



THIS MEETING WILL BE CONDUCTED WITH IN PERSON ATTENDANCE PERMITTED WITH LIMITED CAPACITY IN ACCORDANCE WITH COUNTY AND STATE COVID GUIDELINES, INCLUDING MASK REQUIREMENTS FOR ALL THOSE ATTENDING IN PERSON. PARTICIPATION WILL ALSO BE AVAILABLE VIA VIDEO CONFERENCE OR TELECONFERENCE.

TO PARTICIPATE IN THE MEETING VIA VIDEO OR TELECONFERENCE, GO TO <https://rainbowmwd.zoom.us/j/84637128327> OR CALL 1-669-900-6833 or 1-346-248-7799 or 1- 253-215-8782 or 1-301-715-8592 or 1-312-626-6799 or 1-929-205-6099 (WEBINAR/MEETING ID: 846 3712 8327).

MEMBERS OF THE PUBLIC WISHING TO SUBMIT WRITTEN COMMENT TO THE COMMITTEE UNDER PUBLIC COMMENT OR ON A SPECIFIC AGENDA ITEM MAY SUBMIT COMMENTS TO OUR BOARD SECRETARY BY EMAIL AT DWASHBURN@RAINBOWMWD.COM OR BY MAIL TO 3707 OLD HIGHWAY 395, FALLBROOK, CA 92028. ALL WRITTEN COMMENTS RECEIVED **AT LEAST ONE HOUR IN ADVANCE OF THE MEETING** WILL BE READ TO THE COMMITTEE DURING THE APPROPRIATE PORTION OF THE MEETING. THESE PUBLIC COMMENT PROCEDURES SUPERSEDE THE DISTRICT’S STANDARD PUBLIC COMMENT POLICIES AND PROCEDURES TO THE CONTRARY.

ENGINEERING AND OPERATIONS COMMITTEE MEETING

**RAINBOW MUNICIPAL WATER DISTRICT
 Wednesday, December 1, 2021
 Engineering and Operations Committee Meeting - Time: 3:30 p.m.**

District Office	3707 Old Highway 395	Fallbrook, CA 92028
------------------------	-----------------------------	----------------------------

Notice is hereby given that the Engineering and Operations Committee will be holding a regular meeting beginning at 3:30 p.m. on Wednesday, December 1, 2021, 2020.

AGENDA

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL: Flint Nelson (Chair) _____ (Vice Chair) _____**
Members: Helene Brazier _____ Robert Marnett _____ Mig Gasca _____
Alternates: Tracy Largent _____
4. **INSTRUCTIONS TO ALLOW PUBLIC COMMENT ON AGENDA ITEMS FROM THOSE ATTENDING THIS MEETING VIA TELECONFERENCE OR VIDEO CONFERENCE**


CHAIR TO READ ALOUD - *“If at any point, anyone would like to ask a question or make a comment and have joined this meeting with their computer, they can click on the “Raise Hand” button located at the bottom of the screen. We will be alerted that they would like to speak. When called upon, please unmute the microphone and ask the question or make comments in no more than three minutes.*

*Those who have joined by dialing a number on their telephone, will need to press *6 to unmute themselves and then *9 to alert us that they would like to speak.*

A slight pause will also be offered at the conclusion of each agenda item discussion to allow public members an opportunity to make comments or ask questions.”

5. SEATING OF ALTERNATES
6. ADDITIONS/DELETIONS/AMENDMENTS TO THE AGENDA (Government Code §54954.2)
7. PUBLIC COMMENT RELATING TO ITEMS NOT ON THE AGENDA (Limit 3 Minutes)
- *8. APPROVAL OF MINUTES
 - A. November 3, 2021
9. GENERAL MANAGER COMMENTS
10. ENGINEERING AND CIP PROGRAM MANAGER COMMENTS
11. OPERATIONS MANAGER COMMENTS
12. COMMITTEE MEMBER COMMENTS
13. BOARD ACTION UPDATES
14. RAINBOW HEIGHTS PUMP STATION CONSTRUCTION UPDATE (ENGINEERING)
- *15. SAN LUIS REY GROUNDWATER REQUEST FOR PROPOSAL (ENGINEERING)
16. SUEZ TANK CONTRACT UPDATE (ENGINEERING)
17. GANNT CHART DEVELOPMENT UPDATE (ENGINEERING)
18. CATHODIC PROTECTION BID OPENING UPDATE (ENGINEERING)
- *19. SUMAC COMMUNICATIONS TOWER SOLAR PHOTOVOLTAIC AND BACK-UP BATTERY SUSTEM DESIGN-BUILD DRAFT REQUEST FOR PROPOSAL (ENGINEERING)
- *20. AS-NEEDED SERVICES EXPENDITURES SUMMARY
21. NORTH RIVER ROAD UPDATE (OPERATIONS)
22. WATER SERVICE UPGRADE PROJECT (WSUP) PROGRAM UPDATE (OPERATIONS)
23. DISCUSSION AND POSSIBLE ACTION REGARDING COMMITTEE MEMBERSHIP
24. REDISTRICTING UPDATE
25. LIST OF SUGGESTED AGENDA ITEMS FOR THE NEXT SCHEDULED ENGINEERING AND OPERATIONS COMMITTEE MEETING
26. ADJOURNMENT

ATTEST TO POSTING:



Pam Moss
Secretary of the Board

11-23-21 @ 7:30 a.m.

Date and Time of Posting
Outside Display Cases

**MINUTES OF THE ENGINEERING AND OPERATIONS COMMITTEE MEETING
OF THE RAINBOW MUNICIPAL WATER DISTRICT
NOVEMBER 3, 2021**

1. **CALL TO ORDER** – The Engineering and Operations Committee Meeting of the Rainbow Municipal Water District on November 3, 2021, was called to order by Chairperson Nelson at 3:30 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. *(All meetings are being held with in person attendance following County and State COVID guidelines as well as virtually.)* Chairperson Nelson, presiding.

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL:**

Present: Member Brazier *(via teleconference)*, Member Marnett, Member Nelson, Member Gasca *(via video conference)*.

Also Present: Executive Assistant Washburn, Alternate Largent, Information Technology Manager Khattab, Engineering and CIP Program Manager Williams, Operations Manager Gutierrez, Construction and Maintenance Supervisor Lagunas.

Also Present Via Teleconference or Video Conference:

Associate Engineer Powers, Water Operations Supervisor Coffey, Engineering Technician Rubio, Project Manager Parra, Project Manager Tamimi.

One member of the public attended in-person and three members of the public were present via teleconference or video teleconference.

4. **INSTRUCTIONS TO ALLOW PUBLIC COMMENT ON AGENDA ITEMS FROM THOSE ATTENDING THIS MEETING VIA TELECONFERENCE OR VIDEO CONFERENCE**

Mr. Nelson read aloud the instructions for those attending the meeting via teleconference or video conference.

5. **SEATING OF ALTERNATES**

There were no alternates seated.

6. **ADDITIONS/DELETIONS/AMENDMENTS TO THE AGENDA (Government Code §54954.2)**

Mr. Gutierrez requested that Item #18 be deleted. There was no objection from the committee.

7. **PUBLIC COMMENT RELATING TO ITEMS NOT ON THE AGENDA (Limit 3 Minutes)**

There were no comments.

***8. APPROVAL OF MINUTES**

A. October 6, 2021

Mr. Marnett pointed out the word “banned” should be “bonded”.

Motion:

To approve the minutes inclusive of the language change mentioned.

Action: Approve, Moved by Member Marnett, Seconded by Member Nelson.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 3).

Ayes: Member Brazier, Member Marnett, Member Nelson.

9. GENERAL MANAGER COMMENTS

There were no comments due to the absence of Mr. Kennedy.

10. ENGINEERING AND CIP PROGRAM MANAGER COMMENTS

Mr. Williams noted since the committee did not have a quorum at their September meeting, the “As Needed Expenditures Report” was for October and how the October and November reports will be provided at the December Board meeting.

11. OPERATIONS MANAGER COMMENTS

Mr. Gutierrez stated he will hold his comments for Items #15-#20.

12. COMMITTEE MEMBER COMMENTS

Mr. Nelson acknowledge Steve McKesson being in attendance. He asked Mr. McKesson if he was still interested in joining this committee after attending in observation on several occasions. Mr. Nelson asked Ms. Washburn to make a note to include an agenda item on the December agenda for possible recommendation for Mr. McKesson’s appointment by the Board.

13. BOARD ACTION UPDATES

Mr. Williams reported the Board approved the Hutton and Turner right-of-way acquisition, Notice of Completion for the Horse Ridge Creek project, a Joint Use Agreement for construction of Citro, authorization for the sole source selection of premanufactured pump stations from EFI, a Construction Contract for the Lift Station 1 Replacement Project, a Professional Services Agreement for Construction Management for the Lift Station 1 Replacement Project, to carry funds forward from the previous fiscal year for the Rainbow Heights Pump Station project, as well as executed RMWD’s Level 1 Water Shortage Contingency Plan based on the Governor’s Executive Order.

***14. PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT (PEIR) CHANGE ORDER FOR HELIX ENVIRONMENTAL (ENGINEERING)**

Mr. Tamimi explained staff was bringing forward a proposed Change Order No. 1 for the Professional Services Contract with Helix Environmental for the District PEIR. He noted the PEIR was intended to streamline the CEQA process for District projects. He clarified RMWD currently handling CEQA analysis project-by-project which can result delayed project construction as well as unforeseen expenses.

Mr. Tamimi stated Helix Environmental' s scope was limited in the number of repair/maintenance and near future CIP projects to analyze; therefore, this Change Order is to capture the costs associated with analyzing the District's entire potable and sewer pipeline system. He noted the amount of the Change Order totaled \$65,140 which includes a credit of \$11,050 for a hydrology water quality technical report that was not needed. He pointed out half of the costs of the new scope adds 2,300 projects and 30 site visits for the analysis, listed what is covered in the new scope, and that the Change Order extends the existing agreement from November 29, 2021, through June 30, 2022, for project completion.

Mr. Tamimi stated staff was seeking a recommendation from the committee to bring this item to the Board at their December 7, 2021, meeting. Mr. Nelson said given the magnitude of the system and locations, it was not surprising a Change Order of this amount would be needed to complete the work and found himself supportive of this amendment.

Ms. Brazier stated she was also supportive of this amendment.

Motion:

That the committee recommend that the Board approve the amendment.

Action: Approve, Moved by Member Brazier, Seconded by Member Marnett.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

Ayes: Member Brazier, Member Marnett, Member Nelson, Member Gasca.

Member Gasca joined the meeting at 3:42 p.m.

***15. RAINBOW HEIGHTS PUMP STATION PROJECT STATUS UPDATE (ENGINEERING)**

Mr. Williams shared photographs of the Rainbow Heights Pump Station delivery as he described it being set. He noted the entire pump station arrived prefabricated.

Mr. Marnett inquired as to the cost of the pump station. Ms. Largent noted the total budget for this project is approximately \$2.7 million. Mr. Tamimi confirmed the cost of this pump station was \$1.5 million.

Mr. Gutierrez talked about each of the steps taken during the delivery process as well as described the size and weight of the pump station. He noted testing will start in early December after which a 14-day testing period will take place before acceptance.

DRAFT

DRAFT

DRAFT

Mr. Nelson stated he was curious as to whether EFI directed RMWD as to where the hookups and wiring would be located. Mr. Gutierrez explained this was determined by the design engineer, EFI, and the contractors. Mr. Williams added before these go into production, several meetings are conducted to work through all these details.

Discussion ensued regarding the permitting processes and regulatory requirements associated with this project.

Mr. Nelson said he would like to receive a report from staff in terms of whether this is not only preferential from a technical sense, but also financial once this project completes.

Discussion ensued regarding what steps would need to be taken should the installation equipment not be able to reach the proposed sites. Mr. Williams and Mr. Gutierrez provided examples of where this type of pump station would or would not possibly work.

Mr. Marnett asked if RMWD was now in sync with SDG&E. Mr. Gutierrez responded noting a swath of land will be vacant for MWD once installation is complete.

16. CATHODIC PROTECTION PROJECT STATUS UPDATE (ENGINEERING)

Mr. Williams updated the committee noting this was the first implementation of cathodic protection going out for bid on October 25, 2021, with the last day for questions being November 1, 2021, at which time no questions were received. He noted bids will be collected and opened on November 15, 2021, at 11:00 a.m. at the District offices.

Mr. Williams mentioned copies of the plans were posted on the website for everyone interested to access as well as how this was a niche market. He stated staff hopes to bring this to the Board on December 7, 2021, for consideration.

Mr. Nelson asked if it appeared the project will be employing materials that fall under the current fad of supply chain issues. Mr. Williams said it could; however, staff was hopeful it would not.

Mr. Williams explained there was a great deal of coordination with SDG&E for this project due to their having a large high pressure gas main running through the area. He pointed out this will be the first, but cathodic protection will become the norm at RMWD going forward to assist with reducing the number of pipeline repairs.

Mr. Gutierrez talked about the steps taken until pipes can be replaced. He said depending on how this goes and the cost, it will benchmark how RMWD will proceed and budget in future years.

Mr. Marnett asked what length of pipe. Mr. Tamimi stated it was over a little more than one mile as well as noted the pipe was installed in 1956 and was 20" in diameter. Mr. Marnett inquired as to the size of the anodes. Mr. Tamimi answered the anodes would be 70 pounds. Mr. Williams said if the desired depth can be reached one will be installed at each location with a few along the way, but if the depth cannot be reached, three per location will be installed with them staggered along the way.

Mr. Gutierrez pointed out the last time this line blew out, it put approximately 400 customers out of water during extremely hot weather conditions which was why it was selected as the pilot project.

DRAFT

DRAFT

DRAFT

Mr. Marnett requested a copy of the design be sent to the committee members via email.

Mr. Stewart introduced himself to the committee as a former director and noted he had a conversation recently regarding cathodic protection and how the person with whom he spoke RMWD has been in his area multiple times repairing water main breaks due to the manner in which the system was installed thirty years ago. He explained how this resonated with him and that he would like to suggest RMWD reach out to Fallbrook Oaks to see if there was an opportunity to place cathodic protection at their location while the pipeline is currently exposed. Mr. Gutierrez stated a pressure reducing station was recently installed in this area; however, staff would be interested in working collectively with Fallbrook Oaks to see if their work could take place at the same time as the work anticipated to be completed by RMWD in terms of water and sewer line upgrades. Mr. Stewart offered to share contact information for Fallbrook Oaks with Mr. Williams and Mr. Gutierrez, respectively.

17. THOROUGHbred LIFT STATION #1 PROJECT STATUS UPDATE (ENGINEERING)

Mr. Williams shared the results of the project bid opening with the award of contract going to JW Fowler as the lowest bidder; however, the District has received three different protests. He noted TC Construction was protesting JW Fowler for not being responsive and responsible and how SCW stated the same about both TC Construction and JW Fowler in their protest. He stated due to this situation, Construction Agreements have not been signed to date.

Mr. Nelson stated the bid protests were heard by the Board after which time they proceeded with awarding the contract; therefore, he was curious as to the current status. Mr. Williams reported following the Board meeting, RMWD did receive a Writ of Mandate from TC Construction which was currently under legal review; therefore, progression has been placed on hold.

Mr. Nelson inquired as to the construction management portion of this project. Mr. Williams stated there was no protest; however, over the next few weeks staff will be providing consulting firms with debriefs from staff. He said he will be emailing the committee members who reviewed the proposals for brief comments to be presented to the consulting firms when he meets with them.

18. RAINBOW HEIGHTS WATER LINE PROJECT UPDATE (OPERATIONS)

This item was deleted per Item #6.

***19. NORTH RIVER ROAD PROJECT STATUS UPDATE (OPERATIONS)**

Mr. Gutierrez provided an update on Phase 3 of the project. He noted there were eight different failures where chunks of the clay pipe were missing. He noted SCW was hired to address some of the deeper repairs with RMWD staff handling those that were shallower. He explained the steps taken in making the repairs.

Mr. Gutierrez stated as part of Phase 3 the manhole rings and lids have been replaced and how crews are currently inside the manholes conducting work to give a brand-new coating. He pointed out RMWD the Board approved the work being conducted to maintain this line because it is the only line that feeds to the Oceanside Treatment Plant that has not been maintained since being originally installed in the 1970's. Mr. Williams displayed photographs as Mr. Gutierrez explained the work being conducted as well as the results.

Mr. Nelson asked staff if they were comfortable with the level of work performed. Mr. Williams and Mr. Gutierrez confirmed.

DRAFT

DRAFT

DRAFT

Mr. Marnett inquired as to the area in which the work was being conducted. Mr. Gutierrez described the area covered.

Mr. Gutierrez mentioned the anticipated completion date for this project is mid-December.

20. WATER SERVICES UPGRADE PROGRAM (WSUP) PROJECT UPDATE (OPERATIONS)

Mr. Gutierrez reported the project was 78% completed with 6,863 meters exchanged and 1,908 remaining. He stated it anticipated the project will reach 90% completion in mid-January 2022 taking all the upcoming holidays into consideration. Discussion followed.

21. REDISTRICTING UPDATE

Mr. Khattab shared a presentation titled "Redistricting with Census Data" that was given at the October 26th Board meeting. He noted RMWD was required by law to recalculate the population in each of its five divisions and redistrict every ten years. He explained the steps taken throughout the process as well as how staff had written a script for calculating the population in all the District's voting precincts. Discussion followed.

It was noted there were no significant changes to the district's boundaries.

Mr. Nelson stated this information was fascinating and amazing; however, he wanted to know why this information was being presented to the committees. Mr. Khattab explained Mr. Kennedy asked for this to be shared with each committee to allow for an opportunity to receive as much input and feedback as possible.

Mr. Marnett asked if there were many parcels where people are occupying them that do not have water service. Mr. Gutierrez said he would need to look into this and provide a response at a later date. Mr. Marnett inquired as to whether there was another method for calculating the redistricting data utilizing the information RMWD has in place such as addresses. Mr. Khattab pointed out the census data provided does not come with addresses, but rather with geographical representation of the area it covers. Discussion ensued.

***22. AS-NEEDED SERVICES EXPENDITURES SUMMARY**

Mr. Nelson stated the information appeared to be unchanged. Mr. Williams confirmed.

23. LIST OF SUGGESTED AGENDA ITEMS FOR THE NEXT SCHEDULED ENGINEERING AND OPERATIONS COMMITTEE MEETING

It was noted committee member appointment of Steve McKesson, updates on the Lift Station 1 Construction Contract, Rainbow Heights Pump Station, WSUP, North River Road, as well as review of the Cathodic Protection Program bid.

Ms. Brazier stated RMWD has been talking about the cathodic protection program for quite some time and she was really pleased to hear the report today.

DRAFT

DRAFT

DRAFT

24. ADJOURNMENT

The meeting was adjourned by Chairperson Nelson.

The meeting adjourned at 4:57 p.m.

Flint Nelson, Committee Chairperson

Dawn M. Washburn, Board Secretary



**SAN LUIS REY VALLEY GROUNDWATER
RECOVERY PROJECT**

**REQUEST FOR PROPOSAL (RFP)
for
HYDROGEOLOGIC AND ENGINEERING
SERVICES**

December 3, 2021

Proposals Due January 20, 2022

TABLE OF CONTENTS

SECTION 1 – PROJECT BACKGROUND, DESCRIPTION, AND OBJECTIVES

- 1.1 Project Background and Description**
- 1.2 Project Objectives**

SECTION 2 – ANTICIPATED SCOPE OF WORK

- 2.1 Phase I – Technical Basis and Stakeholder Coordination**
- 2.2 Phase II – PS&E Development and Construction Management (Optional Tasks)**

SECTION 3 – PROPOSAL REQUIREMENTS

- 3.1 Date and Time of Receipt**
- 3.2 Proposal Formatting**
- 3.3 Proposal Content**
- 3.4 Pre-submittal Activities**

SECTION 4 – CONSULTANT NOMINATION AND SELECTION PROCESS

- 4.1 Selection**
- 4.2 Evaluation Criteria**
- 4.3 Schedule for Nomination, Selection and Award**

SECTION 5 – CONDITIONS FOR PROPOSERS

- 5.1 Rights of The Agency**
- 5.2 Changes to the RFP**
- 5.3 Special Conditions**

Exhibit A: RMWD Professional Services Agreement

Attachment 1 – 2016 West Yost Report

Attachment 2 – Map of Infrastructure in the Project Area

SECTION 1 – PROJECT BACKGROUND, DESCRIPTION, GOALS, AND OBJECTIVES

1.1 Project Background and Description

The Rainbow Municipal Water District (referred to herein as “District”) was established in 1953 and is a Special District, organized under Section 71000 of the California Water Code. The District is a member of the San Diego County Water Authority (SDCWA). The District provides water and sanitation services to the unincorporated communities of Rainbow, Bonsall, and portions of Vista, Oceanside, and Fallbrook. The District is governed by a five (5)-member elected Board of Directors, who oversees a total of five (5) divisions.

The District maintains over 320 miles of water main, seven (7) pump stations, four (4) reservoirs, and 13 storage tanks to deliver water to its customers. The District also provides sewer services to parts of the District’s service area and maintains facilities including, six (6) lift stations and 60 miles of sewer main.

Currently, the District purchases 100 percent of its potable water supply (imported water) from SDCWA. Most of this supply is treated in Riverside County at the Skinner Water Treatment Plant owned by the Metropolitan Water District of Southern California (Metropolitan), and a portion is treated at SDCWA’s Twin Oaks Valley Water Treatment Plant in San Marcos.

A strategic goal of the District is to diversify the water supply with locally-controlled reliable sources. Towards this end, the District continues to investigate opportunities for groundwater development and other local water projects. Some of these investigations have identified opportunities with potential merit, however to date, no developments have been put into fruition.

