

# REQUEST FOR PROPOSALS

## Production of 4<sup>th</sup> of July Fireworks Display

Proposals Due by 2:00 p.m. on Wednesday, October 4, 2023



Submit Proposals to:

Valley-Wide Recreation and Park District's Administrative Office

Re: 4<sup>th</sup> of July Fireworks Display

901 W. Esplanade Ave.

San Jacinto, CA 92582

## INTRODUCTION

Valley-Wide Recreation and Park District (“District”) is seeking a contractor to provide professional fireworks display for the District’s 2024 and 2025 4<sup>th</sup> of July Celebrations, as described in the Scope of Required Services section of this Request for Proposals (RFP).

This RFP describes the required scope of services and the minimum information that must be included in the proposal. Failure to submit information in accordance with the RFP requirements may be cause for disqualification.

All inquiries concerning this RFP should be directed to:

Anissa Smith  
RFP Coordinator  
(951) 654-1505  
[Anissa@GoRecreation.org](mailto:Anissa@GoRecreation.org)

## EVENT LOCATION

The event location will be held on the soccer fields of Valley-Wide Regional Park located at 901 W. Esplanade Avenue, San Jacinto, California 92582. See Exhibit A.

## TERM OF AGREEMENT

The term of the agreement shall be for two years commencing on **October 16, 2023 until October 16, 2025** and will continue until the agreed upon services have been completed unless sooner terminated pursuant to the terms of the agreement. The Agreement may be extended for two, one-year period by mutual consent of the District and the Contractor.

## RESERVATION

The District reserves the right to revise or amend these specifications prior to the date set for opening proposals. Revisions and amendments, if any, will be announced by an addendum to this proposal. If the revisions require additional time to enable proposing company or individual to respond, the District may postpone the opening date accordingly. In such case, the addendum will include an announcement of the new opening date. All addenda must be attached to the proposal. Failure to attach any addendum may render the proposal non-responsive and cause it to be rejected. The District Board of Directors reserves the right to reject any and all proposals received, to take all proposals under advisement for a period not to exceed ninety (90) days after the date of the opening, to waive any informality on any proposal, and to be the sole judge of the relative merits of the material and or service mentioned in the respective proposals received. The District reserves the right to reject any proposal not accompanied with all data or information required. This request for proposal does not commit the District to award a contract or to pay any cost incurred in the preparation of a proposal. All responses to this request become the property of Valley-Wide Recreation and Park District.

**REQUIREMENTS**

Contractor shall maintain policies of comprehensive public liability and property damage insurance with limits of not less than \$5,000,000 per occurrence.

Contractor shall add the District, its officers, employees and agents as additional insured on any policy of insurance required under this Agreement.

Contractor shall provide the District evidence of the insurance required herein satisfactory to the District consisting of certificates of insurance that attach separate additional insured endorsement pages (form CG 20 10 11 85) that will show Valley-Wide Recreation and Park District, its officers, employees, and agents as additional insured.

Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to the District or any employee or agent of the District. Certificates of insurance are to reflect that such coverage provides 30 days prior notice to the District by certified mail of any cancellation or reduction in available limits or changes in the terms of coverage.

Contractor shall assume all responsibility for damages to property or injuries to persons, including accidental death, which may be caused by the Contractors performance, whether such performance be by itself, its sub-consultant, or anyone directly or indirectly employed by it and whether such damage shall accrue or be discovered before or after termination of the contract. The District shall be provided a certificate of insurance verifying the Contractors liability insurance coverage.

The Contractor agrees to maintain at its expense, during the term of this Agreement, all necessary insurance for its employees engaged in the performance of this Agreement, including, but not limited to, workers' compensation insurance, and to provide the District with satisfactory evidence of such insurance coverage upon the District's request.

The Contractor agrees that no person shall be excluded from employment in the performance of this Agreement on grounds of race, creed, color, sex, age, marital status, or place of national origin. In this connection, the Contractor agrees to comply with all County, State and Federal laws relating to equal employment opportunity rights.

