

BEAR VALLEY COMMUNITY SERVICES DISTRICT



REQUEST FOR PROPOSALS

VOTER OPINION SURVEYS AND POLLING SERVICES

Release Date: August 1, 2025

Deadline for Submission: 4:00 p.m., August 29, 2025

Contact Person: Beverli A. Marshall, General Manager

**28999 S. Lower Valley Road
Tehachapi, CA 93561
www.bvcsd.org**

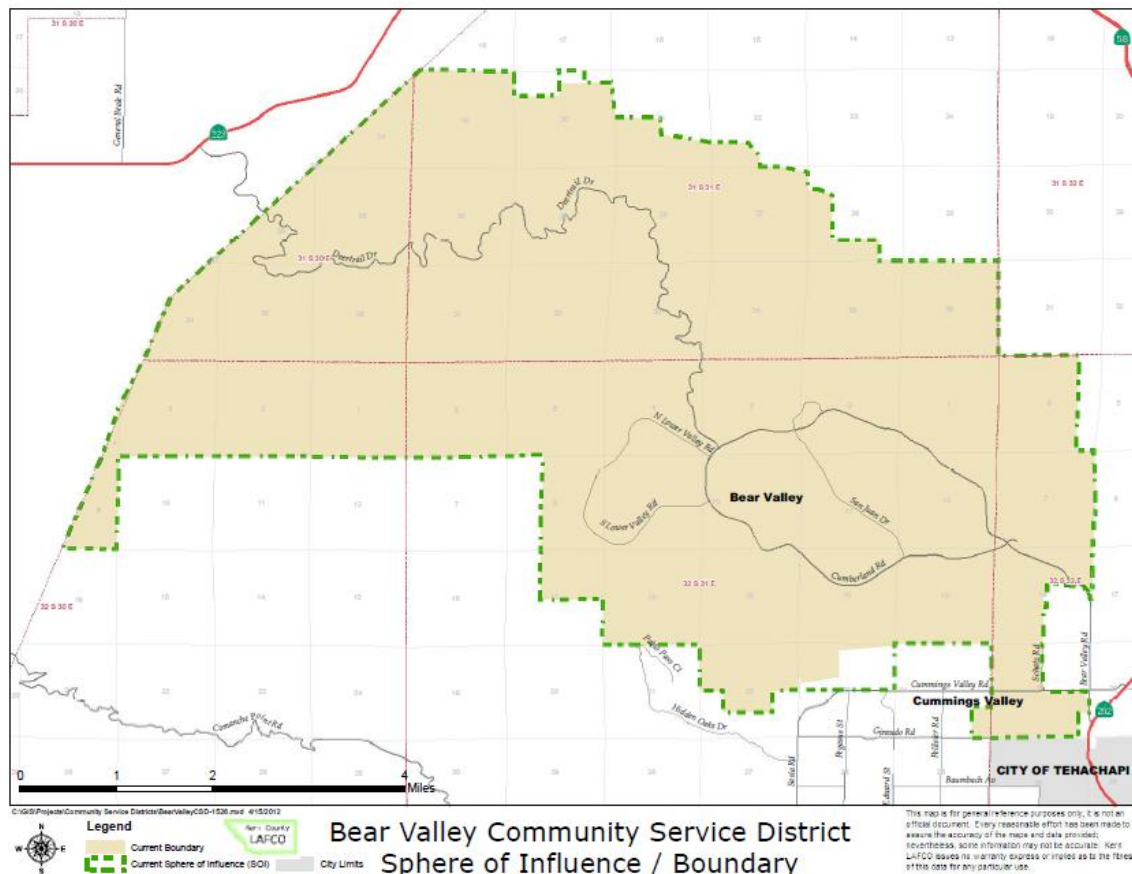
BEAR VALLEY COMMUNITY SERVICES DISTRICT REQUEST FOR PROPOSALS VOTER OPINION SURVEYS AND POLLING SERVICES

I. BACKGROUND AND INTRODUCTION

The Bear Valley Community Services District (“BVCSD”) is seeking proposals from qualified and interested firms¹ (“proposers”) with experience in conducting public opinion polls, communicating with the public, and developing strategic recommendations for pursuing and educating the public on a ballot measure for the 2026 general election.

