ☐ cc

PARKING ☐ cash ☐ check ☐ cc

PRIVATE VEHICLE -----total miles \_\_\_\_\_ @ \$.58/mile-----

**TOTALS:** \$ - \$ -

Resubmit for approval if actual total is 20%+ than estimate

**AMOUNT DUE TO EMPLOYEE:** \_\_\_\_\_  
 Department Manager's Initials: \_\_\_\_\_ Date: \_\_\_\_\_

Employee Signature: \_\_\_\_\_  
 Department Manager's Approval: \_\_\_\_\_  
 General Manager's Approval: \_\_\_\_\_

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

FINANCE ONLY	
CASH:	_____
CHECKS:	_____
CREDIT CARDS:	_____
<b>GRAND TOTAL:</b>	_____

# Evaluation Criteria

Proposals will be evaluated using three (3) sets of criteria. Firms meeting the mandatory criteria will have their proposals evaluated and scored for both technical qualifications and price. The following represent the principal selection criteria, which will be considered during the evaluation process.

<i>Technical Qualifications</i>	Weight 1=low importance, 5=high
a. Item 1	5
b. Item 2	4
c. Item 3	3
d. Item 4	2
e. Item 5	5
f. Item 6	5
g. Item 7	5
h. Item 8	5
i. Item 9	4
j. Item 10	3
k. Item 11	4
l. Item 12	4

Raw Score (1=low, 10=high)				
Firm 1	Firm 2	Firm 3	Firm 4	Firm 5

Weighted Score				
Firm 1	Firm 2	Firm 3	Firm 4	Firm 5
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
Total Weighted Score				