Contractor agrees to comply with all City, County, State and Federal requirements for the use of pyrotechnic devices and displays.

## SCOPE OF REQUIRED SERVICES

The scope of required services will include the components listed below. Throughout this RFP, references to “District” shall mean “Valley-Wide Recreation and Park District” and references to “contractor” shall mean “fireworks display contractor.”

*The contractor must include the following information/items in its bid package:*

Application for specific pyrotechnic permits relating to the Production

All pyrotechnic equipment, trained pyrotechnicians, shipping, and pyrotechnic products

Description of plans for storage and delivery of fireworks

Itemized list of all equipment to be used to produce the display, including list of shell sizes

Detailed show description with number and type of shells for show and finale

Description of low-level display and aerial show

Description of fired display

Preproduction Services and Costs for the Production, including advance acquisition of materials and products; design, engineering, programming, handling, staging, storage, and maintenance of products, props, and systems; preparation of drawings, diagrams, listings, schedules, inventory controls, choreography, and computer code; picking, packing, labeling, staging, and loading of equipment, materials, and systems; transportation, and logistics and crew scheduling and support; explosive storage magazines with legally mandated distances, surfaces, security, housekeeping, and access controls; and necessary and appropriate vehicles, including legally mandated insurance, including MCS90 explosives transportation coverage, parking, security, and maintenance.

The safe and orderly discharge and display of live pyrotechnical devices; including but not limited to the removal and disposal of any debris, trash, or residue from such display, any active but unused pyrotechnical devices, any defective or partially discharged pyrotechnical devices and all equipment, wires or tools used to present and explode such devices

Insurance covering the preproduction and Production as set forth in the Agreement.

Upon award of bid, contractor shall supply the District with a detailed plan including designated fall out area once final location is determined.

<b>Description</b>	<b>Qty/Shot</b>
<b>Main Body- Aerial Shells</b>	
3" Firework Shells	150
4" Firework Shells	90
5" Firework Shells	54
<b>Total of Main Body-Aerial Shells:</b>	<b>294</b>
<b>Grand Finale</b>	
2 ½" Firework Shells	36
3" Firework Shells	145
4" Firework Shells	60
5" Firework Shells	15
<b>Total of Grand Finale:</b>	<b>256</b>
<b>Grand Total:</b>	<b>550</b>

## BUSINESS LICENSE

Contractor must be properly licensed with California State Fire Marshal, Riverside County, and all other applicable agencies.

## PAYMENT

District shall pay contractor 50% of the total compensation on **Thursday, June 27, 2024**. Final 50% of the total compensation shall be paid on **Friday, July 5, 2024**, the first business day following the fireworks display date. Payment shall be made payable to the contractor.

## TIME SCHEDULE

Following is the anticipated timeline for the selection of the contractor:

September 11, 2023	RFP is released
October 4, 2023	Proposals Due
October 16, 2023	Tentative District Board of Directors award of contract

## PROPOSAL REQUIREMENTS

**Format** – Proposals shall be made using the worksheets contained in this RFP plus a separate Statement of Qualifications. Bidders are to submit three sets of the following documents.

1. **Bid Sheet** – Completed “Bid Sheet.”
2. **Itemized Price List** – See “Bid Sheet” for more information.
3. **Show Description** – Provide all descriptions of fireworks display as required in Scope Services section of this RFP.
4. **Statement of Qualifications** – On a separate sheet of paper, describe your company’s experience in producing fireworks displays. Include information about how many years of experience your company has in providing services similar to those described in the Scope of Services section of this RFP.
5. **References** – Completed “References” sheet. Include references for work your company has performed that is relevant to this RFP.