2016 Groundwater Study

The District consulted with West Yost in 2016 to determine possible return flow opportunities for the District. West Yost (Attachment 1) estimated that between years 2016 to 2046, water users within the San Luis Rey Valley Groundwater Basin (SLRVGB) will be recharging the basin at a rate of 7,200 to 7,600 acre-feet per year (AFY). This process is known as “Return Flow”, or the amount of applied irrigation water and water from septic systems that moves past the root zone into the underlying aquifer. The 2016 estimate was based on the water use of the District, Fallbrook Public Utilities District (FPUD), and Valley Center Municipal Water District (VCMWD) customers within the watershed contributing to the SLRVGB. West Yost concluded that median annual pumping rates of 5,700 AFY could be supported without significant impacts to the hydrologic conditions that would exist in the absence of imported water. West Yost prepared preliminary project planning for a conceptual groundwater extraction and treatment project sized at 4,000 AFY (3.6 million gallons per day). Subsequent to the completion of the West Yost Report in 2016, customers of the three (3) Districts have reduced their water use, and the return flow estimates contained in the report will require a revision.

Additionally, the West Yost report states that: “The primary legal principles that govern an imported water return flow recapture project are summarized as: (1) the importing agency has a right of (to) recapture the imported water return flow it brought into the basin by its efforts; and (2) the recapture is not allowed to adversely affect native water and uses thereof.”

Groundwater Rights and Administration

The District’s Legal Counsel has provided an opinion on the District’s water rights that concludes the District’s right to reclaim and recapture imported return water flows are well established. Based on the estimated return flows, and the water right, the District has conceptually formulated a project known as the San Luis Rey Valley Imported Return Flow Recovery Project (referred to herein as “Project”) that would develop a solution for a locally-controlled reliable water source. The ultimate system build out would consist of wells, raw water pipelines, a water treatment plant, a brine discharge pipeline, and potable water transmission pipelines. Together, these facilities, if economically and otherwise feasible, would provide the District with a source of water.

Most of the District lies within the Bonsall Basin of the SLRVGB. Approximately 20 acres of the District are within the Pala subbasin, just to the east of Bonsall. West Yost estimated that 92 percent of the District land area contributes return flow to the SLRVGB.

The State of California has classified the SLRVGB as a subterranean stream flowing in known and definite channels. Under this classification, groundwater pumpers are required to obtain a diversion permit from the State Water Resources Control Board. Much of the land within the Pala Basin is owned by, or federally reserved for, the Pala Band of Mission Indians (Pala). Federal regulations do not recognize groundwater basins as flowing streams. Instead, the federal government classifies the basin as percolating groundwater.

In September 2018, the Governor of California signed into law Assembly Bill (AB) 1944 that amended the Water Code relative to groundwater within the SLRVGB. The purpose of AB 1944 was to allow Pala to fully participate in the California Sustainable Groundwater Management Act (SGMA) processes in the Upper Basin. AB 1944 includes the following:

1. The SLRVGB is divided into an Upper and Lower Subbasin at the east line of Range 3 West, San Bernardino Meridian. The lower subbasin is to the west of the line and the upper is to the east. The boundary is near Monserate Narrows and approximately one mile east of I-15 (Lands of the Pala Band straddle the boundary).
2. Both subbasins are designated as medium priority under SGMA. A Groundwater Sustainability Plan (GSP) for medium priority is due to the State in January 2022.

3. For SGMA, water beneath the surface of the ground in the Upper SLRVGB is defined as percolating groundwater. This includes certain water within the Upper Subbasin flowing in known and definite channels. The exception is water beneath the surface of the ground downstream of the confluence of the San Luis Rey River and Frey Creek, that is extracted and used as authorized under an existing appropriative water right. While AB 1944 does not address the Lower Subbasin, the State has previously defined it as a subterranean stream.

A SGMA process was started for the Upper Subbasin, in which the District has a small amount of land and was a party to. Some of the involved parties decided to exclude the Indian Bands from the SGMA process and subsequently, the District withdrew from the process to seek out more inclusive opportunities with its neighbors. It is paramount to the District to reach concurrence with the Indian Bands on an imported water recovery project that includes full participation of the tribal neighbors and protects their federally reserved water rights. It is important to note that a SGMA process may no longer be a viable way to establish water rights, including those of the District, within a reasonable time frame.

In February 2021, the District made an Imported Water Recovery Project presentation to the San Luis Rey Indian Water Authority (SLRIWA) including Pala. Subsequently, the District also provided the SLRIWA with the West Yost Report, the opinion from District Legal Counsel, and a map of infrastructure in the vicinity of the District and Pala (Attachment 2). In July 2021, Pala provided a letter to the District noting that:

- Pala has federally-reserved, riparian, and overlying water rights that must be respected and protected.
- Pala is especially concerned about supplies to their lands at the southeast quadrant of the intersection of I-15 and SR-76.
- The District should develop a historical record of “pre-project” groundwater level data from a network of existing and new monitoring wells.
- The groundwater level monitoring should start as soon as possible and at least two years before an Imported Water Recovery Project initiation.

The District followed up with a letter to Pala assuring them that SLRIWA and Pala would be an integral part of project planning, and that the District would not impact SLRIWA and Pala water rights or supplies.

The West Yost report presented preliminary-level plans for a potential project in the Lower Subbasin where total dissolved solids (TDS) are high enough to require demineralization to produce potable water. Further east towards the Pala Basin, the TDS is lower and potential projects in this area might be able to avoid demineralization.

Possible project benefits include economy, local control, reliability, and environmental sustainability. These and other benefits will be evaluated within the scope of work. The water produced from an Imported Water Recovery Project may be competitive with, or even less expensive than SDCWA-provided imported water which is expected to approach \$2,500/acre-foot in next five years.

The District's goals and objectives are listed below, and are followed by a draft scope of services.

1.2 Study Goals and Objectives

The overall goal of this RFP is to assess the technical, economic, environmental, regulatory, and overall feasibility of a SLRVGB Groundwater Recovery Project as a source of locally-controlled reliable water supply. Assistance with technical support is needed to develop a District staff recommendation and District Board decision on whether to continue with implementation of Phase II of the Project or to suspend investigations.

This work will be summarized in a presentation to the District that will provide objective analysis and documentation to support an informed and confident decision of whether and how to proceed with the Project. Project planning must be coordinated with and have approval of the Pala Band. The initial objectives include:

Phase I – Technical Basis and Stakeholder Coordination

1. Establish a technical basis for developing, planning and implementing the Project. Consultant shall review background information and previous technical studies, update groundwater modeling and analyses, and update cost and feasibility of proposed project alternatives.
2. Develop a Feasibility Study with a Hydrogeological Report to support technical recommendations. The Feasibility Study will include a monitoring plan that will outline the District's efforts in establishing baseline data for the SLRVGB. The study will identify anticipated groundwater level, water quality parameters, existing wells, new monitoring well opportunities, treatment requirements, regulatory requirements (including necessary environmental permits), and relevant capital and annual operation and maintenance costs.
3. Identify existing and/or new wells that can be used to conduct a long-term pump test to assess the effects of an imported water recovery solution on existing supplies.
4. Assist the District in coordinating with the Pala Band and other local pumpers to determine the feasibility of performing a year-long groundwater monitoring and pump test plan. The goal is to identify local pumpers in the SLRVGB that are interested in partnering with the District for short-term and long-term use, as well as information on well logs, production and testing.

Phase II – PS&E Development and Construction Management Services (Optional)

5. Prepare design plans, specifications and estimate (PS&E) for a groundwater monitoring system and pump tests to determine the baseline condition of the SLRVGB and potential impacts to existing wells and users.
6. Coordinate with the contracted driller and provide construction administration and full-time inspection of the mobilization, drilling activities, well construction, pump development and tests, etc.
7. Conduct geophysical borehole logging (short- and long-normal resistivity, guard or lateral, self-potential, gamma ray and sonic logs) and also collect samples for material testing, grain size analysis, aquifer zone testing, turbidity, and water quality using parameters established in the Feasibility Study.
8. Conduct a pump test, collect monitoring data, analyze results, and provide recommendations for a imported water recovery solution.
9. Develop a Test Well and Long-Term Pumping Test Well Completion Report with quarterly sampling results and relevant pumping data to establish a baseline for SLRVGB and substantiate a feasible imported water recovery solution.

SECTION 2 – ANTICIPATED SCOPE OF WORK

The District is interested in retaining a hydrogeologic and engineering firm, or team (Consultant), to further investigate an imported water recovery solution in the SLRVGB. The District would like to complete Phase I of the scope of services in four (4) months and potentially complete Phase II of the scope of services in eighteen (18) to twenty four (24) months, but is flexible and interested in reviewing the Consultant's proposed schedule. The Consultant will be expected to hold proposal pricing with no mark-ups or administrative fees for up to 90 calendar days after the RFP close date. The District, at its sole discretion will make a determination to proceed with Phase II up to 90 calendar days after all Phase I work is completed.

The District is interested in the Consultant's creative ideas to improve the scope of services. The Consultant should clearly identify innovative approaches in the proposed scope of services that achieve the Project's goals and objectives.

The following information and services will be made available to the Consultant by the District:

- a. Arrange for meetings with its engineering and operations staff to gather information and review approaches, planning, designs, etc.
- b. Furnish electronic copies (where available) of record drawings, project reports and related materials. Any original materials provided by the District or developed by the Consultant during the duration of the Project shall be returned to the District upon the completion of services.

- c. Answer questions regarding the Project at any time during all phases of the work.
- d. Make initial contact with customers and stakeholders and assist Consultant with coordination.

PHASE I – TECHNICAL BASIS AND STAKEHOLDER COORDINATION

Task A – Preliminary Evaluation & Project Planning

2.A.1 Feasibility Study

The Consultant shall review studies, reports, data, and other information regarding the SLRVGB, the District, and the proposed Project. The Consultant shall use historical and existing information to develop a Feasibility Study. The Consultant shall include at a minimum the following information:

1. *Project Goals, Alternative Concepts, Evaluation Criteria, and Key Issues* - Establish project goals, alternative concepts, key issues, and alternative evaluation criteria. Identify any changes to the approach outlined in this scope of work.
2. *Regulations* – Provide regulatory background to establish the need for the Project.
 - a. Evaluate options to discharge water from a long-term pump test. Consider on-site beneficial uses by private parties to avoid the need for a discharge permit. Evaluate permitting requirements and the potential to use the District’s existing State permit.
 - b. *Certainty of Supply* - Evaluate a range of legal, administrative, and institutional structures for their ability to provide high levels of certainty and sustainability to a potential supply of groundwater from the San Luis Rey Valley Basin for use by the District. Review options including but not limited to SGMA, CEQA/NEPA, agreements, permits, and other approaches. Recommend a preferred approach.
3. *Existing Conditions* -
 - a. *Water Quality* -Review water quality in the Bonsall and Pala Basins and identify existing wells in or near the Bonsall Basin that would provide valuable water level or quality data.
 - b. *Return Flow Estimates* - Develop a range of return flows that will be used to evaluate the economics of a potential imported water recovery project. Base the range on the West Yost report and recent history of water use in the Districts, within the SLR Valley watershed.
4. *Environmental* - Determine all necessary permits, including environmental permits needed to implement an Imported Water Recovery Project. Identify environmental

opportunities and constraints and necessary analysis needed to ensure compliance with California Environmental Quality Act (CEQA) and/or National Environmental Policy Act (NEPA).

5. *Project Alternatives* – Determine recovery wells, sources of power, raw water pipelines, a treatment plant, product water pipelines, associated facilities, land requirements, a construction cost and annual operation and maintenance cost estimate. Consider land ownerships and the location of District facilities. Prepare project maps and preliminary project layouts and site plans. Evaluate access, land ownerships, temporary or permanent easements, and necessary agreements.

Based on the water quality at the recovery well sites, evaluate the need for pre-treatment, demineralization, filtration, disinfection, and other treatment processes to produce a potable water supply meeting State and Federal requirements. Consider how quality could change in the future. Include a review of the need for iron and manganese removal.

If the project will require demineralization, evaluate brine recovery and discharge options and costs.

6. *Cost Estimates and Feasibility Analysis* - Review the projects covered in the West Yost Report and discuss them with the District for possible adjustments. Update the construction cost estimates and develop capital and annual operation and maintenance costs. Collect SDCWA water rate projections from the District. Update the project technical feasibility analysis and calculate the all-in project unit cost of water per acre-foot.

Task 2.A. 2 – Feasibility Study Presentation

The Consultant shall prepare a presentation covering all information listed in Section Task 2.A.1– Feasibility Study. The Consultant will present the analysis and findings of the Feasibility Study to the District, including project concepts and approach. The Consultant will document items needing further clarification and address all feedback provided by the District. If no fatal flaws are identified, and with District direction, the Consultant will be given Notice to Proceed (NTP) with Phase II Tasks.

Task B – Project Coordination & Stakeholder Outreach

Task 2.B.1 Tribal Coordination

Support the District in Coordination with the SLRIWA and Pala Band- The Consultant will provide

REQUEST FOR PROPOSAL (Draft 10/4/21)

support to the District in coordination with the SLRIWA and Pala Band. For the Consultant proposal assume six (6) meetings including preparation of exhibits, attendance, and meeting notes.

Task 2.B.2 Inventory of Existing Groundwater Pumpers and Permit Holders

After reviewing and compiling existing inventories of groundwater pumpers and permit holders, conduct research and update the inventory including the volume pumped, if available. The research may include contacting the pumpers on behalf of the District. In contacting pumpers, review the potential use of the well for monitoring and pump testing.

With District approval and assistance, contact selected owners and arrange to sample the water from their wells. Purge the well as necessary and follow steps to obtain a representative sample using appropriate containers. Send samples to a laboratory for analysis following procedures to avoid contamination. For the Consultant proposal, assume 10 samples.

Review existing wells and identify those that would be relevant in evaluating the geology and production of a proposed return flow recovery well field. Identify and recommend sites to complete exploratory borings and pump testing to confirm the proposed well field and maximum yield. With District approval and assistance, contact well and property owners to obtain permission to complete pump tests on existing wells, new borings, and a long-term pump test.

Draft a letter agreement describing the work to be done, schedule, responsibilities of the District and private party or public agency, cost sharing, if any, and sharing of results. Support the District's General Counsel in developing formal agreements and conducting negotiations.

PHASE II – PS&E DEVELOPMENT AND CONSTRUCTION MANAGEMENT SERVICES

Task C – PS&E Development

Task 2.C.1 – Monitoring Network Instrumentation

Layout a well water level and water quality monitoring network. The purpose of the network is to determine impacts from the long-term pump test and a possible Imported Water Recovery Project, but also to set a baseline for the evaluation of projects and impacts.

Design the instrumentation for water level and quality monitoring and install the equipment. For the consultant proposal, assume eight (8) monitoring wells.

Task 2.C.2. – Plans, Specifications and Estimate (PS&E)

Prepare plans, specifications, and construction cost estimates for bidding the construction of new monitoring and pump test wells. For the consultant proposal, assume one (1) new test well and one (1) new monitoring well will be constructed and the remaining

REQUEST FOR PROPOSAL (Draft 10/4/21)

monitoring wells will be existing. Coordinate with the Division of Drinking Water so that the well design would be acceptable to them as a production well in the future. The District will provide front-end contract documents for the consultant to edit. The District will conduct the bid process and will pay for the well construction outside of this consultant contract. Prepare surveying, plat map, and legal description to support the District's acquisition of well sites in easement or fee acquisition.

All environmental review, reporting and permitting will be performed by an As-Needed Environmental Consultant contracted by the District.

Specify that the contractor will obtain all permits required for borings and pump tests including but not limited to the County of San Diego and environmental agencies. Specify that the contractor shall manage and dispose of all residuals in accordance with local, State and Federal regulations, and agreements with property owners. Wells should be designed considering future use for production and/or monitoring wells.

Task 2.C.3 Bid Phase Support

Answer questions during the bid process. Attend the pre-bid meeting. Review the bids and recommend a lowest responsive and responsible bidder to the District.

Task 2.C.4 – Construction Inspection, Testing and Reporting

Provide complete construction management during well construction and confirm that the construction meets the requirements of the plans and specifications. Coordinate with the contracted driller and provide construction administration and full-time inspection of the mobilization, drilling activities, well construction, pump development and tests, etc.

Conduct geophysical borehole logging (short- and long-normal resistivity, guard or lateral, self-potential, gamma ray and sonic logs) and also collect samples for material testing, grain size analysis, aquifer zone testing, turbidity, and water quality using parameters established in the Feasibility Study. Field measurements will also be collected during each zone test to determine field parameters such as pH, temperature, and electrical conductivity. Additionally, collect monitoring data during the pump test, including but not limited to, discharge rate, static and pumping levels, pressure head and specific capacity.

The Consultant will monitor final development by pumping and surging on a part-time basis. Tests for sand and specific capacity will be performed frequently to measure the advancement of the development process and to ensure the well is fully developed before beginning the aquifer pumping tests. Once the well development process is considered complete, aquifer pumping tests will be performed to determine well and aquifer characteristics.

- Step Drawdown Pumping Test (8 hours) – Time drawdown measurements will be made to determine specific capacity and well efficiency relations which are necessary to

calculate the optimal production rate and pump setting. Typically, three to four rates are selected for pumping – beginning with the lowest rate and progressing to the highest.

- Constant Rate Pumping and Recovery Test (24 hours) – Time drawdown and recovery measurements will be made to estimate aquifer parameters. If possible, nearby wells will also be monitored to obtain interference groundwater levels during the test.

Following removal of the test pumping equipment and bailing of the bottom well, the Consultant will provide full-time inspection of final downhole video survey to document the post-construction condition of the well.

For the Consultant proposal, assume a 12-month test. The District is interested in the Consultant's recommendation on the duration of the test. Summarize and plot the data for use in the pump test report.

Task 2.C.5 – Imported Water Recovery Project - Pump Test and Impact Analysis Report

The Consultant will prepare an Imported Water Recovery Project – Pump Test and Impact Analysis Report to analyze the results of the pump tests and long-term monitoring including impacts to water levels throughout the monitoring area including existing wells, recommendations for mitigating impacts, if any, and summarize the raw water quality for the purpose of planning treatment processes. Based on the water quality at the recovery well sites, the Consultant will evaluate the need for pre-treatment, demineralization, filtration, disinfection, and other treatment processes to produce a potable water supply meeting State and Federal requirements while considering how quality could change in the future. If the project will require demineralization, evaluate brine recovery and discharge options and costs. The Consultant shall include a review of the need for iron and manganese removal.

The draft report will summarize all activities in the phase of work, data collected, results, and recommendations. The report will also detail a permanent recovery solution, including recovery wells, sources of power, raw water pipelines, a treatment plant, product water pipelines, associated facilities, land requirements, a construction cost and annual operation and maintenance cost estimate. Land ownership and location of District facilities should be a key consideration in identifying a permanent solution. The Consultant shall prepare project maps and preliminary project layouts and site plans, evaluate access, land ownerships, temporary or permanent easements, and necessary agreements.

Describe the CEQA and NEPA requirements for the long-term imported water recovery solution. The Consultant shall consider the potential for a joint project with the Pala Band and update project economics and feasibility analysis. Update feasibility study presentation to District staff and possibly Board of Directors.

SECTION 3 – PROPOSAL REQUIREMENTS

3.1 Date and Time of Receipt

One (1) original and two (2) hard copies of the proposal are due to Delia Rubio, no later than **3:00 P.M., January 20, 2022**. Additionally, please include one (1) electronic copy on a USB flash drive. All fee schedules should be provided in a sealed envelope.

3.2 Proposal Formatting

Proposals shall be concise, well organized, and demonstrate the consultant's qualifications and experience applicable to the Project. Each proposal shall be limited to 25 one-sided pages (8 1/2" x 11"), exclusive of front and back cover, dividers, resumes and organization chart, and appendices. Limit resumes to 2 pages each. The proposal should be signed by an individual authorized to execute legal document on behalf of the Consultant. Proposal and/or modifications thereto received after the date specified herein will not be considered. The proposals will be distributed to a selection committee for their evaluation.

3.3 Proposal Content

Responders will be evaluated based on the information submitted according to the following items. Failure to provide this information may be cause for rejection of the proposal.

a) *Executive Summary*

Short summary of the entire proposal describing the highlights of the proposal.

b) *Identification of Responder*

- Legal name and address of company.
- Legal form of company (partnership, corporation, joint venture, etc.). If the company is a joint venture, identify the members of the joint venture and provide all information required under this section for each member. If company is a wholly owned subsidiary of a "parent company," identify the "parent company."
- Number of years that the company has maintained a local office.
- Number of employees in the office.
- Name, title, address, and telephone number of person to contact concerning the Proposal.
- Name, title, address, and telephone number of person who will sign the agreement if selected for the project.

c) *Experience*

Describe the firm's experience in completing similar scope of services. List at least three (3) successfully completed, projects, similar in nature and include the following information about the client for each project: the client's name, project manager/contact person, and phone numbers. Describe the type of work performed and value of consulting contract. The District will consider consulting projects currently being performed.

Please note, the Consultant should have experience developing and calibrating groundwater models within the southern California region. Relevant experience should showcase the Consultant's ability to use modeling to evaluate test and recovery well

locations, successfully identify monitoring well networks and evaluate the impacts of imported water recovery project scenarios.