BVCSD is a gated, multi-service district, founded in 1970, by the Kern County Board of Supervisors and operates under the Government Code governing special districts (GC Section 61000 et. seq.), governed by a five-member Board of Directors, to provide law enforcement, parks, recreation, potable water, road maintenance and snow plowing, wastewater treatment, solid waste disposal, and storm drainage. It is in Kern County about 60 miles west of Bakersfield in the Tehachapi Mountains and covers a 38.94 square mile community of approximately 6,000 residents.

Below is a map that displays the District’s Sphere of Influence and boundaries.



¹Use of the term “firm” shall mean individual proprietorship, partnership, Limited Liability Company, corporation or joint venture.

The Public Safety Department oversees sworn public safety functions and non-sworn gate services. It is funded by an \$80 per parcel Police Special Tax, enacted in 1995, a \$75 per parcel Gate Special Tax, enacted in 2006, with the remaining funding from the General Fund. Neither special tax has been increased since inception. A special tax measure was placed on the 2022 general ballot, but it failed to receive the necessary 66 2/3% support.

When fully staffed, the Public Safety Department budgets the Police Chief, seven full-time sworn officers, three part-time sworn officers, four full-time non-sworn gate operations staff, and four part-time gate operations staff.

II. SCOPE OF SERVICES

The scope of services ("Services") sought under this RFP are set forth in more detail in Exhibit "A", attached and incorporated by this reference. The Services will encompass working with District staff, attending various public meetings, conducting a statistically valid and stratified survey, measuring survey results and assessing data, developing recommendations for next steps, and preparing a final report. The selected consultant's proposed Work Plan and Schedule will form the basis for negotiations of a final Scope of Services for the Professional Services Agreement.

Notwithstanding the inclusion of such Services in the RFP, the final scope of Services negotiated between BVCS D, and the successful Proposer shall be set forth in the Professional Services Agreement ("Agreement") executed by and between BVCS D and the successful Proposer. A copy of the Agreement is attached as Exhibit "B" and incorporated by this reference.

III. BVCS D CONTACT

The principal contact for BVCS D will be Beverli A. Marshall, General Manager, 661-821-4428 ext. 3896, bmarshall@bvcsd.org, or a designated representative, who will coordinate the assistance to be provided by BVCS D to the Proposer. No other members of BVCS D's staff or BVCS D's Board should be contacted about this procurement during the RFP process. All inquiries and comments regarding this RFP must be in writing, unless otherwise instructed by BVCS D. BVCS D may, in its sole discretion, disqualify any Proposer who engages in any prohibited communications.

IV. REQUESTS FOR CLARIFICATION

All questions, requests for interpretations or clarifications, either administrative or technical must be requested in writing and directed to the BVCS D Contact, identified above. All written questions, if answered, will be answered in writing, conveyed to all interested firms. Oral statements by any persons should be considered unverified information unless confirmed in writing. **To ensure a response, questions must be received in writing by 4:00 p.m. local time on August 18, 2025.**

V. PROPOSAL REQUIREMENTS

Proposal responses must adhere to the requirements set forth in this section, both for content and sequence. Failure to adhere to these requirements or the inclusion of conditions, limitations or misrepresentations may be cause for rejection of the submittal.

Voter Opinion Surveys And Polling Services

Use 8-1/2" X 11" sheets (foldouts are acceptable for charts, etc.) and no less than 12-point font size.

The prospective Proposer shall submit five copies, plus an electronic version, of the proposal to the Bear Valley Community Services District, which will not be opened publicly. The proposal must be received no later than **4:00 p.m.** local time, on or before **August 29, 2025**, at the office of:

Bear Valley Community Services District
28999 S. Lower Valley Road
Tehachapi, CA 93561

The envelope should clearly indicate "Proposal for Community Survey", and Proposer's name and address shall appear in the upper left-hand corner of the envelope. If more than one envelope is required, each envelope shall be legibly numbered below the name of the Proposer, e.g. Envelope 1 of 3, as required.

BVCSD will not be responsible for proposals that are delinquent, lost, incorrectly marked, sent to an address other than that given herein, or sent by mail or courier service and not signed for by BVCSD. Proposals received after this date will be returned to the Proposers unopened. Faxed proposals will not be accepted.

A. Cover Letter. This is your opportunity to introduce your team to us. The letter must convey a basic understanding of the prospective project and its key objectives and an overview of the Project team. Explain the applicant's experience providing similar services for government entities, including experience identifying important policy options based on research and analyses.