Blank spaces in the proposal must be properly filled in and the phraseology of the proposal form must not be changed. The awarded contractor shall enter into the enclosed Professional Service Agreement as written (see Exhibit B). Any unauthorized conditions, limitations, or provisions attached may render it unacceptable and cause its rejection. Alterations by erasure or interlineations must be explained or noted in the proposal over the signature of the bidder. Contractors are invited to be present at the opening of proposals. A corporation submitting a proposal may be required, before the contract is fully awarded, to furnish a certificate as to its corporate existence and satisfactory evidence as to the authority of the officer or officers authorized to execute the contract on behalf of the corporation.

## SELECTION PROCESS

Proposals will be evaluated by District staff on the basis of the areas listed in the “Proposal Requirements” section of this RFP. Evaluation and subsequent selection of a qualified contractor is competitive.

The contract will be awarded to the lowest responsive and responsible bidder, except if the District deems acceptance of the lowest responsible bid is not in the best interest of the Agency, it may reject all bids and advertise for other bids, in accordance with all applicable laws and/or other provisions of this Request For Proposal and the incorporated document of the same.

The award of the contract, if it be awarded, will be made within sixty (60) days after the opening of the proposals, or according to the Time Schedule listed above herein (whichever is sooner), to the lowest responsible and qualified bidder whose proposal complies with all the prescribed requirements. However, until an award is made, the right will be reserved to the District to reject any or all bids and to waive technical errors or discrepancies if to do so is deemed to best serve the interest of the District. In no event will an award be made until all necessary investigations are made as to the responsibility and qualifications of the bidder whom it is proposed to make such an award.

The District shall be the exclusive judge as to the responsibility of a bidder, and in ascertaining that fact the District will take into consideration the business integrity, financial resources, facilities for performing the work, and experience in similar public works operation of the various bidders.

A Contractor may withdraw their bid at any time prior to the time fixed in the public notice for the opening of bids by filing a written request for the withdrawal of the bid with the District. The Contractor or his duly authorized representative shall execute the request. The withdrawal of a bid shall not prejudice the right of the Contractor to file a new bid within the time limit.

## SUBMITTAL REQUIREMENTS

**Quantity** – Three original copies of the proposal must be submitted. No faxed or electronically mailed versions will be accepted. Envelopes must state the company name.

**Deadline for Submittal** – Proposals *must be received* by the District Administrative Office by:

**2:00 p.m. on Wednesday, October 4, 2023**

Please remit the documents to (address envelopes exactly as follows):

Valley-Wide Recreation and Park District  
Anissa Smith, RFP Coordinator  
Re: 4<sup>th</sup> of July Fireworks Display  
901 W. Esplanade Avenue  
San Jacinto, CA 92582

**BID SHEET**

(This page must be completed and submitted as part of your proposal package)

Company Name: \_\_\_\_\_

Primary Contact Name/Title: \_\_\_\_\_

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

Telephone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

The term of the agreement shall be from **OCTOBER 2023**, and will continue until the agreed services have been completed unless sooner terminated pursuant to the terms of the agreement.

Total program price inclusive of insurance, operator, and transportation: \$ _____
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**PLEASE NOTE:** Contractor's bid must include an itemized price list for all costs associated with the fireworks display.



**REFERENCES**

(This page must be completed and submitted as part of your proposal package)

**Company name:** \_\_\_\_\_

1. Organization/Agency: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_ Telephone #: \_\_\_\_\_

Type of Work Performed: \_\_\_\_\_

Term of Contract: \_\_\_\_\_

2. Organization/Agency: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_ Telephone #: \_\_\_\_\_

Type of Work Performed: \_\_\_\_\_

Term of Contract: \_\_\_\_\_

3. Organization/Agency: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_ Telephone #: \_\_\_\_\_

Type of Work Performed: \_\_\_\_\_

Term of Contract: \_\_\_\_\_

4. Organization/Agency: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_ Telephone #: \_\_\_\_\_

Type of Work Performed: \_\_\_\_\_

Term of Contract: \_\_\_\_\_

# EXHIBIT A



Soccer Fields Located at Regional Park  
901 W. Esplanade Avenue  
San Jacinto, CA 92582

