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**Board of Commissioners
 Agenda Item Transmittal Form
 Procurement/Contract Transmittal Form**

Type of contract: 1 year Multi-year Single Event CC Use Only
 Contract #:

<input type="checkbox"/> Submission Information	<input type="checkbox"/> Vendor Information
Contact Name: ROSELYN MILLER Department: WATER RESOURCES Project Title: Executive Consulting Support prior to and post the acquisition of a deputy direct/director for RWR Funding Account Number: FUND 505 Contract amount: NTE \$135,000 per year Contract Type: Goods () Services (X) Labor () Contract Action: New (X) Renewal () Change Order Original Contract Number:	Vendor Name: Corporate Environmental Risk Management (CERM) Address: 1990 LAKESIDE PARKWAY SUITE 300 TUCKER GA 30084 Email: tgibbs@cerm.com Phone #: 678-999-6173 Contact: TERRELL GIBBS Term of contract: ONE YEAR

Finance Director Signature	Procurement Officer Signature
I have reviewed the attached contract, and the amount is approving for processing.	I have reviewed the attached contract, and it is in compliance with Purchasing Policies of Rockdale County.
Signature: <i>R. Miller</i> Date: 11.16.18	Signature: <i>Jana Malone</i> Date: 11/16/18

Summary: RWR has an immediate and ongoing need for management, operational, and program management support at the executive level. RWR has been challenged in filling recent leadership and technical vacancies within its ranks for over 2 years. Despite the aggressive efforts of the county, securing a qualified, seasoned water utility executive, has seems to be out of reach due to a very tight market.

The primary objective of this proposal is to provide ongoing executive utility consulting support services as needed to RWR as the County works to secure a full-time RWR executive.

- Scope summary:**
- Prior to hiring a full-time RWR executive - Provide strategic planning and leadership support for the day-to-day efforts of the divisions
 - After hiring a full-time RWR executive – Serve as the advisor to the newly hired Deputy Director/Director and provide strategic planning support.

Department Head/Elected Official Signature: *R. Miller* **Date:** 11.16.18

2018-522



C E R M

October 29, 2018

Via e-mail (oz.nesbitt@rockdalecountyga.org)

Honorable Osborn Nesbitt, Sr., Chairman
Rockdale County Board of Commissioners
962 Milstead Ave.
Conyers, GA 30012

**RE: Rockdale County Department of Water Resources (RWR) Executive Utility Consulting Support Services Proposal
Rockdale County Board of Commissioners
CERM Proposal No. 0718-392**

Dear Chairman Nesbitt:

Corporate Environmental Risk Management (CERM) is honored for the opportunity to provide this proposal to provide executive consulting support services for Rockdale County Department of Water Resources (RWR). It has been a privilege to serve Rockdale County, and we look forward to continuing our support.

Overview and Objective:

RWR has an immediate and ongoing need for management, operational, and program management support at the executive level. RWR has been challenged in filling recent leadership and technical vacancies within its ranks for over 2 years. Despite the aggressive efforts of the County, securing a qualified, seasoned water utility executive, has seems to be out of reach due to a very tight market.

The primary objective of this proposal is to provide ongoing executive utility consulting support services as-needed to RWR as the County works to secure a full-time RWR executive that is employed by Rockdale County. This proposal includes scope, schedule, and budget for performance of the services.

Scope of Services:

The following is a breakdown of the executive utility consulting services proposed for RWR:

I. Executive Management Support

- A. Prior to securing a full-time a full-time RWR executive employed by Rockdale County:
 - 1. Provide strategic planning and leadership support for the day-to-day efforts of the divisions to include providing administrative oversight relative to personnel management
 - 2. Serve as a resource for checks and balances for the department's operations and ensure its planning and strategic efforts align with the County's focus on Efficiency, Economic Development, and Execution.
- B. After securing a full-time a full-time RWR executive employed by Rockdale County:
 - 1. Serve as the executive advisor to RWR executive management and provide strategic planning support, master planning and capital improvement planning support, stakeholder engagement support, and regulatory support.

II. Schedule:



The work schedule for executive utility consulting support will be for a maximum of 16 hours/week for executive utility support services unless otherwise requested by the Rockdale County.

III. Compensation:

The executive consultant proposed for this effort is Dr. Terrell Gibbs, Ph.D., P.E. Dr. Gibbs has a long-standing experience and relationship with Rockdale County, its community, and its stakeholders. Dr. Gibbs is intimately familiar with Rockdale County's inner political workings as well as challenges. Having previously served in an executive capacity for the department, he has garnered a successful track record of competency and success at RWR. Dr. Gibbs's perspective, professional exposure, and know-how will be a great asset to Rockdale County as the County moves forward.