B. Statement Of Qualifications. Provide a clear description of the principal firm's Project Manager and the proposed team with names, resumes, project responsibilities and proposed staffing numbers. Provide a list of all successful ballot measures that have been performed over the past 10 years. Experience listed should be from the last three to five years with projects relevant to the Scope of Work in this Project. Each listed experience shall have a Project Manager listed as a reference with name(s) and current telephone numbers(s). The listed experience should distinguish between the experience and projects of the firm and the individuals. Consultant shall identify all subcontractors they intend to use for the proposed scope of work and indicate what products and/or services are to be supplied by the subcontractor.

C. Work Plan and Schedule. Describe the technical and management approach to providing the Services to BVCSD.

- Provide demonstrated understanding of the district's needs and scope of the Project; and describe past efforts to establish baseline perceptions and opinions regarding a variety of topics.
- Describe the recommended approach, suggested sample size, margin of error, research Methodology, timeline and work plan to include major and subtasks.

- Provide a management plan with a description of qualifications of the key personnel selected to lead the scope of services.
- Identify tasks the consultant will perform versus tasks district staff will perform or coordinate.
- Identify any suggested modification to the scope of services listed above.

D. Cost Proposal / Schedule of Fees. Please provide a lump sum, not-to-exceed fee proposal for the Project. The fee proposal shall be broken down by task and further broken down by staff, subconsultant costs, and expenses for each task. The fee proposal shall include hourly rates for all personnel. Provide an all-inclusive cost proposal for all proposed services, including partnering firms total cost and incidental expenses.

- If the fee is based on hourly rates, include rates for all team members, the expected range of billable hours, and a “not to exceed” budget.
- Project costs broken out and include all expenses that will be charged to the district.
- Identify how potential options regarding methodology, sample size, number of survey questions and conducting a survey in English and Spanish could affect the cost.
- Provide proposed incremental costs for any optional services, or other variability in services, particularly the cost for additional presentations beyond a minimum of three.
- A disclosure of all personal, professional or financial relationships with any officer And/or employee of the district or the city.

VI. SELECTION CRITERIA

All submittals shall be from a firm that has demonstrated experience in producing and conducting statistically reliable polling surveys for California revenue ballot measures. Failure to meet the requirements of the RFP can be cause for rejection of the proposal. The district will evaluate all proposals, and if the proposal is accepted, the district may elect to set up interviews to identify the most qualified firm. The proposals will be evaluated on a variety of factors including, but not limited to:

- Understanding of the project and technical approach
- Firm’s qualifications and technical expertise, particularly within the municipal government environment
- Overall project design and methodology
- Proposed cost to provide the requested services
- Willingness and ability to execute a contract within 30 days of Board approval and provide insurance substantially in the form of the District’s standard service agreement (Exhibit B).

During the evaluation process, BVCSD reserves the right, where it may serve BVCSD's best interest, to request additional information or clarifications from Proposers, or to allow corrections of errors or omissions. Proposers may be invited to make an oral presentation.

The contract, if awarded, shall be to the most qualified Proposer, which submits the proposal that, in the sole judgment of BVCSD, is in the best interest of BVCSD. Upon selection of a Proposer, BVCSD will endeavor to negotiate a mutually agreeable agreement with the selected Proposer. If BVCSD is unable to reach agreement, BVCSD will proceed, at its sole discretion, to negotiate with the next Proposer selected by BVCSD. BVCSD reserves the right to contract for services in the manner that most benefits BVCSD, including awarding more than one contract if desired.

After negotiating a proposed Agreement that is fair and reasonable, BVCSD staff will make the final recommendation to BVCSD Board concerning the proposed Agreement. BVCSD Board has the final authority to approve or reject the Agreement.

VII. RIGHT TO REJECT

The District reserves the right to negotiate any price or provision, task order or service, accept any part or all of any proposals, waive any irregularities, and to reject any and all, or parts of any and all proposals, whenever, in the sole opinion of BVCSD, such action shall serve its best interests and those of the tax-paying public. The Agreement, if any is awarded, will go to the Proposer whose proposal best meets BVCSD's requirements.