**EXHIBIT B**

**VALLEY-WIDE RECREATION AND PARK DISTRICT  
PROFESSIONAL SERVICES AGREEMENT**

**FOR**

**PRODUCTION OF 4<sup>TH</sup> OF JULY 2024 AND 2025  
FIREWORKS DISPLAY**

1. PARTIES AND DATE.

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by and between the Valley-Wide Recreation and Park District, a Recreation and Park District formed and operating under California Public Resources Code 5780 *et seq.* with its principal place of business at 901 West Esplanade Ave, San Jacinto, CA 92582 ("District") and [CONTRACTOR NAME], with its principal place of business at [CONTRACTOR ADDRESS] ("Contractor"). District and Contractor are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 Contractor.

Contractor desires to perform and assume responsibility of a fireworks production to be performed on July 4<sup>th</sup>, 2024 and 2025, at approximately 9:00 p.m., at Valley-Wide Recreation and Park District's soccer fields located at 901 West Esplanade Avenue, San Jacinto, CA as required by the District pursuant to the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing professional services, is licensed in the State of California, and is familiar with the plans of District.

2.2 Project.

District desires to engage Contractor to render such services as outlined above.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to the District all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional contractor services necessary for the

Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from October 16, 2023 to October 16, 2025, unless earlier terminated as provided herein. Contractor shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services. **The Agreement may be extended for two, one-year period by mutual consent of the District and the Contractor.**

### 3.2 Responsibilities of Contractor.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. District retains Contractor on an independent contractor basis and not as an employee. Contractor retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Contractor shall also not be employees of District and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Contractor shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "A" attached hereto and incorporated herein by reference. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Contractor's conformance with the Schedule, District shall respond to Contractor's submittals in a timely manner. Upon request of District, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work performed by Contractor shall be subject to the approval of District.

3.2.4 Substitution of Key Personnel. Contractor has represented to District that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Contractor may substitute other personnel of at least equal competence upon written approval of District. In the event that District and Contractor cannot agree as to the substitution of key personnel, District shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the District, or who are determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety

of persons or property, shall be promptly removed from the Project by the Contractor at the request of the District. The key personnel for performance of this Agreement are as follows:

3.2.5 District's Representative. The District hereby designates the General Manager, or his or her designee, to act as its representative for the performance of this Agreement ("District's Representative"). District's Representative shall have the power to act on behalf of the District for all purposes under this Contract. Contractor shall not accept direction or orders from any person other than the District's Representative or his or her designee.

3.2.6 Contractor's Representative. Contractor hereby designates \_\_\_\_\_, or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Contractor agrees to work closely with District staff in the performance of Services and shall be available to District's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including any required business license, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Contractor shall perform, at its own cost and expense and without reimbursement from the District, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the District, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Services. If the Contractor performs any work knowing it to be contrary to

such laws, rules and regulations and without giving written notice to the District, Contractor shall be solely responsible for all costs arising therefrom. Contractor shall defend, indemnify and hold District, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

### 3.2.10 Insurance.

3.2.10.1 Time for Compliance. Contractor shall not commence Work under this Agreement until it has provided evidence satisfactory to the District that it has secured all insurance required under this section. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the District that the subcontractor has secured all insurance required under this section.

3.2.10.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder and without limiting the indemnity provisions of the Agreement, the Contractor in partial performance of its obligations under such Agreement, shall procure and maintain in full force and effect during the term of the Agreement, the following policies of insurance. If the existing policies do not meet the Insurance Requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to do so.

- (a) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 0001, with minimum limits of at least \$5,000,000 per occurrence and if written with an aggregate, the aggregate shall be double per occurrence limit. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.
- (b) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1) with minimum limits of \$5,000,000 each accident.
- (c) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury and disease.

3.2.10.3 Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the District for approval.