While in the role of item IA, Dr. Gibbs will serve in the executive consulting role as designated by Rockdale County at CERM's registered professional rate of \$186.00/hr. for an amount not to exceed **\$15,000 per month***. In addition to Dr. Gibbs's executive leadership services, Rockdale County will also have the benefit of having access to resources and services unique to CERM that will further move the County forward.

While in the role of item IB, Dr. Gibbs will serve in the executive advisor role as designated by Rockdale County at CERM's registered professional rate of \$186.00/hr. for an amount not to exceed **\$7,500 per month***. In addition to Dr. Gibbs's executive leadership services, Rockdale County will also have the benefit of having access to resources and services unique to CERM that will further move the County forward.

*Note = *not to exceed amount contingent on the most current CERM corporate billing rates for each fiscal year.*

Assumptions and Limitations

1. RWR will supply a workspace for CERM as well as allow for access to ancillary office equipment such as copiers, office supplies, etc. as needed.
2. Any additional needs or requests outside of the scope of this proposal or any extension request to the scope of this will be subject to a new/revised scope and cost submittal.

Terms and Conditions

The primary term of this effort is proposed to be for 6 months commencing January 1, 2019 and ending June 30, 2019, with the option to execute subsequent 6-12 month renewals at the pleasure of the County at the current billing rates for that fiscal year. The scope of services proposed will be performed on a time and materials basis. In order to authorize us to proceed, please sign and date below and initial both pages of the *Terms and Conditions*. Return a copy to my attention via email to tgibbs@cerm.com or fax to (678) 999-0186.

This proposal is valid for 30 days. The undersigned has reviewed this proposal and all pertinent documents relating to this proposal and agrees with the specified terms.

Mutual release/Indemnification

Each party hereby agrees to indemnify and hold harmless the other party from any form of action, lawsuit or claim brought by or on behalf of the indemnifying party's employees, agents or invitees and related in any way to Product/Equipment/Services supplied by Seller under this Agreement. Each party expressly agrees that the obligation of indemnity under this Paragraph extends to an action, lawsuit or claim alleging negligence of the indemnitee.



Governing Law

This Agreement shall be construed and interpreted according to the provisions of the laws of the State of Georgia.

ATTEST:

Jennifer O. Rutledge, County Clerk

Authorization to proceed:
Rockdale County Board of Commissioners

Signature _____ Date _____

Osborn Nesbitt, Jr.
Name (Please Print)

Chairman
Title

Approved as to form

M. Qader A. Balg, County Attorney

CERM appreciates the opportunity to provide this proposal. Please contact the undersigned at tgibbs@cerm.com or (678) 999-0173 if you have any questions or comments regarding this matter. Thank you in advance for considering CERM.

Best Regards,
Corporate Environmental Risk Management

Terrell S. Gibbs, Ph.D., P.E.
Group Manager, Environmental Services

cc Al Edwards, CERM
Clifton Lambert, CERM

General Terms and Conditions

Corporate Environmental Risk Management, L.L.C.