The Consultant should have experience with MODFLOW 2005 software with Groundwater Vistas graphical user interface, FEMFLOW3D software or relevant modeling software to collect and analyze information requested for the Feasibility Study.

d) *Proposed Approach to Accomplish the Work*

Describe your approach to the scope of services identified in Section 2 above. Identify Project constraints. Describe any suggested enhancements to the scope and creative ideas for accomplishing the Project objectives.

e) *Project Team, Project Organization, and Key Personnel*

Provide an organization chart and proposed staffing plan, based upon the scope of work, and estimated project schedule, showing personnel by title, position, and name. Staff shown in the proposal will be assumed to be available for the duration of the contract. Describe the specific background, qualifications and capabilities of the designated project manager and support staff. The proposal should identify all individuals who will perform and oversee work on this Project. Indicate the role and responsibilities of the prime consultant and all subconsultants. Key personnel assigned to the Project shall not be reassigned without prior approval and the Consultant shall request approval of the District before any new personnel are assigned to the project. The District reserves the right to reject or remove personnel performing services in this contract in its sole discretion.

f) *Statement on Conflicts of Interest*

The Consultant shall submit a statement verifying that personal and organizational conflicts of interest prohibited by law do not exist, in conformance with the District's Standard Agreement for Professional Services (Exhibit A). Any documentation required by the District shall be submitted by the Consultant and all sub-consultants.

g) *Statement on Professional Service Agreement*

The Consultant shall provide a statement that they are willing to execute the District's Professional Services Agreement (Exhibit A) with no modifications.

h) *Consultant Proposed Scope of Work, Hours, and Cost Proposal (Separate File)*

A cost proposal shall be submitted as a separate file which states a total fee, not-to exceed upper limit for the work. Payment for professional services will be time and material based on: (1) actual base hourly labor rates, and (2) direct costs. The only direct costs allowed to be billed by the Consultant and subconsultants are printing, postage/delivery, and mileage at the IRS rate. Costs for cell phone, laptop, IT, MIS, computer usage, overhead resource charges, and similar related costs should be included in each individual labor rate. Separate charges or multipliers will not be considered by the District. The maximum subconsultant markup allowed is 5%. Provide an estimated cost analysis for the following items:

- Total fee for each task listed in the Scope of Work
- Labor (personnel classifications, estimated hours and hourly rates). Current prevailing wage rates shall apply as required.

- Direct costs
- Subcontracts

3.4 Pre-Submittal Activities

Questions concerning this Request for Proposals (RFP) should be directed in writing by email with the subject stating “Imported Water Recovery Project RFP” to:

RAINBOW MUNICIPAL WATER DISTRICT
ATTN: Delia Rubio, Engineering Technician II
3707 Old Highway 395
Fallbrook, CA 92028
drubio@rainbowmwd.com

No pre-proposal meeting is planned to be held regarding this RFP. Individual 30-minute technical meetings with consultant teams who are seriously competing for the project will be scheduled. The meetings are intended to answer questions and discuss ideas, which will be kept confidential. Do not discuss team qualifications at the meetings. Prior to the meetings, the interested consultant teams should have thoroughly reviewed the background information. The proposed consultant project manager and project engineer may attend the meeting. Schedule meetings through Delia Rubio, drubio@rainbowmwd.com.

SECTION 4 – CONSULTANT NOMINATION AND SELECTION PROCESS

4.1 Selection

A Consultant Selection Panel (Panel) will be established for this Project and will include representatives from the District, and if deemed in the District’s best interests, other persons from outside the District qualified to evaluate the proposals. The Panel will evaluate the Proposals based on the information submitted.

The District anticipates selecting a Consultant based on the proposals received, but reserves the right to interview selected firms. Interview requirements will be provided to selected firms prior to the interviews. The District will rank the finalists as to qualifications and select the successful firm.

If necessary, the District will enter into negotiations with the selected firm. The scope of work provided in the proposal will be used as a basis for contract negotiations. Negotiations will cover: scope of work, contract terms and conditions, and price. If the District is unable to reach an acceptable agreement with the selected firm, the District will terminate negotiations with the selected firm and negotiations with the second ranked firm will be initiated.

After negotiating a proposed agreement that is fair and reasonable, the negotiating team will recommend to the General Manager that the District enter into the proposed agreement. The General Manager will make the final recommendation to the District’s Board of Directors, concerning the proposed agreement. Final authority to approve the agreement rests with the

REQUEST FOR PROPOSAL (Draft 10/4/21)

District's Board of Directors. A contract is expected to be presented to the Board of Directors for consideration at their February 2022 meeting.

4.2 Evaluation Criteria

The Proposals will be evaluated based on the minimum following criteria. Other factors may be considered by during proposal review.

Approach to Work (30%)

- Understanding of project and objectives
- Responsiveness to issues identified in RFP
- Level of detail discussed
- Other issues not addressed in RFP, but deemed essential to the effective conduct of the project
- Tasks clearly defined
- Activities well-coordinated
- Flexibility to changes in scope and schedule
- Provisions for technical and quality control

Project Manager and Team Qualifications (45%)

- Specialized Qualifications of the Project Manager and Team
- Involvement and commitment of key personnel
- Ability to perform within schedule with assigned staff
- Current depth of technical expertise in firm

Project Experience (25%)

- Experience and performance on similar projects
- Proven specialization of the firm on similar projects

4.3 Schedule for Nomination, Selection and Award

The District anticipates that the process for nominating and selecting a Consultant, and awarding the contract, will be according to the following tentative schedule:

- | | |
|---------------------------------------|---------------------------|
| • Issue RFP | December 3, 2021 |
| • Last Day for Questions | January 6, 2022 (5:00pm) |
| • Proposals Due | January 20, 2022 (3:00pm) |
| • Notification of Selection | February 3, 2022 |
| • Completion of Contract Negotiations | February 10, 2022 |
| • Board Approval | February 23, 2022 |

SECTION 5 – CONDITIONS FOR PROPOSERS

5.1 Rights of The Agency

The District may investigate the qualifications of any proposer under consideration, may require confirmation of information furnished by a proposer, and may require additional evidence of

qualifications to perform the Work described in the RFP. Agency reserves the right, in its sole and absolute discretion to take any of the following actions:

- Reject any or all proposals and issue a new RFP.
- Cancel, modify, or withdraw, or extend the RFP.
- Issue addenda, supplements, and modifications to this RFP.
- Modify the RFP process (with appropriate notice to proposers).
- Appoint a selection committee and evaluation teams to review proposals and seek the assistance of outside technical experts in the proposal evaluations.
- Approve or disapprove the use of particular subcontractors and/or substitutions and/or changes in proposals.
- Revise and modify, at any time before the proposal due date, the factors it will consider in evaluating proposals and to otherwise revise or expand its evaluation methodology. If such revisions or modifications are made, the district will provide an addendum to all registered proposers setting forth the changes to the evaluation criteria or methodology. The District may extend the proposal due date if such changes are deemed by the District, in its sole discretion, to be material and substantive.
- Hold meetings and exchange correspondence with the proposers responding to this RFP to seek an improved understanding and evaluation of the proposals. If individual proposer informational meetings are held, all proposers submitting a responsive proposal shall be afforded an opportunity to participate in an individual proposer informational meeting.
- Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the proposals.
- Failure to submit information required by and in accordance with the RFP requirements and procedures may be cause for disqualification. The District reserves the right to waive minor omissions, deficiencies, or irregularities in the proposal at its sole discretion.
- Reject the proposal from any team that changes its proposal after the submittal due date and time without following the procedures of this proposal and without the District's written approval.
- Reject proposals

5.2 Changes to the RFP

This RFP is subject to revision via written addenda, which will be provided via e-mail to all proposers.

5.3 Special Conditions

This RFP does not commit the District to award a contract, to defray any costs incurred in the preparation of a proposal pursuant to this RFP, or to procure or contract for work. All proposals submitted in response to this RFP become the property of the District and are public records, and as such may be subject to public review.

The District reserves the right to cancel, in part or in its entirety, this RFP including, but not limited to selection schedule, submittal date, and submittal requirements. The District reserves the right to reject all proposals and terminate the project. If the District cancels or revises the RFP, rejects all proposals, or terminates the project, all proposers will be notified in writing by the District.

The selected Consultant will be required to sign a Professional Services Agreement (Exhibit A) and to provide the insurance certificates and all other required documentation within ten (10) calendar days of notification of selection.

DRAFT

EXHIBIT A



**RAINBOW MUNICIPAL WATER DISTRICT
3707 S. HIGHWAY 395
FALLBROOK CA 92028
(760) 728-1178**

PROFESSIONAL SERVICES AGREEMENT

PROJECT: TITLE
Project No. 000000, Contract No. 21-00

THIS AGREEMENT ("Agreement") is made and entered into this _____ day of Month, 2021 by and between the **RAINBOW MUNICIPAL WATER DISTRICT**, a municipal water district, hereinafter designated as "**DISTRICT**", and _____, a **California corporation [or other type of organization]**, hereinafter designated as "**CONSULTANT**"

RECITALS

- A.** DISTRICT desires to obtain Professional Consulting Services from an independent contractor for the above-named Project.
- B.** CONSULTANT has submitted a proposal to provide professional services for DISTRICT in accordance with the terms set forth in this Agreement.
- C.** DISTRICT desires to contract with CONSULTANT as an independent contractor and CONSULTANT desires to provide services to DISTRICT as an independent contractor.
- D.** CONSULTANT has demonstrated its competence and professional qualifications necessary for the satisfactory performance of the services designated herein by virtue of its experience, training, education, and expertise.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. PROFESSIONAL SERVICES PROVIDED BY CONSULTANT.

- 1.1** The professional services to be performed by CONSULTANT shall consist of the following: **Engineering services to _____**. The scope of services is more particularly defined in Exhibit "A", attached and made a part hereof. Any additional engineering services will be requested in writing as set forth in Section 19.
- 1.2** In performing the services set forth in Exhibit "A", CONSULTANT shall work closely with DISTRICT'S General Manager or Authorized Representative and staff in performing services in accordance with this Agreement in order to receive clarification as to the result

EXHIBIT A

that DISTRICT expects to be accomplished by CONSULTANT. The General Manager or Authorized Representative, shall be DISTRICT'S authorized representative in the interpretation and enforcement of all services performed in connection with this Agreement.

1.3 CONSULTANT represents that its employees have the qualifications and skills necessary to perform the services under this Agreement in a competent, professional manner, without the advice or direction of DISTRICT. This means CONSULTANT is able to fulfill the requirements of this Agreement. Failure to perform all services required under this Agreement constitutes a material breach of the Agreement.

2. TERM AND TIMING REQUIREMENTS.

2.1 This Agreement will become effective on the date stated above, and will continue in effect until the earlier of the completion of services provided for in this Agreement or until terminated as provided under Section 14 of this Agreement.

2.2 CONSULTANT'S performance of services under this Agreement shall be in accordance with the schedule outlined below unless otherwise modified in writing as set forth in Section 19. Failure by CONSULTANT to strictly adhere to these timing requirements may result in termination of this Agreement by DISTRICT.

Task	Due Date
Notice to Proceed	Month, Day, Year
Progress Report	Month, Day, Year
Final Submittal	Month, Day, Year

2.3 CONSULTANT shall submit all requests for extensions of time for performance in writing to the General Manager or Authorized Representative no later than two (2) business days after the commencement of the cause of any unforeseeable delay beyond CONSULTANT'S control and in all cases prior the date on which performance is due if possible. The General Manager or Authorized Representative shall review all such requests and may grant reasonable time extensions for unforeseeable delays which are beyond CONSULTANT'S control.

2.4 For all time periods not specifically set forth herein, CONSULTANT shall respond in the most expedient and appropriate manner under the circumstances, by telephone, fax, hand delivery, e-mail or mail.

3. STUDY CRITERIA AND STANDARDS.

3.1 All services shall be performed in accordance with applicable DISTRICT, county, state and federal Codes and criteria. In the performance of its professional services,

EXHIBIT A

CONSULTANT shall use the degree of care and skill ordinarily exercised by CONSULTANTS performing the same or similar work under similar conditions.

4. INDEPENDENT CONTRACTOR.

4.1 CONSULTANT'S relationship to DISTRICT shall be that of an independent contractor in performing all services hereunder. DISTRICT will not exercise any control or direction over the methods by which CONSULTANT shall perform its services and functions. DISTRICT'S sole interest and responsibility is to ensure that the services covered in this Agreement are performed in a competent, satisfactory and legal manner. The parties agree that no services, act, commission or omission of CONSULTANT or its employee(s) pursuant to this Agreement shall be construed to make CONSULTANT or its employee(s) the agent, employee or servant of DISTRICT. CONSULTANT and its employee(s) are not entitled to receive from DISTRICT vacation pay, sick leave, retirement benefits, Social Security, workers' compensation, disability benefits, unemployment benefits or any other employee benefit of any kind.

4.2 CONSULTANT shall be solely responsible for paying all federal and state employment and income taxes, for carrying workers' compensation insurance and for otherwise complying with all other employment requirements with respect to CONSULTANT or its employee(s). CONSULTANT agrees to indemnify, defend and hold DISTRICT harmless from any and all liability, damages or losses (including attorney's fees, costs, penalties and fines) DISTRICT suffers as a result of CONSULTANT'S failure comply with the foregoing.

4.3 CONSULTANT shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. CONSULTANT represents and warrants that CONSULTANT customarily engages in the independently established trade and business of the same nature as the work to be performed under this Agreement.

4.4 CONSULTANT shall have no authority, express or implied, to act on behalf of as an agent, or to bind DISTRICT to any obligation whatsoever, unless specifically authorized in writing by the General Manager or Authorized Representative. If CONSULTANT'S services relate to an existing or future DISTRICT construction contract, CONSULTANT shall not communicate directly with, nor in any way direct the actions of, any bidder for that construction contract without the prior written authorization by the General Manager or Authorized Representative.

5. WORKERS' COMPENSATION INSURANCE.

5.1 By CONSULTANT'S signature hereunder, CONSULTANT certifies that CONSULTANT is aware of the provisions of Section 3700 of the California Labor Code requiring every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and CONSULTANT will comply with such provisions before commencing the performance of the services of this Agreement.

6. INDEMNIFICATION, HOLD HARMLESS AND DEFENSE.

6.1 All officers, agents, employees and subcontractors, and their agents, who are employed by CONSULTANT to perform services under this Agreement, shall be deemed officers,

EXHIBIT A

agents and employees of CONSULTANT. To the extent and in any manner permitted by law, CONSULTANT shall defend, indemnify, and hold DISTRICT, its directors, officers, employees, authorized volunteers and agents, and each of them free and harmless from any claims, demands, liability from loss, damage, or injury to property or persons, including wrongful death, that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of CONSULTANT, including CONSULTANT'S officers, employees and agents, in connection with the services required by this Agreement, including without limitation, the payment of reasonable attorneys' fees and costs. In no event shall the cost to defend charged to the CONSULTANT exceed the CONSULTANT'S proportionate percentage of fault, as determined by a court of law. The foregoing indemnity, hold harmless and defense obligation of CONSULTANT shall apply except to the extent the loss, damage or injury is caused by the sole negligence or willful misconduct of an indemnified party.

- 6.2 To the extent and in any matter permitted by law, CONSULTANT shall defend, indemnify and hold DISTRICT, its directors, officers, employees, authorized volunteers and agents, and each of them free and harmless from and against any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, related to or incident to a breach of any governmental law or regulations, compliance with which is the responsibility of CONSULTANT, except any violation of law due to the DISTRICT'S negligence or willful misconduct.
- 6.3 CONSULTANT shall defend, at CONSULTANT'S own cost, expense and risk, any and all such aforesaid claims, suits, actions or other legal proceedings of every kind that may be brought or instituted against DISTRICT or DISTRICT'S directors, officers, employees, authorized volunteers and agents, and each of them. DISTRICT shall be consulted regarding and approve of the selection of defense counsel.
- 6.4 CONSULTANT shall pay and satisfy any judgment, award or decree that may be rendered against DISTRICT or its directors, officers, employees, authorized volunteers and agents, and each of them, in any and all such aforesaid claims, suits, action or other legal proceeding. CONSULTANT shall not agree without DISTRICT'S prior written consent, to any settlement which would require DISTRICT to pay any money or perform some affirmative act, including in the case of intellectual property infringement any payment of money or performance of some affirmative act to continue using CONSULTANT Products.
- 6.5 CONSULTANT'S indemnification, hold harmless and defense obligation shall survive the termination or expiration of this Agreement.

7. LAWS, REGULATIONS AND PERMITS.

- 7.1 CONSULTANT shall give all notices required by law and comply with all laws, ordinances, rules and regulations pertaining to the conduct of the services required by this Agreement. CONSULTANT shall be liable for, and bear all costs resulting from, any violations of the law in connection with services furnished by CONSULTANT, except any violation of the law due to the DISTRICT'S negligence or willful misconduct.
- 7.2 CONSULTANT shall comply with all of the following requirements with respect to any services as a Building/Construction Inspector, Field Soils and Material Tester, or Land Surveyor, as those trades are defined by the California Department of Industrial Relations ("DIR").

EXHIBIT A

- a) CONSULTANT agrees to comply with and require its subcontractors to comply with the requirements of California Labor Code sections 1720 *et seq.* and 1770 *et seq.*, and California Code of Regulations, title 8, section 16000 *et seq.* (collectively, "Prevailing Wage Laws") and any additional applicable California Labor Code provisions related to such work including, without limitation, payroll recordkeeping requirements. CONSULTANT and its subcontractors shall pay not less than the prevailing rate of per diem wages as determined by the Director of the DIR for all services described in this Section 7.2 of the Agreement and as required by law. The general prevailing wage determinations can be found on the DIR website at: [www://dir.ca.gov/dslr](http://www.dir.ca.gov/dslr). Copies of the prevailing rate of per diem wages may be accessed at the DISTRICT'S administrative office and shall be made available upon request. CONSULTANT shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the services described in this Section 7.2 of the Agreement available to interested parties upon request, and shall post and maintain copies at CONSULTANT'S principal place of business and at all sites where services are performed. Penalties for violation of Prevailing Wage Laws may be assessed in accordance with such laws. For example, CONSULTANT shall forfeit, as a penalty to the DISTRICT, Two Hundred Dollars (\$200) for each calendar day, or portion thereof, for each workman paid less than stipulated prevailing rates for services performed under this Agreement by CONSULTANT, or any subcontractor under CONSULTANT, in violation of Prevailing Wage Laws.
- b) CONSULTANT and each of its subcontractors shall keep accurate payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by CONSULTANT or subcontractor in connection with the services performed pursuant to this Agreement. Each payroll shall be certified, available for inspection, and copies thereof furnished as prescribed in California Labor Code sections 1771.4(a)(3)(A) and 1776, including any required redactions. CONSULTANT shall keep the DISTRICT informed as to the location of the records and shall be responsible for the compliance with these requirements by all subcontractors. CONSULTANT shall inform the DISTRICT of the location of the payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address. Penalties for noncompliance include a forfeiture of One Hundred Dollars (\$100) per calendar day, or portion thereof, for each worker until strict compliance is effectuated, which may be deducted from any moneys due to CONSULTANT.
- c) Eight (8) hours of work shall constitute a legal day's work. CONSULTANT and any subcontractors shall forfeit, as a penalty to the DISTRICT, Twenty-Five Dollars (\$25) for each worker employed in the execution of services pursuant to this Agreement by CONSULTANT or any subcontractor under him for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one (1) calendar day and forty (40) hours in any calendar week in violation of the provisions of the California Labor Code, in particular, sections 1810 to 1815, thereof, inclusive, except services performed by employees of CONSULTANT and its subcontractors in excess of eight (8) hours per day at not less than the rates published by the California Department of Industrial Relations.

EXHIBIT A

- d) CONSULTANT'S attention is directed to the provisions of California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning employment of apprentices by CONSULTANT or any of its subcontractors. If applicable to the services performed under the Agreement, CONSULTANT shall comply with such apprenticeship requirements and submit apprentice information to the DISTRICT. Information relative to apprenticeship standards, wage schedules and other requirements may be obtained from the DIR or the Division of Apprenticeship Standards. Knowing violations of section 1777.5 will result in forfeiture not to exceed One Hundred Dollars (\$100) or Three Hundred Dollars (\$300), depending on the circumstances, for each calendar day of non-compliance pursuant to section 1777.7.
- e) CONSULTANT shall require any subcontractors performing services described in this Section 7.2 of the Agreement to comply with all the above.
- f) CONSULTANT must be, and must require, all subcontractors performing services described in this Section 7.2 to be, registered with and have paid the annual fee to the DIR prior to execution of this Agreement pursuant to Labor Code Section 1725.5. No contractor or subcontractor may be listed on a bid proposal for a public works project, or perform services described in this Section 7.2, unless registered with the DIR pursuant to Labor Code Section 1725.5. No contractor or subcontractor may be awarded a contract for public work on a public works project, or perform services described in this Section 7.2, unless registered with the DIR pursuant to Labor Code Section 1725.5. The performance of services described in this Section 7.2 is subject to compliance monitoring and enforcement by the DIR

8. **SAFETY.**

In carrying out CONSULTANT'S services, CONSULTANT shall at all times, exercise all necessary precautions for the safety of employees appropriate to the nature of the services and the conditions under which the services are to be performed, and be in compliance with all federal, state and local statutory and regulatory requirements including State of California, Division of Industrial Safety (Cal/OSHA) regulations, and the U.S. Department of Transportation Omnibus Transportation Employee Testing Act (as applicable). Safety precautions as applicable shall include instructions in accident prevention for all employees such as safe walkways, scaffolds, fall protection, ladders, bridges, gang planks, confined space procedures, trenching & shoring, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries.

9. **INSURANCE.**

9.1 **INSURANCE COVERAGE AND LIMITS.**

CONSULTANT shall provide and maintain at all times during the performance of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the services hereunder by CONSULTANT, its agents, representatives, employees or subcontractors. Claims made policies shall not satisfy these insurance requirements unless CONSULTANT notifies DISTRICT and obtains DISTRICT'S prior written consent to the use of such claims made policies.

EXHIBIT A

Coverage – CONSULTANT shall maintain coverage at least as broad as the following:

- a) Coverage for Professional Liability appropriate to CONSULTANT'S profession covering CONSULTANT'S wrongful acts, negligent actions, errors or omissions. The retroactive date (if any) is to be no later than the effective date of this Agreement.
- b) Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001).
- c) Insurance Services Office Automobile Liability Coverage (Form CA 0001), covering Symbol 1 (any auto).
- d) Workers' Compensation insurance as required by the State of California and Employers Liability insurance.