The policy or policies of insurance required by Section 3.2.10.2 (a) Commercial General Liability and (b) Automobile Liability Insurance shall be endorsed to provide the following:

- (1) **Additional Insured:** The indemnified parties shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement. Additional Insured Endorsements shall not (1) be restricted to "ongoing operations"; (2) exclude "contractual liability"; (3) restrict coverage to "sole" liability of Contractor; or (4) contain any other exclusions contrary to the Agreement. An additional insured endorsement shall be provided specifically referencing and adding "Valley-Wide Recreation and Park District – 901 W. Esplanade Avenue, San Jacinto, CA 92582" on the endorsement form's Schedule.
  - (2) **Primary Insurance and Non-Contributing Insurance:** This insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the indemnified parties shall not contribute with this primary insurance.
  - (3) **Severability:** In the event of one insured, whether named or additional, incurs liability to any other of the insureds, whether named or additional, the policy shall cover the insured against whom claim is or may be made in the same manner as if separate policies had been issued to each insured, except that the limits of insurance shall not be increased thereby.
  - (4) **Cancellation:** The policy shall not be canceled or the coverage suspended, voided, reduced or allowed to expire until a thirty (30) day prior written notice of cancellation has been served upon the District except ten (10) days prior written notice shall be allowed for non-payment of premium.
  - (5) **Duties:** Any failure by the named insured to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the indemnified parties.
  - (6) **Applicability:** That the coverage provided therein shall apply to the obligations assumed by the Contractor under the indemnity provisions of the Agreement, unless the policy or policies contain a blanket form of contractual liability coverage.
- (B) The policy or policies of insurance required by Section 3.2.10.2 (c) Workers' Compensation shall be endorsed, as follows:

- (1) **Waiver of Subrogation:** A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.
- (2) **Cancellation:** The policy shall not be canceled or the coverage suspended, voided, reduced or allowed to expire until a thirty (30) day prior written notice of cancellation has been served upon the District except ten (10) days prior written notice shall be allowed for non-payment of premium.

3.2.10.4 **Deductible.** Any deductible or self-insured retention must be approved in writing by the District and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

3.2.10.5 **Evidence of Insurance.** The Contractor, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates and endorsements on forms approved by the District. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the District. If such coverage is cancelled or reduced, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the District evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

3.2.10.6 **Failure to Maintain Coverage.** Contractor agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the District. The District shall have the right to withhold any payment due Contractor until Contractor has fully complied with the insurance provisions of this Agreement.

In the event that the Contractor's operations are suspended for failure to maintain required insurance coverage, the Contractor shall not be entitled to an extension of time for completion of the Work because of production lost during suspension.

3.2.10.7 **Acceptability of Insurers.** Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

3.2.10.8 **Insurance for Subcontractors.** All Subcontractors shall be included as additional insureds under the Contractor's policies, or the Contractor shall be responsible for causing Subcontractors to purchase the appropriate insurance in compliance with



the terms of this Agreement, including adding the District as an Additional Insured to the Subcontractor's policies.

3.2.11 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

### 3.3 Fees and Payments.

3.3.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation of this Agreement shall not exceed [DOLLAR AMOUNT IN CAPITALIZED WORDS HERE] DOLLARS (\$[DOLLAR AMOUNT IN FIGURES HERE]) without written approval of the District. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Contractor shall submit to District a monthly itemized statement which indicates work completed and hours of Services rendered by Contractor. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. District shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by District except for the items listed in the scope of work.

3.3.4 Extra Work. At any time during the term of this Agreement, District may request that Contractor perform Extra Work. As used herein, "Extra Work" means any work which is determined by District to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from District's Representative.