1. These Terms and Conditions govern the services to be performed by Corporate Environmental Risk Management, L.L.C. ("CERM") pursuant to the Project Service Order ("PSO") attached hereto. A PSO shall be deemed to include change orders and any addenda thereto, including CERM's billing rates. By accepting the PSO or authorizing or accepting any portion of the services (the "Services") done or to be done by CERM as specified in the PSO, Client ("Client") shall be deemed to have accepted these Terms and Conditions as if fully set forth in the PSO. These Terms and Conditions shall govern unless and until CERM and Client execute a formal agreement.
2. In performing the Services pursuant to the PSO, CERM shall at all times be deemed to be acting as an independent contractor, and not as an agent, servant, employee, representative, partner or joint venture or Client. CERM may perform the Services through any employee, agent or subcontractor as CERM shall deem appropriate; provided however, that CERM shall not be responsible for the activities of any subcontractors or their employees or agents unless expressly agreed to by CERM pursuant to a written agreement (in which CERM shall be responsible solely for monitoring their performance of the Services in accordance with generally accepted standards in the industry).
3. Client shall provide CERM with all information required to enable CERM to perform the Services. If Client knows or has reason to suspect at any time that hazardous materials or conditions exist at any site that is subject to the rendering of the Services (a "Site"), Client will inform CERM immediately in writing thereof. CERM shall not be liable for any flawed advice, judgment, recommendation, finding, decision or conduct based upon any inaccurate or incomplete information supplied by Client nor for failure to perform the Services in a timely manner if such failure is directly attributable to any delay or inaccuracy in information supplied by Client or any delay in providing CERM with the necessary access to properties, documentation, information or materials.
4. Client shall make payment to CERM for the Services rendered at the billing rates and in the amounts as set forth in the attachment to the PSO. Client shall also reimburse CERM for expenses (including out of town travel and living expenses) that are reasonably incurred by CERM in the performance of the Services provided proper documentation is presented therefore. Client shall remit payment of the compensation or expenses due CERM within thirty (30) days after the date that CERM provides to Client a written invoice together with proper substantiation for any expenses claimed. If the invoice is not paid within the prescribed period, Client shall be liable to CERM for a late charge accruing from the date of such invoice to the date of payment at the lower rate of eighteen percent (18%) per annum or the maximum rate allowed by law. Client shall reimburse CERM for all costs and expenses of collection including reasonable attorneys' fees.
5. CERM and Client shall use reasonable precautions to protect the confidential and proprietary information disclosed, pursuant to the PSO, which shall include CERM's pricing information and all other information, conclusions, recommendations, reports, advice or other documents generated by CERM pursuant to the PSO. Notwithstanding the foregoing, CERM shall have the authority to use Client's name and a general description of the services provided by CERM in describing CERM's experience and qualifications to other clients and potential clients for similar services.
6. Representations, Limitations of Liability and Arbitration
 - a. CERM WARRANTS THAT THE SERVICES, FINDINGS, RECOMMENDATIONS, ADVICE AND ANY OTHER WORK PRODUCT PROVIDED TO CLIENT WILL BE PREPARED PERFORMED AND RENDERED IN ACCORDANCE WITH PROCEDURES, PROTOCOLS AND PRACTICES GENERALLY ACCEPTED IN THE INDUSTRY. CLIENT ACKNOWLEDGES AND AGREES THAT CERM HAS MADE NO OTHER WARRANTIES, IMPLIED OR EXPRESSED, WITH RESPECT TO THE SERVICES, FINDINGS, RECOMMENDATIONS OR ADVICE TO BE PROVIDED BY CERM. CERM SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER OR NOT SUCH THE DAMAGES ARE DEEMED FORESEEABLE AT THE TIME OF THE COMMENCEMENT OF THE SERVICES.
 - b. Should Client make a claim against CERM for any alleged error, omission or other act arising out of the performance of the Services and fails to prove such claim, then Client shall pay all costs including attorney's fees incurred by CERM in defending the claim. CERM shall not be responsible for any loss, liability, damage, expense or cost arising from any use of CERM's findings, recommendations, advice and any other work product which is contrary to, inconsistent with, or beyond the scope and purposes

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set forth therein. Client understands and agrees that CERM's findings, recommendations, advice and any other work product shall be used solely by Client. Client expressly acknowledges and agrees that no member, employee, agent, parent, subsidiary or affiliated company of CERM shall have any personal liability in connection with the rendering of the Services pursuant to the PSO or under any agreement related to the PSO.

- c. The TOTAL obligation of CERM for damages to Client or to any other person or entity arising out of, or resulting from, the Services provided by CERM shall in no event exceed \$10,000. If Client asserts a claim against CERM for an alleged error, omission or other act arising out of the performance of Services, such claim shall be submitted to binding arbitration, which shall be the sole forum for dispute resolution. The prevailing party shall be entitled to all cost plus reasonable attorney's fees. CERM shall not be held liable for any loss or damages arising from the use of CERM's findings, recommendations, advice and other work product, which is inconsistent with the provisions and purposes set forth herein. Client agrees that CERM's findings, recommendations, advice and work product shall be used only by Client. Client expressly acknowledges and agrees that no member, employee, agent, or affiliated company of CERM shall be held personally liable in connection with the rendering of Services pursuant to this PROJECT PROPOSAL or under any agreement related to this PROJECT PROPOSAL.