Limits - CONSULTANT shall maintain limits no less than the following:

- a) Professional Errors and Omissions Liability - One million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) annual aggregate.

Professional Errors and Omissions Liability is required if CONSULTANT provides or engages in any type of professional services including, but not limited to engineers, architects and construction management.

- b) General Liability - One million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit or products-completed operations aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to DISTRICT) or the general aggregate limit and products-completed operations aggregate limit shall be twice the required occurrence limit.
- c) Automobile Liability - One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.
- d) Workers' Compensation insurance with statutory limits as required by California law and Employer's Liability insurance with a limit of no less than One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

9.2 REQUIRED PROVISIONS. The insurance policies are to contain, or be endorsed to contain the following provisions:

- a) DISTRICT, its directors, officers, or employees are to be covered as insureds on the CGL and auto policies with respect to liability arising out of automobiles owned, leased, hired, or borrowed by on or behalf of CONSULTANT; and with respect to liability arising out of services or operations performed by or on behalf of CONSULTANT including materials, parts, or equipment furnished in connection with such services

EXHIBIT A

or operations. General liability coverage can be provided in the form of an endorsement to CONSULTANT'S insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used). The coverage shall contain no special limitations on the scope of protection afforded to DISTRICT, its directors, officers, employees, or authorized volunteers. The Project Name shall also be included.

- b) For any claims related to the services provided hereunder, CONSULTANT'S insurance shall be primary insurance as respects DISTRICT, its directors, officers, employees, and authorized volunteers. Any insurance, self-insurance, or other coverage maintained by DISTRICT, its directors, officers, or employees shall not contribute to it.
- c) Each insurance policy specified above are to state or be endorsed to state that coverage shall not be canceled except after thirty (30) days prior written notice (ten (10) days for non-payment of premium) by U.S. mail has been provided to DISTRICT.
- d) In the event any change is made in the insurance carrier, scope of coverage or retroactive date of professional liability coverage required under this Agreement (if applicable), CONSULTANT shall notify DISTRICT prior to any changes.

9.3 PROFESSIONAL WARRANTY. CONSULTANT represents and warrants that: (a) the Professional Services will be performed in a professional and workmanlike manner with a degree of care, skill and competence that is consistent with generally accepted industry standards reasonably expected of similar types of engagements, and (b) the Deliverables will substantially conform to the description and specifications set forth in Exhibit "A" for the specified period after delivery or if none stated, a period of XX days after the date of delivery ("Warranty Period"). To the extent any Professional Services or Deliverables do not substantially conform to the foregoing warranties, CONSULTANT shall promptly re-perform the Professional Services and/or resubmit the Deliverables. If after receiving notice of non-conformity CONSULTANT determines that the Professional Services cannot be performed or the Deliverables cannot reasonably be delivered pursuant to the specifications, within the Warranty Period, DISTRICT may elect to remedy or receive such Professional Services or Deliverable through another contractor and CONSULTANT shall reimburse DISTRICT within 30 days of request by DISTRICT. This warranty will apply only if: (a) no modification, alteration or addition has been made to the Deliverable(s) other than with CONSULTANT'S written consent; and (b) receives written notification of the breach during the applicable Warranty Period.

CONSULTANT warrants that any drawings and specifications, reports or other documents submitted by Contractor to Agency shall be complete and unambiguous and in compliance with all applicable codes, ordinances, statutes, regulations, and laws.

9.4 WAIVER OF SUBROGATION. CONSULTANT hereby agrees to waive rights of subrogation which any insurer of CONSULTANT may acquire from CONSULTANT by

EXHIBIT A

virtue of the payment of any loss. CONSULTANT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of DISTRICT for all services performed by CONSULTANT, its employees, agents and subcontractors.

- 9.5 DEDUCTIBLES AND SELF-INSURED RETENTIONS.** Any deductible or self-insured retention must be declared to and approved by DISTRICT. At the option of DISTRICT, the insurer shall either reduce or eliminate such deductibles or self-insured retention.
- 9.6 ACCEPTABILITY OF INSURERS.** Insurance is to be placed with insurers having a current A.M. Best rating of no less than A:VII or equivalent or as otherwise acceptable to DISTRICT.
- 9.7 EVIDENCES OF INSURANCE.** Prior to execution of this Agreement, CONSULTANT shall furnish DISTRICT with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this Agreement. All certificates and endorsements are to be received and approved by DISTRICT before services commence. However, failure to obtain the required documents prior the services beginning shall not waive CONSULTANT'S obligation to provide them.

CONSULTANT shall, upon demand of DISTRICT at any time, deliver to DISTRICT complete, certified copies or all required insurance policies, including endorsements, required by this Agreement.

- 9.8 SUBCONTRACTORS.** In the event that CONSULTANT employs subcontractors as part of the services covered by this Agreement, it shall be the CONSULTANT'S responsibility to require and verify that each subcontractor meets the minimum insurance requirements specified in this Agreement.

10. NO CONFLICT OF INTEREST.

If CONSULTANT is providing services related to a DISTRICT project, CONSULTANT shall not be financially interested in any other contract necessary for the undertaking of the project. For the limited purposes of interpreting this section, CONSULTANT shall be deemed a "district officer or employee", and this section shall be interpreted in accordance with California Government Code Section 1090. In the event that CONSULTANT becomes financially interested in any other contract necessary for the undertaking of the project, this Agreement shall be null and void and DISTRICT shall be relieved of any responsibility whatsoever to provide compensation under the terms and conditions of any such contract for those services performed by CONSULTANT.

11. OWNERSHIP OF DOCUMENTS.

All documents, drawings, reports, and specifications, including details, computations, code, scripts, workflows, and other documents, prepared or provided by CONSULTANT under this Agreement shall be the property of DISTRICT. DISTRICT agrees to hold CONSULTANT free and harmless from any claim arising from any use, other than the purpose intended, of the documents and all preliminary sketches, schematics, preliminary plans, architectural perspective renderings, working drawings, including details, computations, and other documents, prepared or provided by CONSULTANT. CONSULTANT may retain a copy of

EXHIBIT A

all material produced under this Agreement for the purpose of documenting their participation in this Project.

12. CONFIDENTIAL INFORMATION.

Any written, printed, graphic, or electronically or magnetically recorded information furnished by DISTRICT for CONSULTANT'S use are the sole property of DISTRICT. CONSULTANT and its employee(s) shall keep this information in the strictest confidence and will not disclose it by any means to any person except with DISTRICT'S prior written approval, and only to the extent necessary to perform the services under this Agreement. This prohibition also applies to CONSULTANT'S employees, agents, and subcontractors. On termination or expiration of this Agreement, CONSULTANT shall promptly return any such confidential information in its possession to DISTRICT.

13. COMPENSATION.

13.1 For services performed by CONSULTANT in accordance with this Agreement, DISTRICT shall pay CONSULTANT in accordance with the schedule of billing rates set forth in Exhibit "A", attached hereto and incorporated herein by reference. This is a Time-and-Materials contract. Overtime work must be authorized by the DISTRICT. No hourly rate changes shall be made during the term of this Agreement. **CONSULTANT'S compensation for all services performed in accordance with this Agreement shall not exceed the total contract price of \$_____.** No services shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the General Manager or Authorized Representative. CONSULTANT shall obtain approval from the General Manager or Authorized Representative prior to performing any services that result in incidental expenses to the DISTRICT.

13.2 CONSULTANT shall maintain accounting records including the following information:

- a) Names and titles of employees or agents, types of services performed, and times and dates of all services performed in connection with Agreement that is billed on an hourly basis.
- b) All incidental expenses including reproductions, computer printing, postage, mileage billed at current Internal Revenue Service ("IRS") Rate, and subsistence.

13.3 CONSULTANT'S accounting records shall be made available to DISTRICT Accounting Manager, for verification of billings, within a reasonable time of the Accounting Manager's request for inspection.

13.4 CONSULTANT shall submit monthly invoices to DISTRICT. DISTRICT will make partial payments to CONSULTANT not to exceed the total contract price within thirty (30) days of receipt of invoice, subject to the approval of the General Manager or Authorized Representative. **Each application for partial payment shall be accompanied with a Progress Report summarizing the status of the services performed.**

13.5 DISTRICT reserves the right to withhold payments for services to cover potential or nonconforming services. Additionally, the DISTRICT may elect not to make a particular payment if any of the following exists:

EXHIBIT A

- a) CONSULTANT with or without knowledge, made any misrepresentation of substantial and material nature with respect to any information furnished to DISTRICT.
- b) CONSULTANT took an action without receiving DISTRICT'S prior approval as required under this Agreement.
- c) CONSULTANT is in default of a term or condition of this Agreement.

13.6 CONSULTANT shall ensure that any report generated under this Agreement shall comply with Government Code Section 7550.

14. TERMINATION OF AGREEMENT.

14.1 TERMINATION FOR CAUSE. If DISTRICT ("demanding party") has a good faith belief that CONSULTANT is not complying with the terms of this Agreement or is deemed non-responsive or non-responsible, DISTRICT will give written notice of the default (with reasonable specificity) to CONSULTANT and demand the default to be cured within ten (10) calendar days of the notice. Responsive is defined as conforming with material requirements and responsible is defined as possessing the attributes of trustworthiness, quality, fitness, capacity, and experience to satisfactorily perform the contract.

If CONSULTANT fails to cure the default within ten (10) calendar days of the notice, or if more than ten (10) calendar days are reasonably required to cure the default, and CONSULTANT fails to give adequate assurance and due performance within ten (10) calendar days of the notice, DISTRICT may terminate this Agreement upon written notice to CONSULTANT. In the event of a material breach of any representation or term of this Agreement by CONSULTANT that is not curable or results in a threat to health or safety, DISTRICT may immediately terminate this Agreement by providing written notice and without a cure period.

Upon termination, DISTRICT will pay CONSULTANT for any services completed up to and including the date of termination of this Agreement, in accordance with the compensation Section 13. DISTRICT will be required to compensate CONSULTANT only for services performed in accordance with the Agreement up to and including the date of termination. DISTRICT shall not pay for loss profit or overhead/extended overhead fees and at its sole discretion may deduct fees for any non-conforming or non-complying work.

14.2 TERMINATION FOR CONVENIENCE. DISTRICT will have the express right to terminate this Agreement at any time without cause by giving seven (7) consecutive days advanced written notice to CONSULTANT. This Agreement shall be automatically terminated without further action of any party upon expiration of the seven (7) day period.

Promptly upon receipt of any termination notice from the DISTRICT, CONSULTANT shall cease all further work and services, except as otherwise expressly directed by the DISTRICT in the written termination notice. In the event the DISTRICT exercises its termination right, CONSULTANT shall be paid only for work and services performed and approved by the DISTRICT to the date this Agreement terminates. The DISTRICT will have the express right to withhold any payment otherwise due CONSULTANT to correct

EXHIBIT A

any labor or materials determined to be defective by the DISTRICT at the time of termination.

All plans, maps, drawings, reports, designs, or other writings of any type or nature prepared by CONSULTANT as a result of this Agreement shall become and remain the sole property of the DISTRICT. All such writings shall be provided to the DISTRICT not later than seven (7) consecutive days after termination of this Contract for any reason. All labor, supplies, work and materials provided by CONSULTANT in conjunction with this Agreement will become and remain the sole property of the DISTRICT.

15. ASSIGNMENT AND DELEGATION.

15.1 This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of CONSULTANT'S duties be delegated or subcontracted, without the express written consent of DISTRICT. Any attempt to assign or delegate this Agreement without the express written consent of DISTRICT shall be void and of no force or effect. Consent by DISTRICT to one assignment shall not be deemed to be consent to any subsequent assignment.

15.2 This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

16. AUDIT DISCLOSURE.

Pursuant to Government Code section 8546.7, if the Agreement is over ten thousand dollars (\$10,000), it is subject to examination and audit of the State Auditor, at the request of DISTRICT or as part of any audit of DISTRICT, for a period of three (3) years after final payment under the Agreement. CONSULTANT shall cooperate with any such examination or audit at no cost to DISTRICT.

17. ENTIRE AGREEMENT.

This Agreement, and the attached Exhibit "A", comprise the entire integrated understanding between DISTRICT and CONSULTANT concerning the services to be performed pursuant to this Agreement and supersedes all prior negotiations, representations, or agreements whether express or implied, oral or written. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms herein. In the event of any conflict between the provisions of the Agreement and the Exhibit(s), the terms of the Agreement shall prevail.

18. INTERPRETATION OF THE AGREEMENT.

18.1 The interpretation, validity, and enforcement (including, without limitation, provisions concerning limitations of actions) of the Agreement shall be governed by and construed under the laws of the State of California, notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary and without the aid of any canon, custom or rule requiring construction against the draftsman. The Agreement does not limit any other rights or remedies available to DISTRICT.

18.2 CONSULTANT shall be responsible for complying with all applicable local, state, and federal laws whether or not said laws are expressly stated or referred to herein.

EXHIBIT A

18.3 Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

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

19. AGREEMENT MODIFICATION.

This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.

20. DISPUTE RESOLUTION.

Upon the written demand of either party, any dispute, claim, or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, shall be first submitted to mediation the cost of which shall be borne equally by the parties, if not resolved pursuant to the Government Claims Act, Government Code section 900 *et seq.* if applicable, and prior the commencement of any legal action or other proceeding. Any mediation shall take place in the State of California, County of San Diego, and shall be concluded within sixty (60) days of the written demand, unless such time is extended by mutual written consent of the parties. Nothing herein waives or excuses compliance with the California Government Claims Act.

In the event mediation has not been successfully concluded within the time allowed, any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in the State of California, County of San Diego, before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures if the amount in controversy is equal or greater than Two Hundred Fifty Thousand Dollars (\$250,000), or pursuant to its Streamlined Arbitration Rules and Procedures if the amount in controversy is less than Two Hundred Fifty Thousand Dollars (\$250,000). The use of arbitration shall allow full discovery by all parties associated with the dispute or claim. Judgment on the award may be entered in any court having jurisdiction. This clause shall not preclude the parties from seeking provisional remedies in aid of arbitration from a court of competent jurisdiction. The arbitrator may, in the award, allocate all or a part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party. If either party petitions to confirm, correct or vacate the award as provided by Chapter 4, of Title 9 of the California Code of Civil Procedure (commencing with Section 1285), the prevailing party shall be entitled as part of his or its costs to reasonable attorneys' fees to be fixed by the Court.

21. JURISDICTION, FORUM AND VENUE.

Except as otherwise required by Section 20 of this Agreement concerning dispute resolution, the proper jurisdiction, forum and venue for any claims, causes of action or other

EXHIBIT A

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

22. MAILING ADDRESSES.

Notices given pursuant to this Agreement shall be deemed communicated as of the earlier of the day of receipt or the fifth (5th) calendar day after deposit in the United States mail, postage prepaid, and addressed to the following:

DISTRICT: **Rainbow Municipal Water District**
3707 Old Hwy 395
Fallbrook, CA 92028
Phone: (760) 728-1178

CONSULTANT: _____

Notices delivered personally will be deemed communicated as of actual receipt.

23. SIGNATURES.

Each party represents that the individual executing this Agreement on its behalf has the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of such party.

24. COUNTERPARTS.

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

25. ATTORNEY'S FEES.

In the event of a dispute arising under terms of this Agreement, it is agreed that the prevailing party may be awarded reasonable attorneys' fees and actual costs.

IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Agreement to be executed.

EXHIBIT A

EXHIBIT A

CONSULTANT _____

RAINBOW MUNICIPAL WATER DISTRICT _____

By _____
CONSULTANT

By _____
TOM KENNEDY, GENERAL MANAGER

PRINT NAME

Date: _____

Date: _____

Attest: Executive Secretary

Federal Employer ID #

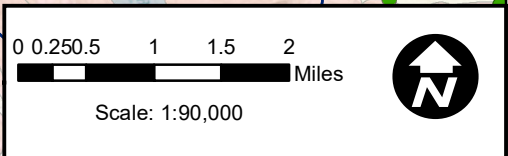
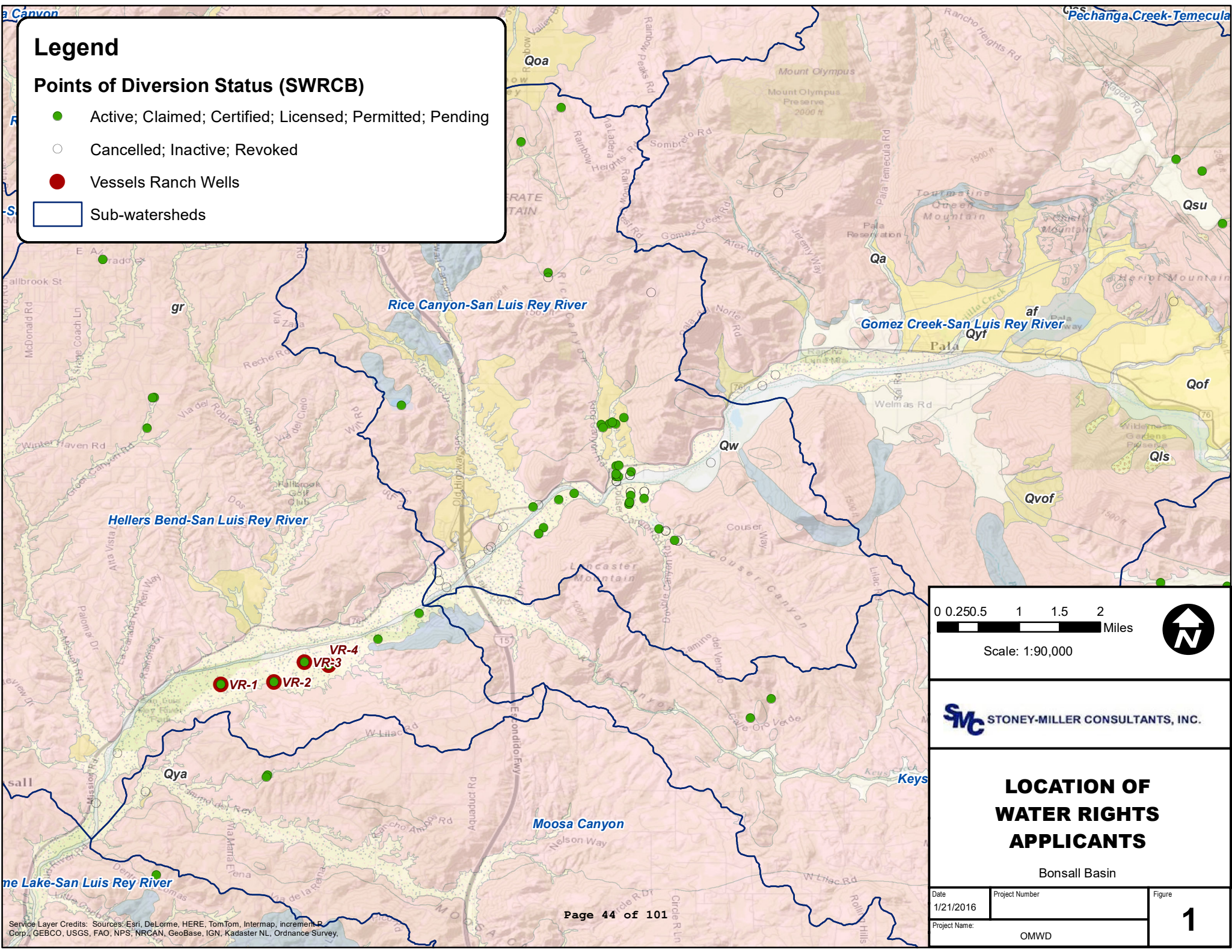
**Approved as to Form:
Alfred Smith, General Counsel**

NOTARY ACKNOWLEDGEMENT OF CONSULTANT MUST ACCOMPANY THIS DOCUMENT

Legend

Points of Diversion Status (SWRCB)

- Active; Claimed; Certified; Licensed; Permitted; Pending
- Cancelled; Inactive; Revoked
- Vessels Ranch Wells
- Sub-watersheds



SMC STONEY-MILLER CONSULTANTS, INC.

LOCATION OF WATER RIGHTS APPLICANTS

Bonsall Basin

Date 1/21/2016	Project Number	Figure 1
Project Name: OMWD		

Service Layer Credits: Sources: Esri, DeLorme, HERE, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey,



REQUEST FOR PROPOSAL

for

SUMAC COMMUNICATIONS TOWER SOLAR PHOTOVOLTAIC AND BACKUP BATTERY DESIGN-BUILD PROJECT

Project Address:

SUMAC COMMUNICATIONS TOWER
3054 Sumac Road
Fallbrook, CA 92028

Proposal Due:

January 7, 2022 at 3:00pm
Attn: Ms. Delia Rubio
Rainbow Municipal Water District
3707 Old Highway 395
Fallbrook, California 92028
Tel.: 760-728-1178
E-mail: drubio@rainbowmwd.com

RAINBOW MUNICIPAL WATER DISTRICT
SOLAR PHOTOVOLTAIC AND BATTERY ENERGY STORAGE DESIGN-BUILD
PROJECT
REQUEST FOR PROPOSAL

TABLE OF CONTENTS

SECTION 1 - PROJECT BACKGROUND	1
SECTION 2 - PROJECT OBJECTIVES.....	1
SECTION 3 - ANTICIPATED SCOPE OF SERVICES	1
3.1. General.....	1
3.2. Design	2
3.3. Environmental and Permitting	4
3.4. Construction and Implementation.....	4
SECTION 4 - PROPOSAL REQUIREMENTS.....	5
4.1. General.....	5
4.2. Submission Deadline	5
4.3. Proposal Formatting.....	5
4.4. Proposal Content.....	6
4.4.1. Section 1: Company Overview	6
4.4.2. Section 2: Experience and Technical Competence.....	6
4.4.3. Section 3: Project Approach	6
4.4.4. Section 4: Project Organization and Key Personnel.....	7
4.4.5. Section 5: Cost Proposal	7
4.4.6. Section 6: Schedule.....	7
4.4.7. Section 7: Proposed Design and Construction.....	8
4.5. Proposal Selection Process and Evaluation Criteria	8
4.6. Project Schedule.....	9
SECTION 5 - CONDITIONS FOR PROPOSERS.....	10
5.1. Rights of the District.....	10
5.2. Changes to the RFP.....	11
5.3. Protests.....	11
5.4. Other Information	11
SECTION 6 - ATTACHMENTS.....	13
Appendix A – Site Plan.....	13

Appendix B – Project Specifications 13
Appendix C – One Year of Electrical Utility Bills 13
Appendix D – Professional Services Agreement.....**Error! Bookmark not defined.**
Appendix E –NOT USED 13
Appendix F – NOT USED.....**Error! Bookmark not defined.**
Appendix G – NOT USED 13
Appendix H – NOT USED.....**Error! Bookmark not defined.**

DRAFT

SECTION 1 - PROJECT BACKGROUND

The Rainbow Municipal Water District, (referred to herein as District or RMWD), owns and operates the Sumac Communications Tower (Sumac), an essential element of the District's communication network, located at 3054 Sumac Road, Fallbrook, CA 92028. Sumac is also shared with the North County Fire Protection District. Located adjacent to the tower and within the District's property boundary is a large reservoir that is out of service and there is not any source of water on-site..