3.3.5 ~~Rate Increases. In the event that this Agreement is renewed pursuant to Section 3.1.2, the rates set forth in Exhibit "C" shall be adjusted each year at the time of renewal in accordance with the Consumer Price Index, All Urban Consumers, Los Angeles-Riverside-Orange County, or at the percentage rate set forth in Exhibit "C."~~

3.3.6 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. District shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the District, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

### 3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of District during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

### 3.5 General Provisions.

#### 3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. District may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those services which have been adequately rendered to District, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, District may require Contractor to provide all plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data") and other information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, District may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Contractor: [CONTRACTOR NAME]  
[ADDRESS LINE 1]  
[ADDRESS LINE 2]  
[CONTRACTOR CONTRACT NUMBER]  
Attn: [CONTACT NAME]

District: Valley-Wide Recreation and Park District  
901 W. Esplanade Ave.  
P.O. Box 907  
San Jacinto, California 92581  
Attn: General Manager

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.4 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

### 3.5.5 Indemnification.

3.5.5.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the District, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, negligence or willful misconduct of Contractor, its officials, officers, employees, agents, subcontractors and subconsultants arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys fees, and other related

costs and expenses. Notwithstanding the foregoing, to the extent Contractor's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the Contractor.

3.5.5.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of District's choosing and at Contractor's own cost, expense and risk, any and all such aforesaid claims, suits, actions or other legal proceedings of every kind covered by Section 3.5.6.1 that may be brought or instituted against District, its directors, officials, officers, employees, agents or volunteers. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against District or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. Contractor shall also reimburse District for the cost of any settlement paid by District or its directors, officials, officers, employees, agents and/or volunteers as part of any such claim, suit, action or proceeding. Such reimbursement shall include payment for District's attorney's fees and costs, including expert witness fees. Contractor shall reimburse District and its directors, officials, officers, employees and agents and/or volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement and shall not be restricted to insurance proceeds, if any, received by the District, its directors, officials, officers, employees, agents or volunteers.

3.5.6 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.5.7 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

3.5.8 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.9 District's Right to Employ Other Contractors. District reserves right to employ other Contractors in connection with this Project.

3.5.10 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.11 Assignment or Transfer. Contractor shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the District. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.12 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term

referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to District include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.13 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.14 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.5.15 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.16 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.17 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, District shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.18 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Contractor shall also comply with all relevant provisions of District's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.5.19 Labor Certification. By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance

in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5.20 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.21 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original, but all of which constitute one and the same instrument. The facsimile, email, or other electronically delivered signatures of the Parties are deemed to constitute original signatures, and facsimile or electronic copies hereof are deemed to constitute duplicate originals.

### 3.6 Subcontracting.

3.6.1 Prior Approval Required. Contractor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of District. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

### 3.7 Force Majeure

3.7.1 Force Majeure Events. Notwithstanding anything to the contrary contained in this agreement, the District shall be excused from its obligations under this agreement to the extent and whenever it shall be prevented from the performance of such obligations by any Force Majeure Event. For purposes of this agreement, a “force Majeure Event” includes but is not limited to fires, floods, earthquakes, pandemic, epidemic, civil disturbances, acts of terrorism, regulation of any public authority, and other causes beyond their control. The Contractor waives any right of recovery against the District and Contractor shall not charge results of “acts of God” to District, its officers, employees, or agents.

**VALLEY-WIDE RECREATION  
AND PARK DISTRICT**

**[CONTRACTOR NAME]**

By: \_\_\_\_\_  
Dean Wetter  
General Manager

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

*Attest:*

*Attest:*

By: \_\_\_\_\_  
Kim Bentrum  
Clerk to the Board of Directors

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

DRAFT

**EXHIBIT "A"  
SCOPE OF SERVICES**

**[Attach Copy of Proposal/Scope of Services/RFP]**

DRAFT



**EXHIBIT "B"**  
**SCHEDULE OF SERVICES**

**NOT APPLICABLE. ALL SERVICES ARE SCHEDULED WITH  
VALLEY-WIDE RECREATION AND PARK DISTRICT.**

DRAFT

**EXHIBIT "C"  
COMPENSATION**

**NOT APPLICABLE – SEE CONTRACT SECTION ONLY**

**DRAFT**