VIII. PROTESTS

A. Protest Process. Protests based on the content of the RFP shall be submitted to BVCSD no later than 10 calendar days prior to the scheduled proposal submittal deadline. If necessary, the proposal submittal deadline may be extended pending a resolution of the protest. Proposer may protest a contract award if the Proposer believes that the award was inconsistent with BVCSD policy or this RFP is not in compliance with law. A protest must be filed in writing with BVCSD (email is not acceptable) within five business days after receiving notification of the intended contract award.

Any protest submitted after 5 p.m. of the fifth business day after notification of the intended contract award will be rejected by BVCSD as invalid and the Proposer's failure to timely file a protest will waive the Proposer's right to protest the contract award. The Proposer's protest must include supporting documentation, legal authorities in support of the grounds for the protest and the name, address and telephone number of the person representing the Proposer for purposes of the protest. Any matters not set forth in the protest shall be deemed waived.

B. BVCSD Review. BVCSD will review and evaluate the basis of the protest provided the protest is filed in strict conformity with the foregoing. BVCSD shall provide the Proposer submitting the protest with a written statement concurring with or denying the protest. Action by BVCSD relative to the protest will be final and not subject to appeal or reconsideration. The procedure and time limits set forth in this section are

mandatory and are the Proposer's sole and exclusive remedy in the event of protest. Failure to comply with these procedures will constitute a waiver of any right to further pursue the protest, including filing a Government Code claim or legal proceedings.

IX. PROJECT SCHEDULE

The tentative schedule is as follows:

ACTION	DATE
Release of Request for Proposals	August 1, 2025
Last Day to Submit Questions for Clarification to BVCSD no later than 4:00 p.m.	August 18, 2025
Clarifications Issued by BVCSD by 4:00 p.m.	August 20, 2025
Deadline for Receipt of Proposals submitted no later than 4:00 p.m.	August 29, 2025
Board Meeting to Award Contract	September 11, 2025
Start of Project	September 15, 2025
Present draft poll questions to Board	October 9, 2025
Conduct poll	October 20–31, 2025
Present final report to Board	December 11, 2025

A. No Deviations from the RFP. In submitting a proposal in response to this RFP, Proposer is certifying that it takes no exceptions to this RFP including, but not limited to, the Agreement attached hereto as Exhibit "B". If any exceptions are taken, such exceptions must be clearly noted in the proposal and may be reason for rejection of the proposal. As such, Proposer is directed to carefully review the proposed Agreement and, in particular, the insurance and indemnification provisions.

B. Collusion. By submitting a Proposal, each Proposer represents and warrants that its Proposal is genuine and not a sham or collusive or made in the interest of or on behalf of any person not named therein; that the Proposer has not directly or indirectly induced or solicited any other person to submit a sham Proposal, or any other person to refrain from submitting a Proposal; and that the Proposer has not, in any manner, sought collusion to secure any improper advantage over any other person submitting a Proposal.

C. Conflicts of Interest. Proposers shall comply with all regulations and laws dealing with conflict of interest disclosure and reporting. Proposers shall not be engaged if a conflict of interest exists.

D. Withdrawal of Proposals. A Proposer may withdraw its proposal before the expiration of the time for submission of proposals by notifying and requesting BVCSD's representative remove the Proposer's submission.

E. Financial Health and Reputation. BVCSD reserves the right to consider the financial responsibility and general complexity of each Proposer, as well as its reputation within the industry to determine if the Proposer has the apparent ability to meet and complete successfully the requirements of the work. Upon request, the

Proposer shall provide a financial statement, audited if necessary, in addition to any other information requested by BVCSD.

F. Confidentiality of Proposal. Proposals submitted in response to this RFP shall be held confidential by BVCSD and shall not be subject to disclosure under the California Public Records Act (Cal. Government Code section 6250 et seq.) until after either BVCSD and the successful Proposer have completed negotiations and entered into an Agreement or BVCSD has rejected all proposals. All correspondence with BVCSD including responses to this RFP will become the exclusive property of BVCSD and will become public records under the California Public Records Act. BVCSD will have no liability to the Proposer or other party as a result of any public disclosure of any proposal or the Agreement. If a Proposer desires to exclude a portion of its proposal from disclosure under the California Public Records Act, the Proposer must mark it as such and state the specific provision in the California Public Records Act which provides the exemption as well as the factual basis for claiming the exemption. For example, if a Proposer submits trade secret information, the Proposer must plainly mark the information as "Trade Secret" and refer to the appropriate section of the California Public Records Act which provides the exemption as well as the factual basis for claiming the exemption.