The District desires to install a system that will eliminate Sumac's electrical demand from San Diego Gas and Electric (SDG&E) and safeguard the facility from emergency events that would jeopardize the function of the system, known as the Sumac Communications Tower Solar Photovoltaic and Backup Battery System Design-Build Project (referred to herein as Project). The Project proposes to install a solar photovoltaic (PV) system to provide supplemental power to Sumac and install a back-up a battery to store electrical energy in the event power is lost to the site. .

The District received funding from the State of California Governor's Office of Emergency Services (CalOES) through the 2020-2021 Community Power Resiliency Allocation Program (CPRAP) to install emergency power backup at critical RMWD facilities including Sumac. As such, the equipment associated with the project will be funded through the CalOES grant and will need to be purchased prior to March 31, 2022 in accordance with the grant guideline.. The District will provide grant management services throughout the project and will prepare and submit reports as required by the granting agency with support from the Contractor.

SECTION 2 - PROJECT OBJECTIVES

The District is seeking proposals from qualified parties to design, build, and construct a turnkey, fully integrated, grid-connected solar PV power and battery energy storage system. The objective of the Project is to provide the District with a redundant power source to operate the Sumac Communications Tower during times of emergencies (e.g, power outages, fires, etc.). In the event the Sumac Tower encounters a grid failure or extended periods of power outage, the solar PV power and battery energy storage system should be designed to automatically switch to the redundant power source without interruption. Once power has been restored and stabilized, the solar PV and battery energy storage system should automatically switch back to the permanent power source with supplemental energy being provided by the solar system without interruption to Sumac.

SECTION 3 - ANTICIPATED SCOPE OF SERVICES

3.1. General

Requested services to be provided by the Contractor include, but are not limited to: project management, engineering, design; securing all required permits and approvals (County, State, SDG&E, etc.); furnishing all materials, equipment, and labor to construct and commission the Project.

Attached to this solicitation is a copy of the District's Professional Services Agreement, Appendix D, that the selected firm will be expected to execute. Included in the agreement are the conditions under which the contract will be administered, along with the minimum insurance requirements. Should there be any objections to any portion of the agreement, objections must be noted in the proposal at the time of submission. The District reserves the right to reject any proposed variance during the proposal selection process.

The Contractor shall be responsible for all elements required to deliver the turnkey Project to the District. At a minimum, the Contractor's proposal shall include the following services and account for the associated costs to perform them:

- Project Management
- Design Engineering
- Permitting
- Construction
- Commissioning

3.2. Design

At a minimum, the Contractor's design services shall include: (a) site suitability review for proposed PV solar power and battery energy storage system, (b) an electrical review, (c) design of the utility grid-connected solar PV power and battery energy storage system to be installed and integrated into the existing facility without impacting Sumac's ability to be fully operational throughout the Project (d) and 90% complete and final design submittals for District review.

Site Suitability Review – The Contractor is to install the PV power and battery energy storage system in the areas made available by the District that are shown in the Project Site Map provided in Appendix A. If the Contractor determines that there is a better location to place the solar and battery equipment for the system, alternate locations within the District's property boundary should be identified in the Contractor's proposal. It shall be noted that while this area has been made available, the entirety of the location identified does not need to be utilized. It is the responsibility of the Contractor to assess site topography, structures (including structural integrity) and geotechnical attributes to determine costs associated to construct the Project. Previous geotechnical reports for the site are not available. The Contractor will be expected to include in their proposal the cost associated with securing solar and battery equipment within a fenced in area. Unless otherwise noted, the site suitability review shall account for the following items:

- Solar Array Location – Contractor shall designate proposed locations in the written response to this RFP,
- Battery Energy Storage System Location – Contractor shall designate proposed locations in the written response to this RFP,
- Solar Array Azimuth,
- Solar Array Tilt, and
- Solar Shading Study.

Electrical Review – The electrical review shall determine the electrical configuration and constraints of the existing facility and the required solar PV power and battery energy storage system design that will allow for integration into the existing site with no interruption to regular Sumac operations. At a minimum, the Contractor shall carefully inspect the electrical system to ensure against harmonic distortion, fault protection issues, and interconnect problems.

Solar PV System Design – The solar PV power system shall eliminate the District’s need to rely on energy from SDG&E during emergency events and should be powerful enough to satisfy electrical demands at Sumac and charging the battery backup system in the event of utility power outages that lasts a minimum of one week during minimum solar production times. The system shall be designed in accordance with applicable codes and standards and the Project Specifications found in Appendix B and include all design elements required to permit and construct the turnkey solar PV power system. The design shall confirm that the PV system and equipment will not interfere with the operation and maintenance of any existing site equipment. The Contractor is advised that Sumac is an active communications tower near a reservoir and the equipment installed onsite may be subject to corrosion due to the nature of the facility and the surrounding environment.

Battery Energy Storage System Design – The battery energy storage system shall be sufficient enough to maintain all required energy resources for the communications tower when solar energy is not available and in the event of utility power outages of up to one week during minimum solar production times. The system shall be designed in accordance with applicable codes and standards and the Project Specifications found in Appendix B and include all design elements required to permit and construct the turnkey battery energy storage system. The design shall confirm that the system and equipment will not interfere with the operation and maintenance of any existing site equipment. The Contractor is advised that the Sumac is an active communications tower near a reservoir and the equipment installed onsite may be subject to corrosion due to the nature of the facility and the surrounding environment.

Design Submittal and Review – Upon execution of the contract, the selected Contractor shall submit design documents to the District for review and approval at 90% complete and final design. The design documents shall provide the following minimum information, as well as those listed in the Project Specifications:

- Material and equipment data, including performance metrics of equipment components and subsystems.
- Shop Drawings with layout of installation and equipment, front and end elevations of inverter and floor plan to scale with major dimensions; structural details and overall weights, complete catalog data and ratings of all devices, and material, sizes, locations, installation methods, details of attachment to structure to ground-mounted assemblies.
- Define seismic anchorage/ballasting requirements. Provide drawings and descriptions of the seismic anchorage and/or ballasting system for panels and solar equipment.
- Details showing the integration of the solar PV power and battery energy storage system with other power sources.

- Electrical grid interconnection requirements.
- Controls, monitors, and instrumentation.
- Solar PV power and battery energy storage system performance monitoring information.

Review and approval of submittals by the District shall only be for general conformance with Project requirements. The Contractor has sole responsibility for designing and constructing the solar PV power and battery energy storage system that conforms to applicable codes and is integrated into the District’s facilities with no interruption to regular Sumac operations.

Note: Final design documents and seismic calculations shall be signed and sealed by a civil and/or electrical engineer, as appropriate, registered in the State of California. Costs to prepare and submit all plans and calculations shall be included in the Contractor’s Cost Proposal.

The Contractor shall also submit the following data prior to construction closeout. Costs to prepare submittals shall be included in Contractor’s Cost Proposal.

- As-Built Drawings
- O&M Manuals
- Warranties for panels, batteries and all associated electrical components
- Ongoing maintenance of the facility for up to three (3) years with two (2) optional years

3.3. Environmental and Permitting

The Contractor shall secure from local governing agencies and utility companies all other required rights, clearances, easements, permits, approvals and interconnection agreements. The District will become the signatory on clearances, applications, permits, and utility agreements. All costs associated with any required rights, clearances, easements, permits, approvals and interconnection agreements shall be included into the Contractor’s cost estimate, which will be submitted with their proposal.

3.4. Construction and Implementation

The Contractor’s scope of work shall include, but is not limited to, all work required to deliver a turnkey, fully integrated grid-connected solar PV power and battery energy storage system. Construction and implementation shall conform to the requirements of this RFP, including: (1) the Project Specifications (Appendix B), (2) the executed Agreement entered into between the District and the selected Contractor; (3) approved permits, plans and submittals, (4) the requirements set forth in the CalOES 2020-2021 CPRAP, and (5) the project is subject to the Standard Specification for Public Works Construction, 2018 Edition (“Greenbook”) requirements.

Anticipated work includes but is not limited to the following activities:

- Civil site improvements and modifications such as tree removal, clearing, grubbing, grading, earthwork, trenching, compaction, backfill, foundations for solar PV support columns, and foundations for associated electrical structures.

- Electrical improvements and modifications such as installation of photovoltaic modules, storage batteries, racking, support structures, inverters, transformers, conduits, duct banks, wiring, and disconnects that allow the system to interconnect with the SDG&E distribution system and other sources of power such as automatic transfer switches and emergency power systems.

Note: As this is a fixed price turnkey project, and subject to the Greenbook provisions, cost or time change orders will be considered only for new or unforeseen work clearly beyond the Contractor's knowledge or control at the time of proposal. Contractor is responsible for any increased costs of materials during the course of the project, including, but not limited to, solar PV material and battery cost increases. Contractor is responsible for ensuring that installation and materials meet all applicable state and local codes.

The Contractor's scope of work shall include commissioning and acceptance testing as described in the Project Specifications found in Appendix B.

SECTION 4 - PROPOSAL REQUIREMENTS

4.1. General

Each Contractor shall carefully examine the RFP and any and all amendments, exhibits, revisions, and other data and materials provided with respect to the RFP process prior to submitting a proposal.

The responses to this solicitation must be made according to the requirements set forth in this Section, both for content and for sequence. Noncompliance with these requirements or the inclusion of conditions, limitations, or misrepresentations, may be cause for rejection of the proposal.

Proposals shall be valid for a minimum of 90 days.

4.2. Submission Deadline

Proposals are due to the Rainbow Municipal Water District at 3707 Old Highway 395, Fallbrook, California 92028, no later than 3:00 PM on January 7, 2022. Please submit a digital version of the proposal and attachments on USB drive in searchable PDF format and three (3) hard copies of the proposal in an envelope marked on front with "**PROPOSAL: SUMAC SOLAR PHOTOVOLTAIC AND BATTERY ENERGY STORAGE DESIGN-BUILD PROJECT**".

Proposals received by the District after the stated deadlines will not be considered.

4.3. Proposal Formatting

Proposals shall be concise, well organized, and demonstrate the consultant's qualifications and experience applicable to the Project. Proposals should be as brief as possible and should not

contain any unnecessary promotional material. Proposers are discouraged from using general marketing material and encouraged to make the proposal specific to this project.

Each proposal shall be limited to 20 one-sided pages, 8 1/2" x 11" or 11" x 17" in size, exclusive of cover letter, resumes, datasheets, dividers, and front and back cover, that includes the contents identified in this RFP. Type size and margins for text pages should be in keeping with accepted standard formats for desktop publishing and word processing. Proposals that exceed the page count per page limitation will not be considered. Contractors interested in submitting proposals for this project must respond with all the information requested in the RFP. The Contractor's proposal will be considered only if all this information is provided. The proposals will be distributed to a selection committee for their evaluation.

4.4. Proposal Content

The proposal shall include a company overview, experience and technical competence, technical approach, project organization and key personnel, cost proposal, and schedule.

4.4.1. Section 1: Company Overview

The company overview shall include at a minimum the following:

- Company name,
- Description of the history of the company (including contractor's license number) and background of the Contractor,
- Corporate and local office addresses and telephone number,
- Number of employees in the local office,
- Contact information for the proposal including name, email, direct phone number and address,
- A description of the firm's resources and financial capacity to perform the work, and
- Description of any litigation, bankruptcy filings, pending judgments, etc., which could affect the proposer's ability to enter into an agreement with the District, and any other information deemed relevant.

4.4.2. Section 2: Experience and Technical Competence

The Contractor must establish significant experience in design, installation, and commissioning of a solar PV and battery energy storage system. At a minimum, the Contractor shall provide the following:

- Evidence of the Contractor having at least **five (5)** years of experience installing solar PV power and battery energy storage systems similar to this Project.
- Evidence of a valid C-10 or C-46 license as well as any other required licenses for the Project.
- Three references, including contact information, for projects similar to scope and size installed within the last five years in a comparable environment.

4.4.3. Section 3: Project Approach

Provide a narrative description of the approach to delivering the project. Summarize the key issues and your approach to fulfilling the goals and objectives of the project, including having no impact on Sumac's regular operations.

System Description – At a minimum, include data on the following components:

- System Design, including proposed location of equipment.
- NREL PV watts web-based performance calculations to estimate annual kWh for the solar PV power system.
- Battery energy storage system performance calculations including length of time system can fully power the District's facility when solar panels are not producing.
- Proposed method of installation.
- Proposed monitoring system/solution.
- Suggested alternatives to any standards set forth herein.

Datasheets – In an attachment to the written proposal (pages won't be included in the proposal page count), provide datasheets or hyperlinks to datasheets of major components, including the following:

- Solar PV Panels,
- Battery or battery energy storage system,
- Inverter(s),
- Mounting System, and
- Structural Support System (as applicable).

4.4.4. Section 4: Project Organization and Key Personnel

The Contractor shall describe the proposed project organization and provide an organizational chart, including identification and responsibilities of key personnel. Indicate the role and responsibilities of each person. Provide a list of subconsultants proposed and history of working together. The District will evaluate the proposals based on the entire team; therefore, no changes in team composition and no changes in team personnel will be allowed without prior written approval of the District.

4.4.5. Section 5: Cost Proposal

Contractor shall prepare and submit a cost proposal, which is inclusive of all costs to complete this Project in its entirety, in an attachment to the written proposal (pages won't be included in the proposal page count). Proposers shall use the following assumptions:

- Payment and performance bonds are required for the project.
- This project is subject to prevailing wage rates.
- Contractor is responsible for all interconnection costs.
- A performance guarantee is required.

4.4.6. Section 6: Schedule

Provide a detailed project schedule showing how the Contractor proposes to procure all components of the solar PV system and back-up battery on or before March 31, 2022. The schedule must show key milestones and clearly demonstrate how the Contractor plans to deliver all requirements of this RFP including but not limited to design, permitting, construction, commissioning, and interconnection.

If the Contractor cannot meet the desired on-line date, they shall propose an alternate project schedule.

Note: Liquidated Damages will be assessed for project delays caused by Contractor.

4.4.7. Section 7: Proposed Design and Construction.

Each proposer is to indicate if they accept the District's Professional Services Agreement and will note any objections to the agreement at the time of proposal submittal. Each proposer must include proposal attachments, consistent with the requirements contained herein, required by California statutes, including design/construction timelines, cost proposal, project criteria, warranty provisions, warranty, insurance, indemnity, and other necessary provisions. Appendix D is the boilerplate Professional Services Agreement for the proposer's reference. The District will not accept any proposal containing a limitation of liability or similar provisions.

Contractor may propose alternate language for the Professional Services Agreement, which Contractor shall describe in its proposal, with justification. The District reserves the right to reject any proposed variance from its Professional Services Agreement.

4.5. Proposal Selection Process and Evaluation Criteria

Contractor proposals will be evaluated for completeness and conformance to the RFP and its attachments. The District will evaluate the proposals based on the proposer's ability to meet RFP requirements and the selection criteria.

The District may request clarification of any portion of a proposal submittal. A Contractor's response to such a request must be in writing and shall become part of the Contractor's proposal. If the Contractor fails to respond within the time indicated in the request, the Contractor may be deemed nonresponsive, and its proposal may be disqualified from further consideration during the solicitation process.

By submitting a proposal, the Contractor shall be deemed to have represented and warranted the following:

- That the proposal is not made in connection with any competing Contractor submitting a separate response to this RFP and is in all respects fair and without collusion or fraud.
- That no employee of the District or its consultants have participated directly in the Contractor's proposal preparation.

- That the Contractor has not been convicted of bribery or attempted bribery of a public official or employee of the state and is not in default under any contract with an agency of the state.
- That the information contained in the proposal is true, accurate, and complete and includes all information necessary to ensure that the statements therein are not misleading.
- That the proposal price is true and accurate and is based on appropriate due diligence by the Contractor.

The District will evaluate proposals according to the selection criteria below. Proposal evaluation will be based on a scale of 1 to 100 with a maximum number of points possible of 100. Points will be awarded based on the relative merit of the information provided in the response to the RFP. Proposal evaluation scores will determine which Contractor is selected for negotiation of a contract with the District.

Selection Criteria	Points
Technical Approach	20
Company Qualifications/ Project Experience	30
Implementation Schedule	30
Total Design-Build Project Cost	20
Total Possible Points	100

Upon acceptance of a proposal, the successful respondent and District will enter into final negotiations and will award the contract through a Professional Services Agreement. Once the contract is awarded, Contractor will be required to execute and return all required Project documents, bonds and certificates of insurance within 10 days from the Notice of Award. Should final negotiations with the first selected respondent fail or if the selected firm refuses to execute the Professional Services Agreement agreed upon with the District, the District reserves the right to accept the proposal of the firm offering the next best value to the District.

4.6. Project Schedule

As part of the proposal process, the Contractor may attend the Pre-Proposal Site Visit. The Pre-Proposal Site Visit will occur on **December 21, 2021 at 10:00** AM at the project site. The project address is 3054 Sumac Road, Fallbrook, CA 92028. It is important to note that the District has an easement through a neighboring property to access the project site, and notification through the District is required prior to accessing the site.

Questions related to this RFP should be submitted in writing, via email, to the District's representative, Ms. Amanda Parra at aparra@rainbowmwd.com by 5pm on December 13, 2021. Responses to any questions that may affect the proposal will be provided to all registered proposers.

The following is a list of anticipated milestones for the RFP process and project.

Project Milestone	Date/Time
RFP Advertised/ Released	December 3, 2021
Pre-Proposal Site Visit	December 21, 2021
Written Questions Due	December 13, 2021 @ 5 PM
Answers to Questions Distributed	December 27, 2021
Proposal Due	January 7, 2021 @ 3 PM
Notice of Selection	January 12, 2022
Complete Contract Negotiation	January 19, 2022
Notice to Proceed	January 21, 2022
Expenditure of Funds for Solar PV System and Back-Up Battery	Prior to March 31, 2022
System Operation Date	Spring 2022

SECTION 5 - CONDITIONS FOR PROPOSERS

5.1. Rights of the District

The District may investigate the qualifications of any Contractor under consideration, may require confirmation of information furnished by a Contractor, and may require additional evidence of qualifications to perform the work described in the RFP. The District reserves the right, in its sole and absolute discretion to take any of the following actions:

- Reject any or all proposals and issue a new RFP.
- Cancel, modify, or withdraw, or extend the RFP.
- Issue addenda, supplements, and modifications to this RFP.
- Waive in the public interest technical or inconsequential errors or discrepancies in proposals submitted.
- Elect to conduct interviews with selected proposers to ask questions for more detail on their proposals.
- Modify the RFP process (with appropriate notice to prospective proposers).
- Appoint a selection committee and evaluation teams to review proposals and seek the assistance of outside technical experts in the proposal evaluations.

- Approve or disapprove the use of particular subcontractors and/or substitutions and/or changes in proposals.
- Revise and modify, at any time before the proposal due date, the factors it will consider in evaluating proposals and to otherwise revise or expand its evaluation methodology. If such revisions or modifications are made, the District will provide an addendum to all registered proposers setting forth the changes to the evaluation criteria or methodology. The District may extend the proposal due date if such changes are deemed by the District, in its sole discretion, to be material and substantive.
- Hold meetings and exchange correspondence with the prospective Contractor responding to this RFP to seek an improved understanding and evaluation of the proposals. If individual prospective Contractor informational meetings are held, all prospective Contractors submitting a responsive proposal shall be afforded an opportunity to participate in an individual prospective Contractor informational meeting.
- Seek supplemental information from any respondent at any time after official proposal and before award. This will be limited to clarification or more detail on information included in the original proposal.
- Reject the proposal from any team that changes its proposal after the submittal due date and time without following the procedures of this RFP and without the District's written approval.

5.2. Changes to the RFP

This RFP is subject to revision via written addenda, which will be provided to all registered proposers.

5.3. Protests

Any protest to a District's action must be in writing and shall be received by the District 3707 Old Highway 395, Fallbrook, California 92028 within 5 business days of following such action. Any protest not set forth in writing or received within 5 business days of the protested action will not be considered. The District may, in its sole discretion, discuss the protest with the protestor. No hearing will be held on the protest. The District will decide the protest on the basis of the written submissions and will issue a written decision regarding any protest.

5.4. Other Information

Unless clearly identified as being a "trade secret" as defined under California Government Code Section 6254(k) of the Public Records Act, all materials submitted in response to this RFP will become the property of the District and becomes public record. Once submitted, unless deemed protected by a court, the materials may at any time subsequent to submission become subject to public disclosure upon someone making a Public Records Act request. It is the responsibility of the proposer to defend against any challenge to the "trade secret" designation. The District will abide by any court determination on that issue.