7. Indemnification

- a. It is understood and agreed that in seeking the service of CERM, Client may be requesting CERM to undertake services or work for the benefit of Client were the presence or potential presence of hazardous substances or wastes are an issue and that are outside the scope of the Services to be provided. It is also understood and agreed that CERM neither create nor contribute to the creation or existence of any type of hazardous or toxic waste, material, chemical, compound, or substance or any type of environmental hazard, contamination or pollution, whether latent or patent or the release thereof. It is expressly understood that CERM shall have no liability for any such condition. Therefore, CERM's indemnification of Client shall not include loss or damage arising out of or relating to the presence of or testing, handling, transportation, treatment, storage, disposal, or cleanup of hazardous substances or wastes subject to the foregoing and the limitations of liability contained in Section 6 above. CERM shall indemnify and hold harmless Client from and against any and all claims, losses, liabilities, damages and costs including reasonable attorneys' fees, to the extent directly and proximately caused by the sole negligence or willful misconduct of CERM in the performance of the Services pursuant to the PSO.
- b. When and to the extent CERM arranges on behalf of Client for the testing, handling, transportation, treatment, storage, disposal or cleanup of hazardous substances or wastes, Client shall release indemnify, hold harmless and defend CERM and any of its employees or agents from and against any and all claims, losses, liabilities, damages and costs including reasonable attorneys' fees, associated with such activity, and CERM shall not be deemed to be responsible for the actions, inactions, error or omissions of any contractors, subcontractors or others who perform such activities. Furthermore, any review by CERM of the performance of such contractors, subcontractors or others who perform such activities is not intended to assess the adequacy of any safety measures with respect to the Occupational Safety and Health Act regulations. Any contracts, agreements, manifests or forms in connection with such activity shall be executed by or in the name of the Client, and CERM shall not be a party thereto. Client and CERM expressly acknowledge, and agree that it is not intended that CERM shall test, handle, transport, treat, store, dispose or cleanup hazardous substances or wastes in the performance of the Services pursuant to the PSO. It is agreed that this indemnification covers all costs associated with any obligation to assess, remediate or contain any hazardous or non-hazardous substance or waste under any federal, state, local or Superfund law.
- c. Client shall also defend, indemnify and hold harmless CERM and any of its employees or agents from and against any and all claims, losses, liabilities, damages and costs including reasonable attorneys' fees, that are: (i) related to, or caused in any way by, the negligence or willful misconduct of Client, its employees or agents; (ii) related to or arise from this agreement, unless said claims, losses or damages are caused by the sole negligence of CERM or any of its employees or agents (iii) related to the breach of any warranty agreement or obligation of Client hereunder; or (iv) related to losses or claims in excess of the liability limitation set forth in Section 6 above.
- d. Client and CERM acknowledge and agree that environmental projects may involve some form of legal process or proceedings during or after performance of the Services. Such legal process or proceedings normally include production of records, forms of discovery such as depositions and interrogatories,

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filings and court testimony. Client agrees that if CERM participates in such legal process or Proceedings' to which CERM is not a party or if CERM is subject to a claim that is later adjudicated to be invalid, Client shall reimburse CERM for such participation. CERM shall be reimbursed for labor, reproduction costs, travel expenses, attorneys' fees and such other expenses as are reasonable and necessary in connection with the legal process or proceedings.

8. Either party upon thirty (30) days written notice may terminate the PSO and the Services to be rendered there under. In the event of termination, each party shall, have no other liability' to the other except for the provisions of Sections 5, 6 and 7 that shall survive termination and except that Client shall be liable to pay CERM the compensation earned and expenses incurred by CERM prior to such termination.
9. All notices, waivers and other communications required, permitted or desired hereunder shall be in writing and shall be deemed to have been duly given when delivered by hand or dispatched (with reasonable evidence of receipt) by telex, telegraph or other means of electronic facsimile transmission or on the third (3rd) business day after being sent by U.S. registered or certified mail, return receipt requested, postage prepaid or by a recognized overnight courier service addressed to the party to whom the notice, waiver or other communication is intended to be given at the addresses set forth in the PSO.
10. Neither party will be liable for any failure or delay in its performance hereunder due to acts GOD, acts of third parties, fire, earthquake, weather, riot, war, sabotage, labor shortage or dispute and governmental action which are beyond its reasonable control; provided that the delayed party (a): gives the other party written notice of such cause promptly and in any event within fifteen (15) calendar days of discovery thereof, and (b) uses its reasonable efforts to correct such failure or delay in its performance.
11. The rights and liabilities of the parties hereto will bind and inure to the benefit of their respective successors, executors and administrators, as the case may be; provided that, except to the extent expressly provided herein no party may assign or delegate its obligations hereunder, either in whole or in part without the prior written consent of the other party, except to an individual or entity into which it has merged or which has succeeded to all or substantially all of such party's business and assets relating hereto and which has assumed in writing or by operation of law the obligations hereunder. Any attempted assignment in violation of the provisions of this Section will be void.
12. If any provision hereof shall be held to be illegal, invalid or unenforceable, such invalidated provision will not affect the validity, legality and enforceability of the remaining provisions. The validity, construction and performance of this Agreement and the resolution of any dispute arising here under shall be resolved in accordance with the laws of the State of Georgia and the parties hereto hereby consent to conduct any proceeding instituted by either party in the City of Atlanta and hereby submit to the jurisdiction of the State of Georgia for all purposes relating hereto. This Agreement is made for the benefit of CERM and Client and not for the benefit of any third party. Failure by a party to enforce any provision hereof will not be deemed a waiver of future enforcement of that or any other provision. The PSO and these Terms and Conditions constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. No amendment to or modification of the PSO or these Terms and Conditions will be binding unless in writing and signed by a duly authorized representative of CERM and Client.

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