If a request is made for information marked "Confidential", "Trade Secret" or "Proprietary" ("Proprietary Information"), BVCSD will provide Proposers who submitted the information with reasonable notice to seek protection from disclosure by a court of competent jurisdiction. Proposer shall have five working days after receipt of such notice to give BVCSD written notice of Proposer's objection to BVCSD's release of Proprietary Information. Proposer shall indemnify, defend and hold harmless BVCSD, and its officers, directors, employees, and agents from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information. Proposals which indiscriminately identify all or most of the proposal as exempt from disclosure without justification may be deemed unresponsive and disqualified from further participation in this RFP.

X. ADDENDA

BVCSD reserves the right to revise the RFP prior to the time set to receive proposals. Revisions, if any, shall be made by written addenda. All addenda issued by BVCSD shall be included in the proposal and made part of the RFP. Each Proposer shall leave with BVCSD its name, address, phone and fax numbers, and e-mail address for the purpose of receiving Addenda. BVCSD will cause copies of addenda to be mailed, faxed, delivered or e-mailed to such names at such addresses. Proposers are responsible for ensuring that they have received any and all addenda. Each Proposer should contact BVCSD to verify that it has received all addenda issued, if any, prior to the bid opening. Failure to acknowledge receipt of all addenda may result in bid rejection.

XI. GENERAL CONDITIONS

A. Amendments to Proposals. Unless specifically requested by BVCSD, no amendment, addendum or modification will be accepted after a proposal has been

submitted to BVCSD. If a change to a proposal that has been submitted is desired, the submitted proposal must be withdrawn and the replacement proposal submitted prior to the deadline stated herein for receiving proposals.

B. Non-Responsive Proposals. A proposal may be considered non-responsive if conditional, incomplete, or if it contains alterations of form, additions not called for, or other irregularities that may constitute a material change to the proposal.

C. Costs for Preparing. BVCSD will not compensate any Proposer for the cost of preparing any proposal, and all materials submitted with a proposal shall become the property of BVCSD. BVCSD will retain all proposals submitted and may use any idea in a proposal regardless of whether that proposal is selected.

D. Cancellation. BVCSD reserves the right to cancel this request for proposals at any time prior to contract award without obligation in any manner for proposal preparation, interview, fee negotiation or other associated marketing costs.

E. Price Validity. Prices provided by Proposers are valid for 90 days from the proposal due date. BVCSD intends to award the contract within this time but may request an extension from the Proposers to hold pricing, until negotiations are complete and the contract is awarded.

F. No Commitment to Award. Issuance of request for proposals and receipt of proposals does not commit BVCSD to award a contract. BVCSD expressly reserves the right to postpone the proposal for its own convenience, to accept or reject any or all proposals received, to negotiate with more than one Proposer concurrently, or to cancel all or part of this request for proposals.

END INSTRUCTIONS TO PROPOSERS

EXHIBIT “A”
PROPOSED SCOPE OF SERVICES

Polling and Public Opinion Research Services

1. Development of the survey instrument proposed for a voter opinion poll and the methodology to be employed for a statistically valid sampling of the registered voters. The survey must be made available in English and Spanish.
2. Process of conducting and interpreting the public opinion poll, including the sample size based on the District demographics. Include methods used to mitigate language barriers.
3. Coordination with the District to assess the results of the public opinion poll, discuss implications, related issues and alternatives.
4. Provide a draft and final written report and presentation of results. The final report shall include at a minimum the framework and methodology used; the tabulation of all calls and/or contracts made as part of the survey; the tabulation of survey results, key findings, and detailed findings (i.e., top-lines, and cross tabs); and conclusions and recommendations.
5. If the District moves forward with placement of a revenue ballot measure in 2026, the scope of work will also include assistance in developing ballot measure and ordinance language.

EXHIBIT "B"

THE BEAR VALLEY COMMUNITY SERVICES DISTRICT AND _____

THIS AGREEMENT for professional services is made by and between the Bear Valley Community Services District, a California Special District ("District"), and _____, a _____ ("Professional") as of _____, 20XX.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Professional shall provide to District the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the date first noted above and shall end on _____, the date of completion specified in Exhibit A. Professional shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Professional to complete the services required by this Agreement shall not affect the District's right to terminate the Agreement, as provided for in Section 8.
- 1.2 Standard of Performance.** Professional shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Professional is engaged in the geographical area in which Professional practices its profession. Professional shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Professional's profession.
- 1.3 Assignment of Personnel.** Professional shall assign only competent personnel to perform services pursuant to this Agreement. In the event that District, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Professional shall, immediately upon receiving notice from District of such desire of District, reassign such person or persons.
- 1.4 Time.** Professional shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.2 above and to satisfy Professional's obligations hereunder.