It is the obligation of the of the proposer to clearly identify and segregate information as being a "trade secret" and not subject to disclosure under the Public Records Act. Subject to this exception,

if applicable, the District has the right to use any or all ideas or concepts presented in any proposal. Selection or rejection of the responding firm does not affect this right. Oral or written communications by District employees or board members concerning the RFP are also public records that shall not be binding on the District and shall in no way excuse the responding Contractor(s) of obligations as set forth in the RFP.

DRAFT

SECTION 6 - ATTACHMENTS

Appendix A – Site Plan

Appendix B – Project Specifications

Appendix C –One Year of Electrical Utility Bills

Appendix D – Professional Services Agreement Sample

DRAFT

APPENDIX A: SITE PLAN

DRAFT

APPENDIX B: PROJECT SPECIFICATIONS

DRAFT




APPENDIX C: ONE YEAR OF ELECTRICAL UTILITY BILLS

DRAFT

APPENDIX D: PROFESSIONAL SERVICES AGREEMENT

DRAFT

Legend

- Ⓜ Electrical Meter
- Ⓢ Communications Tower
-  Location for Solar & Battery Placement, Recommended by District
-  Abandoned Reservoir
-  Sumac Site Boundary



Scale in Feet
 0 20 40
 Date of Exhibit: 10/28/2021

**RAINBOW MUNICIPAL WATER DISTRICT
SOLAR PHOTOVOLTAIC AND BACKUP BATTERY DESIGN-BUILD PROJECT
SPECIFICATIONS**

SOLAR PHOTOVOLTAIC AND BACKUP BATTERY STORAGE SYSTEM

SECTION 1: GENERAL

1.01 GENERAL

- A. Work Description: All work required to deliver a turnkey, fully integrated, grid-connected solar photovoltaic (PV) power and backup battery energy storage system providing verifiable energy to the Rainbow Municipal Water District (District). The system, designed by the Design-Builder, shall consist of but not be limited to: solar PV panels, backup battery energy storage, inverter, transformer, structure, all required auxiliary equipment, automatic switches, controls, and wiring as indicated in the RFP and these specifications. The system will be installed within the area specified on the Project Site Plan (Appendix A).
- B. The Design-Builder shall coordinate all work with San Diego Gas & Electric (SDG&E) and shall be responsible for all required documents and permits on behalf of the District. The District will be responsible for providing any administrative information to assist the solar PV and backup battery energy storage system Design-Builder in completing documents.
- C. The system shall consist of one or more arrays of framed photovoltaic panels, each mounted, terminal and combiner boxes, quick-connect electrical connectors, DC wiring, DC disconnect, grid-connected inverter, AC disconnect, support structure (if required), and transformer (if required). The project also includes a backup battery storage system for onsite energy storage. The PV system and all related items shall be outstanding examples of state-of-the-art PV system design. Systems shall be reliable, long-lasting, require minimum maintenance, and be trouble-free.

1.02 CODES, STANDARDS, AND METHODOLOGIES

- A. All proposed products, components, and construction must conform to the following codes and standards:
 - 1. Underwriters Laboratories (UL)
 - 2. National Electric Code
 - 3. International Building Code, latest edition
 - 4. California Electrical Code, latest edition
 - 5. California Building Code, latest edition
 - 6. California Occupational Health and Safety Administration (OSHA)
 - 7. All SDG&E and California Solar Initiative Requirements

8. California Fire Code

- B. The system design must comply with seismic loading and wind loading requirements per the American Society of Civil Engineers Standard for Minimum Design Loads for Buildings and Other Structures (ASCE 7-16).
- C. The mathematical method for specifying PV System output in kWh must be typical system alternating current (AC) power rating of the proposed PV system using the proposed equipment configuration:
 - 1. Design-Builder must use the annual kWh for the PV system, calculated using the National Renewable Energy Lab (NREL) PV Watts web-based performance calculator.
 - 2. Design-Builder must use the degradation rate of 0.5% annually for 20 years.
 - 3. Design-Builder must design a system that supplements 150% of the current energy consumption.

1.03 SUBMITTALS

- A. Submit material and equipment data.
- B. Shop Drawings: Submit shop drawings which shall include complete layout of equipment and panels; front and end elevations of inverter and floor plan to scale with major dimensions; structural details and overall weights; complete catalog data and ratings of all devices; material, sizes, locations, and installation methods.
- C. Submit drawings indicating attachment details of solar arrays to mounting locations.
- D. Seismic Anchorage Requirements: Submit a sketch or description of the anchorage system for panels and solar equipment with supporting calculations.
- E. Details showing the integration of the PV system will be integrated into other power sources.
- F. Submit electrical grid interconnection requirements.
- G. Submit controls, monitors, and instrumentation, as appropriate.
- H. Submit PV system performance monitoring system information.
- I. Prior to acceptance, submit as-built drawings. Drawings shall be (1) set in original CAD file format, (1) set in Smart PDF format. As-builts shall be signed and sealed by a licensed civil and/or electrical engineer, as appropriate, registered in the State of California.
- J. Prior to acceptance of the PV System to the District, the Design-Builder shall provide the O&M manuals as an Electronic Operations Manual (EOM). The EOM shall be in searchable and smart PDF files that include all components, options, and accessories supplied. It shall include a list of routine preventative maintenance, trouble-shooting, and safety precautions specific to the supplied equipment. Construction drawings, related to each facility system and photographs of the completed installation O&M manuals shall be included. The manuals shall also cover the order of operation of the system for start-up and shutdown, and for emergency events from natural occurrences for District, emergency, and utility personnel.
- K. Prior to acceptance, submit warranties as specified in Section 1.05, herein.

1.04 DELIVERY, STORAGE, AND HANDLING

- A. PV modules and system components shall be delivered to their final locations in protective wrappings, containers and other protection that will exclude dirt and moisture and will prevent damage from construction operations. Protection will be removed only after equipment is safe from such hazards. Design-Builder shall solely bear the full risk of loss until installation.
- B. Design-Builder shall maintain the integrity of the installation site during delivery, handling and installation, including layout mats, insulation/plywood layers, etc. Any damage to the roof surface or landscaping shall be identified and repaired by the Design-Builder.
- C. Cranes, if used, shall follow local codes and requirements.
- D. Each module shall be visually inspected for defects by the Design-Builder upon receipt. Any defects shall be immediately reported. Defective panels shall be replaced at no additional cost to District.
- E. Appropriate personal protective equipment (PPE) shall be worn when handling materials. Such PPE shall include at a minimum hard hats and steel-toe boots when lifting unsecured materials, and insulated gloves when working on an active system along with all PPE requirements prescribed by OSHA.

1.05 WARRANTY REQUIREMENTS

- A. Design-Builder shall provide at a minimum, the warranty coverage as specified below:
 - 1. All solar equipment (including associated electrical components) must have a warranty of not less than 10 years to protect against defects and undue degradation of electrical generation output.
 - a. Standard warranty coverage should be at least twenty-five (25) years for any PV panels, at least ten (10) years for all inverters, or consistent with current CSI Guidelines for PV System Warranty requirements, whichever is greater.
 - b. Design-Builder shall provide a minimum 10-year warranty to provide for no-cost repair and replacement of the system for any expenses not otherwise covered by the equipment manufacturers.
 - 2. Upon completion of the Project, Design-Builder shall provide the District with all warranty documentation and shall assist the District in completing any warranty or submittal forms which are required in order to effectuate coverage of the warranties required herein and as may otherwise be available to the District.
 - 3. All work performed by the Design-Builder must not render void, violate, or otherwise jeopardize any preexisting District facility or building warranties.

1.06 PRODUCTION GUARANTEE

A. Design-Builder shall provide minimum production guarantee as follows:

1. Provide at least a 90% kW guarantee for year 1, degrading by a maximum of 0.5% for 20 years. Performance guarantee should be measured, and damages should be paid on an annual basis.

SECTION 2: PRODUCTS

2.01 GENERAL

- A. All products shall be new, UL listed, and intended for the purposes for which they are used.
- B. All equipment used must be tolerant of salt air and have the ability to withstand a coastal marine climate for the life of the system
- C. Electrical components shall be designated for 600 Volts or higher system voltage.
- D. All materials that are used outdoors shall be sunlight and UV resistant.
- E. Materials shall be designed to withstand the temperatures to which they will be exposed.
- F. All conductors shall be copper.
- G. Only 316 stainless steel fasteners shall be used.
- H. Structural members shall be hot-dipped galvanized steel, corrosion resistant aluminum, or 316 stainless steel. Aluminum shall not be allowed to be in direct contact with concrete. Misc. metals shall be per "Greenbook".
- I. The array shall be mounted in such a way that normal drainage of the roof or ground area is not affected.
- J. Any ballasting removed must be replaced in kind.

2.02 PRIMARY SOLAR SYSTEM COMPONENTS

A. PV Modules:

1. PV modules eligible for this proposal must be certified by the California Energy Commission Program and be listed on the following website: http://www.gosolarcalifornia.ca.gov/equipment/pv_modules.php.
2. The modules shall be interconnected using cable assemblies specified by Solar panel manufacturer. The pigtails shall be quick-connect electrical wiring connections rated for the particular application.

B. Inverter:

1. Inverters eligible for this proposal must be certified by the California Energy Commission Program and shall be panel-mounted, Enphase or an approved equal.
2. Each inverter shall include:
 - a. Automatic operation, including start-up, shutdown, self-diagnosis, and fault detection.
 - b. Digital Signal Processor (DSP) based controls with self-diagnostics and LCD for display of operating status.
 - c. Anti-islanding protection to prevent back-feeding inverter generated power to the grid in the event of a utility outage.
 - d. User definable power tracking, matching the inverter to the array, as well as adjustable delay periods to customize shutdown sequences.
 - e. Continuous power rating that equals or exceeds the PV array output.
3. Outdoor inverter display shall be protected from the sun.
4. Enclosure must have a door interlock system to prohibit the door(s) from being opened while energized.
5. Must be capable of connecting to the District's monitoring system or SCADA system

C. Racking/Mounting System:

1. Mounting system shall promote ambient air circulation beneath and above modules to enhance panel efficiency.
2. Modules shall be individually removable for roof access, maintenance or grass cutting or other landscaping.
3. Hardware (nuts, bolts, clips) shall be aluminum or 316 stainless steel.
4. Mounting system shall be warranted free of defects for a period not less than 20 years.
5. Mounting system shall be either directly anchored into the ground (driven piers, concrete footers, ground screws, etc.) or ballasted on the surface without ground penetration. Mounting system design needs to meet applicable local, state, and federal building code requirements with respect to snow, wind, and earthquake factors.
6. Location for mounting the inverter and balance of system components to be coordination with and approved by the District during the design review process.
7. All welding and metal fabrication required to construct and install the mounting system shall conform to the California Building Code and all other applicable codes and standards.

D. Backup Battery or Battery Energy Storage System:

1. Round-trip efficiency shall be at least 85%, as measured by total kWh charged at rated power from minimum state of charge (SOC) to maximum SOC, divided by total

- kWh discharged at rated power from maximum SOC to minimum SOC at AC terminals.
2. Total power consumption at all AC terminals of energy storage system totaling no more than 500 watts when system is not being commanded to charge or discharge.
 3. The energy storage system must include control capability to provide demand charge management by discharging to reduce maximum peak demand from the utility interconnection, while maximizing use of kWh available in the energy storage system.
 4. The energy storage system must include control capability for load shifting by charging and discharging according to a schedule based on time of day, day of week and season.
 5. The energy storage system must include backup power capability, providing stable voltage and frequency control when disconnected from the utility grid, for loads up to rated power, and safe shutdown when minimum state of charge has been reached.
 6. Demand charge management and load shifting modes must be capable of being enabled or disabled through user interface.
 7. User must be able to reserve a portion of battery energy for use as backup power, from 0% to 100% of SOC.
 8. Full mounting and installation of energy storage system inside the areas available for solar, including foundation, wiring, all interconnection equipment, and protective structure(s) such as enclosure and/or bollards.
 9. Full installation with all necessary interconnection equipment (j-boxes, etc.) to distribution panel, utilizing required conduits and mounting locations, conforming to NEC and local building codes.
 10. Utility grade meter for energy storage system to conform with requirements for SDG&E.
 11. Detailed installation schedule conforming to required start date and completion date.
 12. Commissioning plan providing demonstration and measurement of system rated power and operating modes.
 13. 10-year full warranty for all energy storage system components.
 14. Degradation of no more than 20% of energy capacity and loss of no more than 5% round-trip efficiency over battery 10-year lifetime.
 15. 10-year full warranty for installation and wiring.
 16. Repair technician availability within 24hrs, 365 days for the first year.
 17. Live technical support for system operations and troubleshooting, during normal business hours for the first year.
 18. All components shall be rated NEMA 4.
 19. A battery energy storage system shall have a safety certification indicating compliance with an American National Standard for safety from a Nationally Recognized Testing Laboratory. Safety certification to UL 9540 will be accepted as proof of compliance.

20. A battery shall have a safety certification indicating compliance with an American National Standard for safety from a Nationally Recognized Testing Laboratory. Safety certification to UL 1973 will be accepted as proof of compliance.

2.03 SYSTEM ELECTRICAL

A. PV Array Circuit Combiner Box

1. Combiner box shall be 600 VDC, UL listed, non-conductive NEMA 4 enclosure with water-tight fittings.

B. AC Disconnects

1. Where required by the NEC, the inverter disconnect shall be 600 VAC, heavy-duty safety switch.

C. DC Disconnect Switches

1. The DC disconnect(s) shall be 600 VDC, non-fusible, heavy-duty safety switch.

D. Circuit Breaker

1. Circuit Breaker shall match the existing circuit breaker type, manufacturer, and aesthetics. Submit for approval.
2. All required over-current protection devices shall be included in the system and shall be accessible for maintenance. Each shall have trip ratings no greater than the de-rated amperage of the conductor it protects.

E. Wiring, Conduit, Fittings, & Junction Boxes.

1. All system wiring shall be in accordance with Section 90 of the National Electric Code (NEC). The wires used shall have a temperature rating of 90 degrees C or higher.
2. All exposed conduit shall be PVC Coated GRS, OCAL, Plasti-bond Red, Triangle PWC, or equal. The minimum sized raceway shall be 1". All fittings shall be PVC Coated GRS.
3. All buried conduit shall be PVC-80 for direct bury conduits or PVC-EB for concrete encased conduit. Transitions to above grade shall be accomplished with either RGS wrapped with factory applied weather and corrosion protection tape or PVC-RGS elbows.
4. Supports for individual conduits shall be PVC coated galvanized malleable iron one-hole type with conduit back spacer. Supports for multiple conduits shall be stainless steel unistrut or superstrut channels or equal. All hardware shall be stainless steel. All channels, strut, threaded rods, nuts, and clamps shall be 316 stainless steel.

5. Junction boxes shall be rated NEMA 4.
- F. Transformer:
1. Isolation transformers, step-up transformers, or other transformers required for the project shall be dry-type, rated for the inverter source operation and the environment in which they operate. Windings shall be copper. Transformer enclosure finish shall be a top powder coat designed for a minimum twenty-five-year service life.
- G. System Switching and Meter Equipment:
1. Shall have convenient access for resetting or repair during electrical outages, and for regular monitoring for data retrieval.

SECTION 3: EXECUTION

3.01 GENERAL

- A. Design-Builder shall follow all provisions of the codes listed in Section 1.03 including but not limited to the National Electric Code (NEC), the National Fire Code, and the Uniform Building Code, and shall be inspected by District inspectors at each appropriate phase.
- B. Conduit shall be routed in concealed locations. Final conduit routing and inverter and disconnect location is at the sole discretion of the District.
- C. Site shall be maintained and kept secure, free of excessive debris and in safe condition during the construction period. Site should be left “broom clean” after work is complete at the end of each work day.
- D. For diagnostic and troubleshooting purposes, all array strings at the combiner boxes and the combiner boxes themselves shall be uniquely tagged and identified with such tagging on the as-built drawings.
- E. PV modules shall be free of dirt and construction debris prior to system start-up procedures.
- F. Workmanship – All Workmanship, Materials or Equipment, either at the Site or intended for it, shall conform in all respects with the requirements of all the Contract Documents, and shall be a strictly first class, workmanlike installation and the best obtainable from the crafts and trades. Install cases, the materials, equipment and workmanship shall be equal to or better than the grade specified, and the best of their kind that is obtainable for the purpose for which they are intended. All labor shall be performed by mechanics skilled in their respective trades.
- G. Clean Up – the Design-Builder shall at all times keep the premises free from accumulation of waste materials or rubbish caused by Design-Builder’s employees or subcontractors, and at the completion of the work shall remove all rubbish from and

about the project and all tools, scaffolding and surplus materials and shall leave the work “Broom Clean” or its equivalent, unless more exactly specified. In case of dispute, District may remove or cause to be removed the rubbish and charge the cost to the Design-Builder. Design-Builder shall not block access to District’s building, equipment, nor shall they occupy handicapped spaces.

3.02 USE OF PREMISES

- A. Design-Builder shall coordinate site access with the District. In general, site access shall be restricted outside of normal operating hours for the District, Monday through Friday, 8:00 AM – 5:00 PM.
- B. The premises may be occupied during the course of the installation. It will be the responsibility of the Design-Builder to provide access to District’s buildings and grounds for District’s staff and visitors in order for services to continue unabated.
- C. Design-Builder shall perform all work in full compliance with local, state, and federal health and safety regulations. All work hereunder shall be performed in a safe manner. Design-Builder shall immediately correct any dangerous condition caused by or resulting from its work. If it fails to correct, or to act diligently to correct, any condition which District reasonably believes to be a hazard to persons or property, then immediately upon oral or written notice to any supervisory or similar personnel of Design-Builder, District may, but shall not be required to, correct the same at the Design-Builder’s expense.
- D. The Design-Builder shall confine apparatus, the storage of materials, and the operations of workers to limits indicated by law, ordinances, permits, or directions of District and shall not unreasonably encumber the premises with materials.
- E. The Design-Builder shall not load or permit any part of the structure to be loaded with a weight that will endanger safety.
- F. The Design-Builder shall complete selective demolition, construction of all site work, patching, and restoration of all disturbed pavement and landscape areas, structural, electrical, weatherproofing, painting, controls, monitoring equipment, materials, and labor for complete and operable PV systems to the District’s satisfaction.

3.03 TEMPORARY FACILITIES

- A. Design-Builder shall provide all temporary facilities (e.g. power, water, sanitary facilities, telephone, and gas) required during construction.

3.04 SHUTDOWNS

- A. The Design-Builder acknowledges that the facility is an operational communications tower that must remain in operation during construction. Any activity which has a potential impact to communications shall be coordinated with the District a minimum of 72 hour in advance.

3.05 UTILITY COORDINATION

A. Utility Coordination: It is the Design-Builder's responsibility to contact and coordinate all public utilities (e.g. SDG&E, telecommunications, etc.) to determine the location of their utilities within the project area. The availability of the site utility plans shall not be deemed to confer any responsibility for the location of the utilities upon the District. The Design-Builder shall hire a utility locator service to identify all underground utilities. Additionally, potholing to identify existing utilities that may be in conflict with the design is advised. The Design-Builder will be held responsible to repair or replace any utilities impacted by construction.

3.06 INSTALLATION

A. Solar Panel Arrays:

1. Install solar arrays and panels at locations made available by the District in the Site Plan, but ultimately to be determined by the Design-Builder. System installation shall conform to the manufacturer's Installation Manuals and approved project drawings and specifications.
2. For ground installations, array installation shall not unreasonably restrict entrance to or egress from any building, parking lot or other facility and shall minimize disruption to landscaping and drainage
3. For roof installations, array installation shall not unreasonably restrict roof access to roof surface for inspection and repair. Walking space shall be provided throughout the PV array to facilitate installation, inspection and maintenance access to all modules and other existing roof equipment, such as air handling units, fans, etc.

B. Design-Builder or its agents, servants or employees shall be present on site at all times during installation. In the event that installation requires more than one day to complete or the site is to be left unattended for any reason, including but not limited to lunch, breaks or emergencies, Design-Builder shall properly secure the site to ensure no accidents occur at the site.

C. Array mounting hardware supplied by the Design-Builder shall be compatible with the site considerations and environment. Special attention shall be paid to minimizing the risk from exposed fasteners, sharp edges, and potential damage to the modules or support structures. Corrosion resistance and durability of the mechanical hardware shall be emphasized. The use of stainless-steel fasteners is required.

D. The Design-Builder shall ensure installing subcontractors (if used) are familiar with manufacturer's installation guidelines.

3.07 START-UP, ACCEPTANCE, AND COMMISSIONING

A. Procedures:

1. System inspection and safety checks: Design-Builder shall run through a checklist of startup requirements and conduct a series of safety tests to ensure proper installation, safe operation, and performance up to specification.
2. Testing Includes at a minimum:
 - a. All inverter startup tests as specified by the inverter manufacturer in the inverter operation manual.
 - b. Actual vs. predicted power.
 - c. Loss of grid power & resume.
 - d. Random module shading.
 - e. Data monitoring check out – displays and Internet Connection.
 - f. Measure VOC of every source circuit and log it.
 - g. Measure AC power and compare to predicted power.
 - h. Verify tightness of all wiring terminations.
 - i. Verify proper markings and labeling of all wire terminations and enclosures.
 - j. Verify shut down procedures.
 - k. Verify start up procedures.
 - l. Verify PV array quick connectors are fully mated and wires neatly secured.
 - m. Verify no debris on the modules, no damaged or broken modules.
3. Design-Builder will verify performance monitoring system is functioning properly by confirming performance with the manufacturer.
4. Design-Builder shall correct any deficiencies uncovered by the testing prior to commissioning of the system.
5. Site shall be free of all tools and materials required for construction and installation.

B. System Output Measurement: The Design-Builder will establish the initial system output to prove that the system is performing as it is designed, and to establish a baseline to be used for warranty. The system output will be verified after construction of the system has been completed on a clear, sunny day. The Design-Builder may perform other performance tests as specified in the Commissioning Plan to support performance testing.

C. Documentation: The District will own the system in its entirety and will coordinate operation and maintenance with the Design-Builder, as deemed necessary. The District shall be supplied with three (3) sets of site-specific operation, maintenance and parts manuals with warranty certificates for the installed PV and energy storage systems. The following items shall be delivered prior to acceptance of the system:

1. A complete set of all approved submittals including shop drawings and product literature.
2. Manufacturer's equipment manuals, maintenance, troubleshooting, and safety precautions specific to the supplied equipment at each site
3. Three (3) sets of full-size record (as-built) drawings and copies of electronic files in PDF and AutoCAD showing the final placement of all panels, combiner boxes, connections, and conduit placement.
4. As-built electrical plans, including three-line diagrams, and elevation drawings showing the final placement of electrical equipment.
5. Commissioning reports.
6. Trouble shooting guidelines.
7. System maintenance schedule and procedures.
8. Contact information for technical assistance and parts ordering.
9. Original copies of all warranty documents from the manufacturer and the Design-Builder.
10. One (1) onsite training with District personnel to review the operation and maintenance requirements and frequencies

3.08 WARRANTY

- A. General: Design-Builder shall provide, or transfer from the manufacturer as applicable, minimum warranty coverage as follows:
1. Standard manufacturer's warranty coverage shall be at least twenty-five (25) years for any photovoltaic panels, ten (10) years for all inverters, and ten (10) years for all battery backup systems, or consistent with the California Solar Initiative's guidelines for solar equipment warranty requirements, whichever is greater.
 2. Upon completion and upon acceptance of the project by the District, the Design-Builder shall transfer and convey to the District, all warranty documentation and shall assist the District in completing any warranty or submittal forms which are required in order to effectuate coverage of the warranties required herein and all may otherwise be available to the District.
 3. All work performed by the Design-Builder shall not render void, violate, or otherwise jeopardize any preexisting District facility or building warranties.
 4. Minimum warranty requirements are subject to further review based upon the scope and nature of Design-Builder's proposal

3.09 MONITORING

- A. General:

Energy production shall be verifiable via a web-based monitoring system that allows the District to monitor, analyze, and display historical and live solar electricity generation

data. The data shall be archived on a minimum 15-minute interval and shall be available to the District for a minimum of 20 years.

The turnkey data acquisition and display system shall allow the District to monitor, analyze and display historical and live, solar electricity generation data. The system will allow the District to track progress of renewable energy compared to grid supplied electricity as well as monitor performance against the guaranteed production requirement. The monitoring system shall be compatible with the District's existing monitoring infrastructure (e.g. SCADA, etc.).

3.10 MAINTENANCE

A. General:

Although the District will own and operate all systems, the Design-Builder will be expected to maintain the facility for a minimum of three (3) years and two (2) optional years.

The District shall have the right to request, access, copy, audit and otherwise obtain all maintenance and repair records of all systems during the entire length of the contract.

END OF SECTION

Appendix C - One Year of Electrical Utility Bills

Rainbow Municipal Water District - Sumac Communications Tower Solar Photovoltaic and Back-Up Battery System Design-Build Project

Account 78233861220
Meter ID 6534093
Customer North County Fire NC Fire #Fallbrook
Street Address 3054 Sumac Road
City, State Zip Fallbrook, CA 92028
Rate TOU-A-Commercial

Meter Read Date	Days Used	Consumption					Amount (\$)	Other Total Amount (\$)	Tax Total Amount (\$)	Total Bill Amount (\$)
		On-Peak (kWh)	Off-Peak (kWh)	Semi- Off-Peak (kWh)	Total Billed (kWh)					
11/18/2020	30	44	288	0	332	\$ 88.80	\$ 0.45	\$ 0.10	\$ 89.35	
12/20/2020	32	84	554	0	638	\$ 78.16	\$ 0.43	\$ 0.10	\$ 78.69	
1/20/2021	31	40	271	0	311	\$ 76.44	\$ 0.43	\$ 0.09	\$ 76.96	
2/21/2021	32	39	245	0	284	\$ 74.07	\$ 0.39	\$ 0.09	\$ 74.55	
3/22/2021	29	39	222	0	261	\$ 71.96	\$ 0.35	\$ 0.08	\$ 72.39	
4/22/2021	31	45	262	0	307	\$ 83.41	\$ 0.42	\$ 0.09	\$ 83.92	
5/21/2021	29	43	241	0	284	\$ 77.94	\$ 0.39	\$ 0.09	\$ 78.42	
6/22/2021	32	50	320	0	370	\$ 117.94	\$ 0.50	\$ 0.11	\$ 118.55	
7/22/2021	30	61	351	0	412	\$ 138.85	\$ 0.57	\$ 0.12	\$ 139.54	
8/20/2021	29	61	336	0	397	\$ 134.41	\$ 0.55	\$ 0.12	\$ 135.08	
9/21/2021	32	56	367	0	423	\$ 141.55	\$ 0.58	\$ 0.13	\$ 142.26	
10/21/2021	30	47	290	0	337	\$ 115.06	\$ 0.46	\$ 0.10	\$ 115.62	

BOILERPLATE HYBRID PSA



**RAINBOW MUNICIPAL WATER DISTRICT
3707 S. HIGHWAY 395
FALLBROOK CA 92028
(760) 728-1178**

PROFESSIONAL SERVICES AGREEMENT

PROJECT: TITLE
Project No. 000000, Contract No. 20-00

THIS AGREEMENT ("Agreement") is made and entered into this _____ day of Month, 2020 by and between the **RAINBOW MUNICIPAL WATER DISTRICT**, a municipal water district, hereinafter designated as "**DISTRICT**", and _____, a **California corporation [or other type of organization]**, hereinafter designated as "**CONSULTANT**" or "**SPECIALIST**"

RECITALS

- A.** DISTRICT desires to obtain Professional Consulting Services from an independent contractor for the above-named Project.
- B.** CONSULTANT/SPECIALIST has submitted a proposal to provide professional services for DISTRICT in accordance with the terms set forth in this Agreement.
- C.** DISTRICT desires to contract with CONSULTANT/SPECIALIST as an independent contractor and CONSULTANT/SPECIALIST desires to provide services to DISTRICT as an independent contractor.
- D.** CONSULTANT/SPECIALIST has demonstrated its competence and professional qualifications necessary for the satisfactory performance of the services designated herein by virtue of its experience, training, education, and expertise.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. PROFESSIONAL SERVICES PROVIDED BY CONSULTANT/SPECIALIST.

- 1.1** The professional services to be performed by CONSULTANT/SPECIALIST shall consist of the following: **Engineering services to _____**. The scope of services is more particularly defined in Exhibit "A", attached and made a part hereof. Any additional engineering services will be requested in writing as set forth in Section 19.
- 1.2** In performing the services set forth in Exhibit "A", CONSULTANT/SPECIALIST shall work closely with DISTRICT'S General Manager or Authorized Representative and staff in

BOILERPLATE HYBRID PSA

performing services in accordance with this Agreement in order to receive clarification as to the result that DISTRICT expects to be accomplished by CONSULTANT/SPECIALIST. The General Manager or Authorized Representative, shall be DISTRICT'S authorized representative in the interpretation and enforcement of all services performed in connection with this Agreement.

1.3 CONSULTANT/SPECIALIST represents that its employees have the qualifications and skills necessary to perform the services under this Agreement in a competent, professional manner, without the advice or direction of DISTRICT. This means CONSULTANT/SPECIALIST is able to fulfill the requirements of this Agreement. Failure to perform all services required under this Agreement constitutes a material breach of the Agreement.

2. TERM AND TIMING REQUIREMENTS.

2.1 This Agreement will become effective on the date stated above, and will continue in effect until the earlier of the completion of services provided for in this Agreement or until terminated as provided under Section 14 of this Agreement.

2.2 CONSULTANT/SPECIALIST'S performance of services under this Agreement shall be in accordance with the schedule outlined below unless otherwise modified in writing as set forth in Section 19. Failure by CONSULTANT/SPECIALIST to strictly adhere to these timing requirements may result in termination of this Agreement by DISTRICT.

Task	Due Date
Notice to Proceed	Month, Day, Year
Progress Report	Month, Day, Year
Final Submittal	Month, Day, Year

2.3 CONSULTANT/SPECIALIST shall submit all requests for extensions of time for performance in writing to the General Manager or Authorized Representative no later than two (2) business days after the commencement of the cause of any unforeseeable delay beyond CONSULTANT/SPECIALIST'S control and in all cases prior the date on which performance is due if possible. The General Manager or Authorized Representative shall review all such requests and may grant reasonable time extensions for unforeseeable delays which are beyond CONSULTANT/SPECIALIST'S control.

2.4 For all time periods not specifically set forth herein, CONSULTANT/SPECIALIST shall respond in the most expedient and appropriate manner under the circumstances, by telephone, fax, hand delivery, e-mail or mail.

BOILERPLATE HYBRID PSA

3. STUDY CRITERIA AND STANDARDS.

- 3.1 All services shall be performed in accordance with applicable DISTRICT, county, state and federal Codes and criteria. In the performance of its professional services, CONSULTANT/SPECIALIST shall use the degree of care and skill ordinarily exercised by CONSULTANT/SPECIALISTS performing the same or similar work under similar conditions.

4. INDEPENDENT CONTRACTOR.

- 4.1 CONSULTANT/SPECIALIST'S relationship to DISTRICT shall be that of an independent contractor in performing all services hereunder. DISTRICT shall not exercise any control or direction over the methods by which CONSULTANT/SPECIALIST shall perform its services and functions. DISTRICT'S sole interest and responsibility is to ensure that the services covered in this Agreement are performed in a competent, satisfactory and legal manner. The parties agree that no services, act, commission or omission of CONSULTANT/SPECIALIST or its employee(s) pursuant to this Agreement shall be construed to make CONSULTANT/SPECIALIST or its employee(s) the agent, employee or servant of DISTRICT. CONSULTANT/SPECIALIST and its employee(s) are not entitled to receive from DISTRICT vacation pay, sick leave, retirement benefits, Social Security, workers' compensation, disability benefits, unemployment benefits or any other employee benefit of any kind.

- 4.2 CONSULTANT/SPECIALIST shall be solely responsible for paying all federal and state employment and income taxes, for carrying workers' compensation insurance and for otherwise complying with all other employment requirements with respect to CONSULTANT/SPECIALIST or its employee(s). CONSULTANT/SPECIALIST agrees to indemnify, defend and hold DISTRICT harmless from any and all liability, damages or losses (including attorney's fees, costs, penalties and fines) DISTRICT suffers as a result of CONSULTANT/SPECIALIST'S failure comply with the foregoing.

- 4.3 CONSULTANT/SPECIALIST shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. CONSULTANT/SPECIALIST represents and warrants that CONSULTANT/SPECIALIST customarily engages in the independently established trade and business of the same nature as the work to be performed under this Agreement.

- 4.4 CONSULTANT/SPECIALIST shall have no authority, express or implied, to act on behalf of as an agent, or to bind DISTRICT to any obligation whatsoever, unless specifically authorized in writing by the General Manager or Authorized Representative. If CONSULTANT/SPECIALIST'S services relate to an existing or future DISTRICT construction contract, CONSULTANT/SPECIALIST shall not communicate directly with, nor in any way direct the actions of, any bidder for that construction contract without the prior written authorization by the General Manager or Authorized Representative.

5. WORKERS' COMPENSATION INSURANCE.

- 5.1 By CONSULTANT/SPECIALIST'S signature hereunder, CONSULTANT/SPECIALIST certifies that CONSULTANT/SPECIALIST is aware of the provisions of Section 3700 of the California Labor Code that require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions

BOILERPLATE HYBRID PSA

of that code, and CONSULTANT/SPECIALIST will comply with such provisions before commencing the performance of the services of this Agreement.

6. INDEMNIFICATION, HOLD HARMLESS AND DEFENSE.

- 6.1** All officers, agents, employees and subcontractors, and their agents, who are employed by CONSULTANT/SPECIALIST to perform services under this Agreement, shall be deemed officers, agents and employees of CONSULTANT/SPECIALIST. To the extent and in any manner permitted by law, CONSULTANT/SPECIALIST shall defend, indemnify, and hold DISTRICT, its directors, officers, employees, authorized volunteers and agents, and each of them free and harmless from any claims, demands, liability from loss, damage, or injury to property or persons, including wrongful death, that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of CONSULTANT/SPECIALIST, including CONSULTANT/SPECIALIST'S officers, employees and agents, in connection with the services required by this Agreement, including without limitation, the payment of reasonable attorneys' fees and costs. In no event shall the cost to defend charged to the CONSULTANT/SPECIALIST exceed the CONSULTANT/SPECIALIST'S proportionate percentage of fault, as determined by a court of law. The foregoing indemnity, hold harmless and defense obligation of CONSULTANT/SPECIALIST shall apply except to the extent the loss, damage or injury is caused by the sole negligence or willful misconduct of an indemnified party.
- 6.2** To the extent and in any matter permitted by law, CONSULTANT/SPECIALIST shall defend, indemnify and hold DISTRICT, its directors, officers, employees, authorized volunteers and agents, and each of them free and harmless from and against any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, related to or incident to a breach of any governmental law or regulations, compliance with which is the responsibility of CONSULTANT/SPECIALIST, except any violation of law due to the DISTRICT'S negligence or willful misconduct.
- 6.3** CONSULTANT/SPECIALIST shall defend, at CONSULTANT/SPECIALIST'S own cost, expense and risk, any and all such aforesaid claims, suits, actions or other legal proceedings of every kind that may be brought or instituted against DISTRICT or DISTRICT'S directors, officers, employees, authorized volunteers and agents, and each of them. DISTRICT shall be consulted regarding and approve of the selection of defense counsel.
- 6.4** CONSULTANT/SPECIALIST shall pay and satisfy any judgment, award or decree that may be rendered against DISTRICT or its directors, officers, employees, authorized volunteers and agents, and each of them, in any and all such aforesaid claims, suits, action or other legal proceeding. CONSULTANT/SPECIALIST shall not agree without DISTRICT'S prior written consent, to any settlement which would require DISTRICT to pay any money or perform some affirmative act, including in the case of intellectual property infringement any payment of money or performance of some affirmative act to continue using CONSULTANT/SPECIALIST Products.
- 6.5** CONSULTANT/SPECIALIST'S indemnification, hold harmless and defense obligation shall survive the termination or expiration of this Agreement.

BOILERPLATE HYBRID PSA

7. LAWS, REGULATIONS AND PERMITS.

7.1 CONSULTANT/SPECIALIST shall give all notices required by law and comply with all laws, ordinances, rules and regulations pertaining to the conduct of the services required by this Agreement. CONSULTANT/SPECIALIST shall be liable for, and bear all costs resulting from, any violations of the law in connection with services furnished by CONSULTANT/SPECIALIST, except any violation of the law due to the DISTRICT'S negligence or willful misconduct.

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

a) CONSULTANT/SPECIALIST agrees to comply with and require its subcontractors to comply with the requirements of California Labor Code sections 1720 *et seq.* and 1770 *et seq.*, and California Code of Regulations, title 8, section 16000 *et seq.* (collectively, "Prevailing Wage Laws") and any additional applicable California Labor Code provisions related to such work including, without limitation, payroll recordkeeping requirements. CONSULTANT/SPECIALIST and its subcontractors shall pay not less than the prevailing rate of per diem wages as determined by the Director of the DIR for all services described in this Section 7.2 of the Agreement and as required by law. The general prevailing wage determinations can be found on the DIR website at: [www://dir.ca.gov/dslr](http://www.dir.ca.gov/dslr). Copies of the prevailing rate of per diem wages may be accessed at the DISTRICT'S administrative office, and shall be made available upon request. CONSULTANT/SPECIALIST shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the services described in this Section 7.2 of the Agreement available to interested parties upon request, and shall post and maintain copies at CONSULTANT/SPECIALIST'S principal place of business and at all site(s) where services are performed. Penalties for violation of Prevailing Wage Laws may be assessed in accordance with such laws. For example, CONSULTANT/SPECIALIST shall forfeit, as a penalty to the DISTRICT, Two Hundred Dollars (\$200) for each calendar day, or portion thereof, for each workman paid less than stipulated prevailing rates for services performed under this Agreement by CONSULTANT/SPECIALIST, or any subcontractor under CONSULTANT/SPECIALIST, in violation of Prevailing Wage Laws.

b) CONSULTANT/SPECIALIST and each of its subcontractors shall keep accurate payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by CONSULTANT/SPECIALIST or subcontractor in connection with the services performed pursuant to this Agreement. Each payroll shall be certified, available for inspection, and copies thereof furnished as prescribed in California Labor Code sections 1771.4(a)(3)(A) and 1776, including any required redactions. CONSULTANT/SPECIALIST shall keep the DISTRICT informed as to the location of the records and shall be responsible for the compliance with these requirements by all subcontractors. CONSULTANT/SPECIALIST shall inform the DISTRICT of the location of the

BOILERPLATE HYBRID PSA

payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address. Penalties for noncompliance include a forfeiture of One Hundred Dollars (\$100) per calendar day, or portion thereof, for each worker until strict compliance is effectuated, which may be deducted from any moneys due to CONSULTANT/SPECIALIST.

- c) Eight (8) hours of work shall constitute a legal day's work. CONSULTANT/SPECIALIST and any subcontractors shall forfeit, as a penalty to the DISTRICT, Twenty-Five Dollars (\$25) for each worker employed in the execution of services pursuant to this Agreement by CONSULTANT/SPECIALIST or any subcontractor under him for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one (1) calendar day and forty (40) hours in any calendar week in violation of the provisions of the California Labor Code, in particular, sections 1810 to 1815, thereof, inclusive, except services performed by employees of CONSULTANT/SPECIALIST and its subcontractors in excess of eight (8) hours per day at not less than the rates published by the California Department of Industrial Relations.
- d) CONSULTANT/SPECIALIST'S attention is directed to the provisions of California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning employment of apprentices by CONSULTANT/SPECIALIST or any of its subcontractors. If applicable to the services performed under the Agreement, CONSULTANT/SPECIALIST shall comply with such apprenticeship requirements and submit apprentice information to the DISTRICT. Information relative to apprenticeship standards, wage schedules and other requirements may be obtained from the DIR or the Division of Apprenticeship Standards. Knowing violations of section 1777.5 will result in forfeiture not to exceed One Hundred Dollars (\$100) or Three Hundred Dollars (\$300), depending on the circumstances, for each calendar day of non-compliance pursuant to section 1777.7.
- e) CONSULTANT/SPECIALIST shall require any subcontractors performing services described in this Section 7.2 of the Agreement to comply with all the above.
- f) CONSULTANT/SPECIALIST must be, and must require all subcontractors performing services described in this Section 7.2 to be, registered with and have paid the annual fee to the DIR prior to execution of this Agreement pursuant to Labor Code Section 1725.5. No contractor or subcontractor may be listed on a bid proposal for a public works project, or perform services described in this Section 7.2, unless registered with the DIR pursuant to Labor Code Section 1725.5. No contractor or subcontractor may be awarded a contract for public work on a public works project, or perform services described in this Section 7.2, unless registered with the DIR pursuant to Labor Code Section 1725.5. The performance of services described in this Section 7.2 is subject to compliance monitoring and enforcement by the DIR

8. **SAFETY.**

In carrying out CONSULTANT/SPECIALIST'S services, CONSULTANT/SPECIALIST shall at all times, exercise all necessary precautions for the safety of employees appropriate to the nature of the services and the conditions under which the services are to be performed, and be in compliance with all federal, state and local statutory and regulatory requirements

BOILERPLATE HYBRID PSA

including State of California, Division of Industrial Safety (Cal/OSHA) regulations, and the U.S. Department of Transportation Omnibus Transportation Employee Testing Act (as applicable). Safety precautions as applicable shall include instructions in accident prevention for all employees such as safe walkways, scaffolds, fall protection, ladders, bridges, gang planks, confined space procedures, trenching & shoring, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries.

9. **INSURANCE.**

9.1 **INSURANCE COVERAGE AND LIMITS.**

CONSULTANT/SPECIALIST shall provide and maintain at all times during the performance of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the services hereunder by CONSULTANT/SPECIALIST, its agents, representatives, employees or subcontractors. Claims made policies shall not satisfy these insurance requirements unless CONSULTANT/SPECIALIST notifies DISTRICT and obtains DISTRICT'S prior written consent to the use of such claims made policies.

Coverage – CONSULTANT/SPECIALIST shall maintain coverage at least as broad as the following:

- a) Coverage for Professional Liability appropriate to CONSULTANT/SPECIALIST'S profession covering CONSULTANT/SPECIALIST'S wrongful acts, negligent actions, errors or omissions. The retroactive date (if any) is to be no later than the effective date of this Agreement.
- b) Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001).
- c) Insurance Services Office Automobile Liability Coverage (Form CA 0001), covering Symbol 1 (any auto).
- d) Workers' Compensation insurance as required by the State of California and Employers Liability insurance.

Limits - CONSULTANT/SPECIALIST shall maintain limits no less than the following:

- a) Professional Errors and Omissions Liability - One million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) annual aggregate.

Professional Errors and Omissions Liability is required if CONSULTANT/SPECIALIST provides or engages in any type of professional services including, but not limited to engineers, architects and construction management.

- b) General Liability - One million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit or products-completed operations aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent

BOILERPLATE HYBRID PSA

endorsement provided to DISTRICT) or the general aggregate limit and products-completed operations aggregate limit shall be twice the required occurrence limit.