Section 2. COMPENSATION. District hereby agrees to pay Professional a sum not to exceed _____, notwithstanding any contrary indications that may be

contained in Professional's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Professional's proposal, attached as Exhibit B, regarding the amount of compensation, the Agreement shall prevail. District shall pay Professional for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from District to Professional for services rendered pursuant to this Agreement. Professional shall submit all invoices to District in the manner specified herein. Except as specifically authorized by District, Professional shall not bill District for duplicate services performed by more than one person.

Professional and District acknowledge and agree that compensation paid by District to Professional under this Agreement is based upon Professional's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Professional. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Professional and its employees, agents, and subcontractors may be eligible. District therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Professional shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At District's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Professional and each employee, agent, and subcontractor of Professional performing services hereunder, as well as a separate notice when the total number of hours of work by Professional and any individual employee, agent, or subcontractor of Professional reaches or exceeds 800 hours, which shall include an estimate of the time necessary to complete the work described in Exhibit A;
- The Professional's signature.

2.2 Monthly Payment. District shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized

reimbursable costs incurred. District shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Professional.

2.3 Final Payment. District shall make the final payment within sixty (60) days after completion of the services and submittal to District of a final invoice, if all services required have been satisfactorily performed.

2.4 Total Payment. District shall pay for the services to be rendered by Professional pursuant to this Agreement. District shall not pay any additional sum for any expense or cost whatsoever incurred by Professional in rendering services pursuant to this Agreement. District shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Professional submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

2.5 Hourly Fees. Fees for work performed by Professional on an hourly basis shall not exceed the amounts shown on the fee schedule set forth in Exhibit B.

2.6 Reimbursable Expenses. Reimbursable expenses, if any, are set forth in Exhibit B, and shall not exceed [REDACTED] (\$ [REDACTED]). Expenses not listed in Exhibit B are not chargeable to District. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.

2.7 Payment of Taxes. Professional is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.8 Payment upon Termination. In the event that the District or Professional terminates this Agreement pursuant to Section 8, the District shall compensate the Professional for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Professional shall maintain adequate logs and timesheets in order to verify costs incurred to that date.

2.9 Authorization to Perform Services. The Professional is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Professional shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. District shall make available to Professional only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

District shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Professional's use while consulting with District employees and reviewing records and the information in possession of the District. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of District. In no event shall District be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Professional, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Professional and its agents, representatives, employees, and subcontractors. Professional shall provide proof satisfactory to District of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the District.

Professional shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Professional's bid. Professional shall not allow any subcontractor to commence work on any subcontract until Professional has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to District. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Professional shall maintain all required insurance listed herein for the duration of this Agreement.

- 4.1 Workers' Compensation.** Professional shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Professional. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Professional may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Professional, if

a program of self-insurance is provided, shall waive all rights of subrogation against the District and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

An endorsement shall state that coverage shall not be canceled except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the District. Professional shall notify District within fourteen (14) days of notification from Professional's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

The requirement to maintain Statutory Worker's Compensation and Employer's Liability Insurance may be waived by the District upon written verification that Professional does not have any employees.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General requirements. Professional, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00). The commercial general liability and automobile liability insurance shall be per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a commercial general liability insurance or an automobile liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 Minimum scope of coverage. Commercial general liability coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition), Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 Additional requirements. Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- a. District and its officers, employees, agents, and volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Professional, including the insured's general supervision of Professional; products and completed operations of Professional; premises owned, occupied, or used by Professional; and automobiles owned, leased, or used by the Professional. The coverage shall contain no special limitations on the scope of protection afforded to District or its officers, employees, agents, or volunteers.
- b. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- c. An endorsement must state that coverage is primary insurance with respect to the District and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by the District shall be called upon to contribute to a loss under the coverage.
- d. Any failure of Professional to comply with reporting provisions of the policy shall not affect coverage provided to District and its officers, employees, agents, and volunteers.
- e. An endorsement shall state that coverage shall not be canceled except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the District. Professional shall notify District within fourteen (14) days of notification from Professional's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

4.3 Professional Liability Insurance. Professional, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000) covering the licensed professionals' errors and omissions.

4.3.1 Any deductible or self-insured retention shall not exceed \$150,000 per claim.

- 4.3.2** An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the District.
- 4.3.3** The following provisions shall apply if the professional liability coverages are written on a claims-made form:
- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
 - b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
 - c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Professional must provide extended reporting coverage for a minimum of five (5) years after completion of the Agreement or the work. The District shall have the right to exercise, at the Professional's sole cost and expense, any extended reporting provisions of the policy, if the Professional cancels or does not renew the coverage.
 - d. A copy of the claim reporting requirements must be submitted to the District prior to the commencement of any work under this Agreement.

4.4 All Policies Requirements.

- 4.4.1 Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.
- 4.4.2 Verification of coverage.** Prior to beginning any work under this Agreement, Professional shall furnish District with certificates of insurance and with original endorsements effecting coverage required herein. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The District reserves the right to require complete, certified copies of all required insurance policies, at any time.
- 4.4.3 Subcontractors.** Professional shall include all subcontractors as insureds under its policies or shall furnish separate certificates and

endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.4.4 Deductibles and Self-Insured Retentions. Professional shall disclose to and obtain the approval of District for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

During the period covered by this Agreement, only upon the prior express written authorization of Contract Administrator, Professional may increase such deductibles or self-insured retentions with respect to District, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Professional procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

4.4.5 Waiver of Subrogation. Professional hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Professional, its employees, agents, and subcontractors.

4.4.6 Notice of Reduction in Coverage. In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Professional shall provide written notice to District at Professional's earliest possible opportunity and in no case later than five (5) days after Professional is notified of the change in coverage.

4.5 Remedies. In addition to any other remedies District may have if Professional fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, District may, at its sole option exercise any of the following remedies, which are alternatives to other remedies District may have and are not the exclusive remedy for Professional's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

- Order Professional to stop work under this Agreement or withhold any payment that becomes due to Professional hereunder, or both stop work and withhold any payment, until Professional demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND PROFESSIONAL'S RESPONSIBILITIES.

- 5.1 General Requirement.** Professional shall indemnify, defend with counsel selected by the District, and hold harmless the District and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Professional or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Professional shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the District or its officers, employees, agents, or volunteers and (2) the actions of Professional or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Professional to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by District of insurance certificates and endorsements required under this Agreement does not relieve Professional from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Professional acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.
- 5.2 PERS Indemnification.** In the event that Professional or any employee, agent, or subcontractor of Professional providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System ("PERS") to be eligible for enrollment in PERS as an employee of District, Professional shall indemnify, defend, and hold harmless District for the payment of any and all employee and/or employer contributions for PERS benefits on behalf of Professional or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would

otherwise be the responsibility of District, and any attorneys' fees and costs incurred by the District to enforce this Section.

- 5.3 Design Professionals.** To the extent that the services under this Agreement include design professional services subject to California Civil Code Section 2782.8, as may be amended from time to time, Professional's duty to indemnify under Sections 5.1 and 5.2 shall only be to the maximum extent permitted by California Civil Code Section 2782.8.

Section 6. STATUS OF PROFESSIONAL.

- 6.1 Independent Contractor.** At all times during the term of this Agreement, Professional shall be an independent contractor as defined in Labor Code Section 3353, and shall not be an employee of District. Nothing contained in this Agreement shall be construed to be inconsistent with the foregoing relationship or status. District shall have the right to control Professional only insofar as the results of Professional's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise District shall not have the right to control the means and methods by which Professional accomplishes services rendered pursuant to this Agreement. Professional shall have no power or authority by this Agreement to bind the District in any respect. All employees and agents hired or retained by Professional are employees and agents of Professional and not of the District. The District shall not be obligated in any way to pay any wage claims or other claims made against Professional by any such employees or agents, or any other person resulting from performance of this Agreement.

Notwithstanding any other District, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Professional and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by District, including but not limited to eligibility to enroll in PERS as an employee of District and entitlement to any contribution to be paid by District for employer contributions and/or employee contributions for PERS benefits. Professional shall not allow any employee, agent or subcontractor to become eligible for a claim for PERS benefits.

- 6.2 Professional Not an Agent.** Except as District may specify in writing, Professional shall have no authority, express or implied, to act on behalf of District in any capacity whatsoever as an agent. Professional shall have no authority, express or implied, pursuant to this Agreement to bind District to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Professional and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark law. Professional's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.
- 7.3 Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Professional and any subcontractors shall comply with all applicable rules and regulations to which District is bound by the terms of such fiscal assistance program.
- 7.4 Licenses and Permits.** Professional represents and warrants to District that Professional and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Professional represents and warrants to District that Professional and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Professional and any subcontractors shall obtain and maintain valid Business Licenses from District during the term of this Agreement.
- 7.5 Nondiscrimination and Equal Opportunity.** Professional shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Professional under this Agreement. Professional shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Professional thereby.

Professional shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** District may cancel this Agreement at any time and without cause upon written notification to Professional.

Professional may cancel this Agreement upon [REDACTED] days' written notice to District and shall include in such notice the reasons for cancellation.

In the event of termination, Professional shall be entitled to compensation for services performed to the effective date of termination; District, however, may condition payment of such compensation upon Professional delivering to District any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Professional or prepared by or for Professional or the District in connection with this Agreement.

- 8.2 Extension.** District may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Professional understands and agrees that, if District grants such an extension, District shall have no obligation to provide Professional with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, District shall have no obligation to reimburse Professional for any otherwise reimbursable expenses incurred during the extension period.

- 8.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

- 8.4 Assignment and Subcontracting.** District and Professional recognize and agree that this Agreement contemplates personal performance by Professional and is based upon a determination of Professional's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to District for entering into this Agreement was and is the professional reputation and competence of Professional. Professional may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Professional shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.

- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between District and Professional shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Professional.** If Professional materially breaches any of the terms of this Agreement, District's remedies shall include, but not be limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
 - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Professional pursuant to this Agreement;
 - 8.6.3** Retain a different Professional to complete the work described in Exhibit A not finished by Professional; or
 - 8.6.4** Charge Professional the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that District would have paid Professional pursuant to Section 2 if Professional had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Professional's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Professional prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the District. Professional hereby agrees to deliver those documents to the District upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the District and are not necessarily suitable for any future or other use. District and Professional agree that, until final approval by District, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.
- 9.2 Professional's Books and Records.** Professional shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the District under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Professional pursuant to this Agreement.

- 9.3 Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Professional to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the District. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of District or as part of any audit of the District, for a period of three (3) years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

- 10.1 Attorneys' Fees.** If a Party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that Party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either Party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Kern or in the United States District Court for the Eastern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 Use of Recycled Products.** Professional shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 Conflict of Interest.** Professional may serve other clients, but none whose activities within the corporate limits of District or whose business,

regardless of location, would place Professional in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Professional shall not employ any District official in the work performed pursuant to this Agreement. No officer or employee of District shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Professional hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the District. If Professional was an employee, agent, appointee, or official of the District in the previous twelve months, Professional warrants that it did not participate in any manner in the forming of this Agreement. Professional understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Professional will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Professional will be required to reimburse the District for any sums paid to the Professional. Professional understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

10.8 Solicitation. Professional agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 Contract Administration. This Agreement shall be administered by [REDACTED] ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.10 Notices. Any written notice to Professional shall be sent to:

[REDACTED]
[REDACTED]
[REDACTED]

Email Address (for Insurance Update Requests)

[REDACTED]

Any written notice to District shall be sent to:

[REDACTED]
[REDACTED]
[REDACTED]

10.11 Integration. This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, and the compensation schedule attached hereto and incorporated herein as Exhibit B, represents the entire and integrated agreement between District and Professional and supersedes all prior negotiations, representations, or agreements, either written or oral.

10.12 IRS Form W-9. Professional shall complete and submit Internal Revenue Service Form W-9 to the District before execution of this Agreement. The District's Finance Director shall have authority to waive this requirement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above, which date shall be considered by the Parties to be the effective date of this Agreement.

Bear Valley Community Services District

Professional

Beverli A. Marshall, General Manager

[NAME, TITLE]

Date: _____

Date: _____

Attest

Approved as to Form

Denise Jelleschitz, District Clerk

Palmer Hilton, General Counsel

Date: _____

Date: _____