- c) Automobile Liability - One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.
- d) Workers' Compensation insurance with statutory limits as required by California law and Employer's Liability insurance with a limit of no less than One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

9.2 REQUIRED PROVISIONS. The insurance policies are to contain, or be endorsed to contain the following provisions:

- a) DISTRICT, its directors, officers, or employees are to be covered as insureds on the CGL and auto policies with respect to liability arising out of automobiles owned, leased, hired, or borrowed by on or behalf of CONSULTANT/SPECIALIST; and with respect to liability arising out of services or operations performed by or on behalf of CONSULTANT/SPECIALIST including materials, parts, or equipment furnished in connection with such services or operations. General liability coverage can be provided in the form of an endorsement to CONSULTANT/SPECIALIST'S insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used). The coverage shall contain no special limitations on the scope of protection afforded to DISTRICT, its directors, officers, employees, or authorized volunteers. The Project Name shall also be included.
- b) For any claims related to the services provided hereunder, CONSULTANT/SPECIALIST'S insurance shall be primary insurance as respects DISTRICT, its directors, officers, employees, and authorized volunteers. Any insurance, self-insurance, or other coverage maintained by DISTRICT, its directors, officers, or employees shall not contribute to it.
- c) Each insurance policy specified above are to state or be endorsed to state that coverage shall not be canceled except after thirty (30) days prior written notice (ten (10) days for non-payment of premium) by U.S. mail has been provided to DISTRICT.
- d) In the event any change is made in the insurance carrier, scope of coverage or retroactive date of professional liability coverage required under this Agreement (if applicable), CONSULTANT/SPECIALIST shall notify DISTRICT prior to any changes.

9.3 PERFORMANCE BONDS (if applicable). CONSULTANT/SPECIALIST shall furnish performance and payment Bonds for the faithful performance and payment of all their obligations under this Contract Agreement. Each Bond shall be in penal sums at least equal to the Contract Price unless otherwise stated in the RFP, and in such form and with such sureties as are acceptable to DISTRICT. Prior to execution of the Contract Agreement DISTRICT may require the Contractor to furnish other Bonds in such form and with such sureties acceptable to DISTRICT. Sureties, to be acceptable to DISTRICT, shall be legally authorized to do business in the State and jurisdiction where the Work is to be constructed and shall have assets that exceed its liabilities in an amount equal to, or in

BOILERPLATE HYBRID PSA

excess of, the amount of the bond. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California. The bidder shall also be required to submit along with the proposal and bond the following documents:

- a) The original, or a certified copy, of the unrevoked appointment, power of attorney, bylaws, or other instrument entitling or authorizing the person who executed the bond to do so.
- b) A certified copy of the authority of the insurer by the Insurance Commissioner.
- c) Proof that the Surety is named in the current list of "Surety Companies Acceptable on Federal Bonds" as published by the United States Treasury Department.
- d) Proof that the Surety has an "A" policyholder's rating and a financial rating of at least Class VII in accordance with the most current rating by A.M. Best Company.

The performance bond shall remain in full force and effect for the entire guarantee period as provided in Paragraphs 9.4 and 9.5. If such Bonds are required by written instructions given prior to the opening of Bids, the premiums shall be paid by the CONSULTANT/SPECIALIST; if subsequent thereto, they will be paid by DISTRICT. If at any time a surety on any such Bond is declared bankrupt or loses its right to do business in the State or jurisdiction in which the Work is to be performed or is removed from the list of Surety Companies Acceptable on Federal Bonds, the CONSULTANT/SPECIALIST, within ten (10) work days after notice by DISTRICT to do so, shall substitute an acceptable Bond or Bonds in such form and sum and signed by such other surety or sureties as may be satisfactory to DISTRICT. The premium on such Bond or Bonds shall be paid by the CONSULTANT/SPECIALIST. No further payments shall be deemed due nor shall be made to the CONSULTANT/SPECIALIST until the new surety or sureties shall have furnished an acceptable Bond or Bonds to DISTRICT.

9.4 PRODUCT WARRANTY (if applicable). CONSULTANT/SPECIALIST shall warrant and guarantee that the entire Work constructed under the Contract Agreement fully meets all requirements of the Contract, and material furnished by CONSULTANT/SPECIALIST shall be new and of specified quality, shall be free from defects, shall conform to the Contract Documents, Specifications, and Drawings and will be free from any security interest, lien or other encumbrances.

CONSULTANT/SPECIALIST shall further warrant and guarantee that all Work, including materials, articles, and equipment furnished by the CONSULTANT/SPECIALIST under the Contract, shall be free of deficiencies and defects for the guarantee period of 12 months, unless otherwise specified in specific Specifications sections, after the date of the recording of the Notice of Completion, unless otherwise specified in the Contract. Any defective Work corrected during the warranty period shall be similarly warranted for 12 months following its corrections, or for such other period as specified in the Contract.

CONSULTANT/SPECIALIST shall further warrant and guarantee to make or have made at CONSULTANT/SPECIALIST expense repairs, adjustments, replacements, or other corrective work necessary to restore or bring into full compliance with the requirements of the Specifications or Drawings any part of the Work which during the guarantee period is found to be deficient with respect to any provision of the Specifications or Drawings.

BOILERPLATE HYBRID PSA

If a defect or deficiency is of a kind which in the opinion of DISTRICT requires immediate correction to avoid injury to DISTRICT or adversely DISTRICT'S operations, DISTRICT may make or have made such repairs, adjustments, replacements, or other corrective work and the CONSULTANT/SPECIALIST agrees to promptly pay DISTRICT invoice for the corrective work.

If a defect or deficiency is of a kind which in the opinion of DISTRICT does not require immediate correction but the CONSULTANT/SPECIALIST has failed to undertake corrective work within 10 work days of receipt of written notice from DISTRICT, DISTRICT may make or have made such repairs, adjustments, replacements, or other corrective work without waiving any other rights or remedies it may have, at law or otherwise and the CONSULTANT/SPECIALIST agrees to promptly pay DISTRICT invoice for the corrective work.

DISTRICT will have the right to use deficient material and equipment after installation until it can be taken out of service without expense to DISTRICT.

The guarantees and agreements set forth herein shall be secured by the "Faithful Performance Bond" furnished by the CONSULTANT/SPECIALIST to DISTRICT at the time of execution of the Contract, which bond shall be deemed to continue in effect during the period of guarantee.

The express warranty set forth in the Specifications is exclusive and no other warranties of any kind, whether statutory, oral, written, express or implied, including any implied warranty of merchantability or fitness for a particular purpose, shall apply.

When guarantee and warranty provisions are stated in other sections of the Specifications, the more stringent provisions shall govern.

This guarantee is not the exclusive remedy for DISTRICT in the event of any breach of this Contract.

- 9.5 PROFESSIONAL WARRANTY (if applicable).** CONSULTANT/SPECIALIST represents and warrants that: (a) the Professional Services will be performed in a professional and workmanlike manner with a degree of care, skill and competence that is consistent with generally accepted industry standards reasonably expected of similar types of engagements, and (b) the Deliverables will substantially conform to the description and specifications set forth in _____ for the specified period after delivery or if none stated, a period of XX days after the date of delivery ("Warranty Period"). To the extent any Professional Services or Deliverables do not substantially conform to the foregoing warranties, CONSULTANT/SPECIALIST shall promptly re-perform the Professional Services and/or re-submit the Deliverables. If after receiving notice of non-conformity CONSULTANT/SPECIALIST determines that the Professional Services cannot be performed or the Deliverables cannot reasonably be delivered pursuant to the specifications, within the Warranty Period, DISTRICT may elect to remedy or receive such Professional Services or Deliverable through another contractor and CONSULTANT/SPECIALIST shall reimburse DISTRICT within XX days of request by DISTRICT. This warranty will apply only if: (a) no modification, alteration or addition has been made to the Deliverable(s) other than with CONSULTANT/SPECIALIST'S written

BOILERPLATE HYBRID PSA

consent; and (b) receives written notification of the breach during the applicable Warranty Period.

CONSULTANT/SPECIALIST warrants that any drawings and specifications, reports or other documents submitted by Contractor to Agency shall be complete and unambiguous and in compliance with all applicable codes, ordinances, statutes, regulations and laws.

9.6 WAIVER OF SUBROGATION. CONSULTANT/SPECIALIST hereby agrees to waive rights of subrogation which any insurer of CONSULTANT/SPECIALIST may acquire from CONSULTANT/SPECIALIST by virtue of the payment of any loss. CONSULTANT/SPECIALIST agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of DISTRICT for all services performed by CONSULTANT/SPECIALIST, its employees, agents and subcontractors.

9.7 DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductible or self-insured retention must be declared to and approved by DISTRICT. At the option of DISTRICT, the insurer shall either reduce or eliminate such deductibles or self-insured retention.

9.8 ACCEPTABILITY OF INSURERS. Insurance is to be placed with insurers having a current A.M. Best rating of no less than A:VII or equivalent or as otherwise acceptable to DISTRICT.

9.9 EVIDENCES OF INSURANCE. Prior to execution of this Agreement, CONSULTANT/SPECIALIST shall furnish DISTRICT with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this Agreement. All certificates and endorsements are to be received and approved by DISTRICT before services commence. However, failure to obtain the required documents prior the services beginning shall not waive CONSULTANT/SPECIALIST'S obligation to provide them.

CONSULTANT/SPECIALIST shall, upon demand of DISTRICT at any time, deliver to DISTRICT complete, certified copies or all required insurance policies, including endorsements, required by this Agreement.

9.10 SUBCONTRACTORS. In the event that CONSULTANT/SPECIALIST employs subcontractors as part of the services covered by this Agreement, it shall be the CONSULTANT/SPECIALIST'S responsibility to require and verify that each subcontractor meets the minimum insurance requirements specified in this Agreement.

10. NO CONFLICT OF INTEREST.

If CONSULTANT/SPECIALIST is providing services related to a DISTRICT project, CONSULTANT/SPECIALIST shall not be financially interested in any other contract necessary for the undertaking of the project. For the limited purposes of interpreting this section, CONSULTANT/SPECIALIST shall be deemed a "district officer or employee", and this section shall be interpreted in accordance with California Government Code Section 1090. In the event that CONSULTANT/SPECIALIST becomes financially interested in any other contract necessary for the undertaking of the project, this Agreement shall be null and void and DISTRICT shall be relieved of any responsibility whatsoever to provide

BOILERPLATE HYBRID PSA

compensation under the terms and conditions of any such contract for those services performed by CONSULTANT/SPECIALIST.

11. OWNERSHIP OF DOCUMENTS.

All documents, drawings, reports, and specifications, including details, computations, code, scripts, workflows, and other documents, prepared or provided by CONSULTANT/SPECIALIST under this Agreement shall be the property of DISTRICT. DISTRICT agrees to hold CONSULTANT/SPECIALIST free and harmless from any claim arising from any use, other than the purpose intended, of the documents and all preliminary sketches, schematics, preliminary plans, architectural perspective renderings, working drawings, including details, computations, and other documents, prepared or provided by CONSULTANT/SPECIALIST. CONSULTANT/SPECIALIST may retain a copy of all material produced under this Agreement for the purpose of documenting their participation in this Project.

12. CONFIDENTIAL INFORMATION.

Any written, printed, graphic, or electronically or magnetically recorded information furnished by DISTRICT for CONSULTANT/SPECIALIST'S use are the sole property of DISTRICT. CONSULTANT/SPECIALIST and its employee(s) shall keep this information in the strictest confidence, and will not disclose it by any means to any person except with DISTRICT'S prior written approval, and only to the extent necessary to perform the services under this Agreement. This prohibition also applies to CONSULTANT/SPECIALIST'S employees, agents and subcontractors. On termination or expiration of this Agreement, CONSULTANT/SPECIALIST shall promptly return any such confidential information in its possession to DISTRICT.

13. COMPENSATION.

13.1 For services performed by CONSULTANT/SPECIALIST in accordance with this Agreement, DISTRICT shall pay CONSULTANT/SPECIALIST in accordance with the schedule of billing rates set forth in Exhibit "A", attached hereto and incorporated herein by reference. This is a Time-and-Materials contract. Overtime work must be authorized by the DISTRICT. No hourly rate changes shall be made during the term of this Agreement. **CONSULTANT/SPECIALIST'S compensation for all services performed in accordance with this Agreement shall not exceed the total contract price of \$_____.** No services shall be performed by CONSULTANT/SPECIALIST in excess of the total contract price without prior written approval of the General Manager or Authorized Representative. CONSULTANT/SPECIALIST shall obtain approval from the General Manager or Authorized Representative prior to performing any services that result in incidental expenses to the DISTRICT.

13.2 CONSULTANT/SPECIALIST shall maintain accounting records including the following information:

- a) Names and titles of employees or agents, types of services performed, and times and dates of all services performed in connection with Agreement that is billed on an hourly basis.

BOILERPLATE HYBRID PSA

- b) All incidental expenses including reproductions, computer printing, postage, mileage billed at current Internal Revenue Service ("IRS") Rate, and subsistence.
- 13.3** CONSULTANT/SPECIALIST'S accounting records shall be made available to DISTRICT Accounting Manager, for verification of billings, within a reasonable time of the Accounting Manager's request for inspection.
- 13.4** CONSULTANT/SPECIALIST shall submit monthly invoices to DISTRICT. DISTRICT shall make partial payments to CONSULTANT/SPECIALIST not to exceed the total contract price within thirty (30) days of receipt of invoice, subject to the approval of the General Manager or Authorized Representative. ***Each application for partial payment shall be accompanied with a Progress Report summarizing the status of the services performed.***
- 13.5** DISTRICT reserves the right to withhold payments for work to cover potential or nonconforming work. Additionally, the DISTRICT may elect not to make a particular payment if any of the following exists:
- a) CONSULTANT/SPECIALIST with or without knowledge, made any misrepresentation of substantial and material nature with respect to any information furnished to DISTRICT.
 - b) CONSULTANT/SPECIALIST took an action without receiving DISTRICT'S prior approval as required under this Contract.
 - c) CONSULTANT/SPECIALIST is in default of a term or condition of this Contract.
- 13.6** CONSULTANT/SPECIALIST shall ensure that any report generated under this Agreement shall comply with Government Code Section 7550.

14. TERMINATION OF AGREEMENT.

- 14.1 TERMINATION FOR CAUSE.** If DISTRICT ("demanding party") has a good faith belief that CONSULTANT/SPECIALIST is not complying with the terms of this Agreement or is deemed non-responsive or non-responsible, DISTRICT shall give written notice of the default (with reasonable specificity) to CONSULTANT/SPECIALIST and demand the default to be cured within ten (10) calendar days of the notice. Responsive is defined as conforming with material requirements and responsible is defined as possessing the attributes of trustworthiness, quality, fitness, capacity, and experience to satisfactorily perform the contract.

If CONSULTANT/SPECIALIST fails to cure the default within ten (10) calendar days of the notice, or if more than ten (10) calendar days are reasonably required to cure the default, and CONSULTANT/SPECIALIST fails to give adequate assurance and due performance within ten (10) calendar days of the notice, DISTRICT may terminate this Agreement upon written notice to CONSULTANT/SPECIALIST. In the event of a material breach of any representation or term of this Agreement by CONSULTANT/SPECIALIST that is not curable or results in a threat to health or safety, DISTRICT may immediately terminate this Agreement by providing written notice and without a cure period.

BOILERPLATE HYBRID PSA

Upon termination, DISTRICT shall pay CONSULTANT/SPECIALIST for any services completed up to and including the date of termination of this Agreement, in accordance with the compensation Section 13. DISTRICT shall be required to compensate CONSULTANT/SPECIALIST only for services performed in accordance with the Agreement up to and including the date of termination.

- 14.2 TERMINATION FOR CONVENIENCE.** DISTRICT shall have the express right to terminate this Contract at any time without cause by giving seven (7) consecutive days advanced written notice to CONSULTANT/SPECIALIST. This Contract shall be automatically terminated without further action of any party upon expiration of the seven (7) day period.

Promptly upon receipt of any termination notice from the DISTRICT, CONSULTANT/SPECIALIST shall cease all further work and services, except as otherwise expressly directed by the DISTRICT in the written termination notice. In the event the DISTRICT exercises its termination right, CONSULTANT/SPECIALIST shall be paid only for work and services performed and approved by the DISTRICT to the date this Agreement terminates. The DISTRICT shall have the express right to withhold any payment otherwise due CONSULTANT/SPECIALIST to correct any labor or materials determined to be defective by the DISTRICT at the time of termination.

All plans, maps, drawings, reports, designs, or other writings of any type or nature prepared by CONSULTANT/SPECIALIST as a result of this Agreement shall become and remain the sole property of the DISTRICT. All such writings shall be provided to the DISTRICT not later than seven (7) consecutive days after termination of this Contract for any reason. All labor, supplies, work and materials provided by CONSULTANT/SPECIALIST in conjunction with this Contract shall become and remain the sole property of the DISTRICT.

15. CONSULTANT/SPECIALISTCONSULTANT/SPECIALISTASSIGNMENT AND DELEGATION.

- 15.1** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of CONSULTANT/SPECIALIST'S duties be delegated or subcontracted, without the express written consent of DISTRICT. Any attempt to assign or delegate this Agreement without the express written consent of DISTRICT shall be void and of no force or effect. Consent by DISTRICT to one assignment shall not be deemed to be consent to any subsequent assignment.

- 15.2** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

16. AUDIT DISCLOSURE.

Pursuant to Government Code section 8546.7, if the Agreement is over ten thousand dollars (\$10,000), it is subject to examination and audit of the State Auditor, at the request of DISTRICT or as part of any audit of DISTRICT, for a period of three (3) years after final payment under the Agreement. CONSULTANT/SPECIALIST shall cooperate with any such examination or audit at no cost to DISTRICT.

BOILERPLATE HYBRID PSA

17. **ENTIRE AGREEMENT.**

This Agreement, and the attached Exhibit "A", comprise the entire integrated understanding between DISTRICT and CONSULTANT/SPECIALIST concerning the services to be performed pursuant to this Agreement and supersedes all prior negotiations, representations, or agreements whether express or implied, oral or written. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms herein. In the event of any conflict between the provisions of the Agreement and the Exhibit(s), the terms of the Agreement shall prevail.

18. **INTERPRETATION OF THE AGREEMENT.**

18.1 The interpretation, validity, and enforcement (including, without limitation, provisions concerning limitations of actions) of the Agreement shall be governed by and construed under the laws of the State of California, notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary and without the aid of any canon, custom or rule requiring construction against the draftsman. The Agreement does not limit any other rights or remedies available to DISTRICT.

18.2 CONSULTANT/SPECIALIST shall be responsible for complying with all applicable local, state, and federal laws whether or not said laws are expressly stated or referred to herein.

18.3 Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

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

19. **AGREEMENT MODIFICATION.**

This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.

20. **DISPUTE RESOLUTION.**

Upon the written demand of either party, any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, shall be first submitted to mediation the cost of which shall be borne equally by the parties, if not resolved pursuant to the Government Claims Act, Government Code section 900 *et seq.* if applicable, and prior the commencement of any legal action or other proceeding. Any mediation shall take place in the State of California, County of San Diego, and shall be concluded within sixty (60) days of the written demand, unless such time is extended by mutual written consent of the parties. Nothing herein waives or excuses compliance with the California Government Claims Act.

BOILERPLATE HYBRID PSA

In the event that mediation has not been successfully concluded within the time allowed, any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in the State of California, County of San Diego, before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures if the amount in controversy is equal or greater than Two Hundred Fifty Thousand Dollars (\$250,000), or pursuant to its Streamlined Arbitration Rules and Procedures if the amount in controversy is less than Two Hundred Fifty Thousand Dollars (\$250,000). The use of arbitration shall allow full discovery by all parties associated with the dispute or claim. Judgment on the award may be entered in any court having jurisdiction. This clause shall not preclude the parties from seeking provisional remedies in aid of arbitration from a court of competent jurisdiction. The arbitrator may, in the award, allocate all or a part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party. If either party petitions to confirm, correct or vacate the award as provided by Chapter 4, of Title 9 of the California Code of Civil Procedure (commencing with Section 1285), the prevailing party shall be entitled as part of his or its costs to reasonable attorneys' fees to be fixed by the Court.

21. JURISDICTION, FORUM AND VENUE.

Except as otherwise required by Section 20 of this Agreement concerning dispute resolution, the proper jurisdiction, forum and venue for any claims, causes of action or other proceedings concerning this Agreement shall be in the state and federal courts located in the State of California, northern district of the County of San Diego. DISTRICT and CONSULTANT/SPECIALIST agree not to bring any action or proceeding arising out of or relating to this Agreement in any other jurisdiction, forum or venue. DISTRICT and CONSULTANT/SPECIALIST hereby submit to personal jurisdiction in the State of California for the enforcement of this Agreement and hereby waive any and all personal rights under the law of any state to object to jurisdiction within the State of California for the purposes of any legal action or proceeding to enforce this Agreement whether on grounds of inconvenient forum or otherwise.

22. MAILING ADDRESSES.

Notices given pursuant to this Agreement shall be deemed communicated as of the earlier of the day of receipt or the fifth (5th) calendar day after deposit in the United States mail, postage prepaid, and addressed to the following:

DISTRICT: **Rainbow Municipal Water District**
 3707 Old Hwy 395
 Fallbrook, CA 92028
 Phone: (760) 728-1178

CONSULTANT/SPECIALIST: _____

BOILERPLATE HYBRID PSA

Notices delivered personally will be deemed communicated as of actual receipt.

23. SIGNATURES.

Each party represents that the individual executing this Agreement on its behalf has the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of such party.

24. COUNTERPARTS.

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

25. ATTORNEY'S FEES.

In the event of a dispute arising under terms of this Agreement, it is agreed that the prevailing party may be awarded reasonable attorneys' fees and actual costs.

IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Agreement to be executed.

BOILERPLATE HYBRID PSA

CONSULTANT/SPECIALIST _____ RAINBOW MUNICIPAL WATER DISTRICT

By _____
CONSULTANT/SPECIALIST

By _____
TOM KENNEDY, GENERAL
MANAGER

PRINT NAME

Date: _____

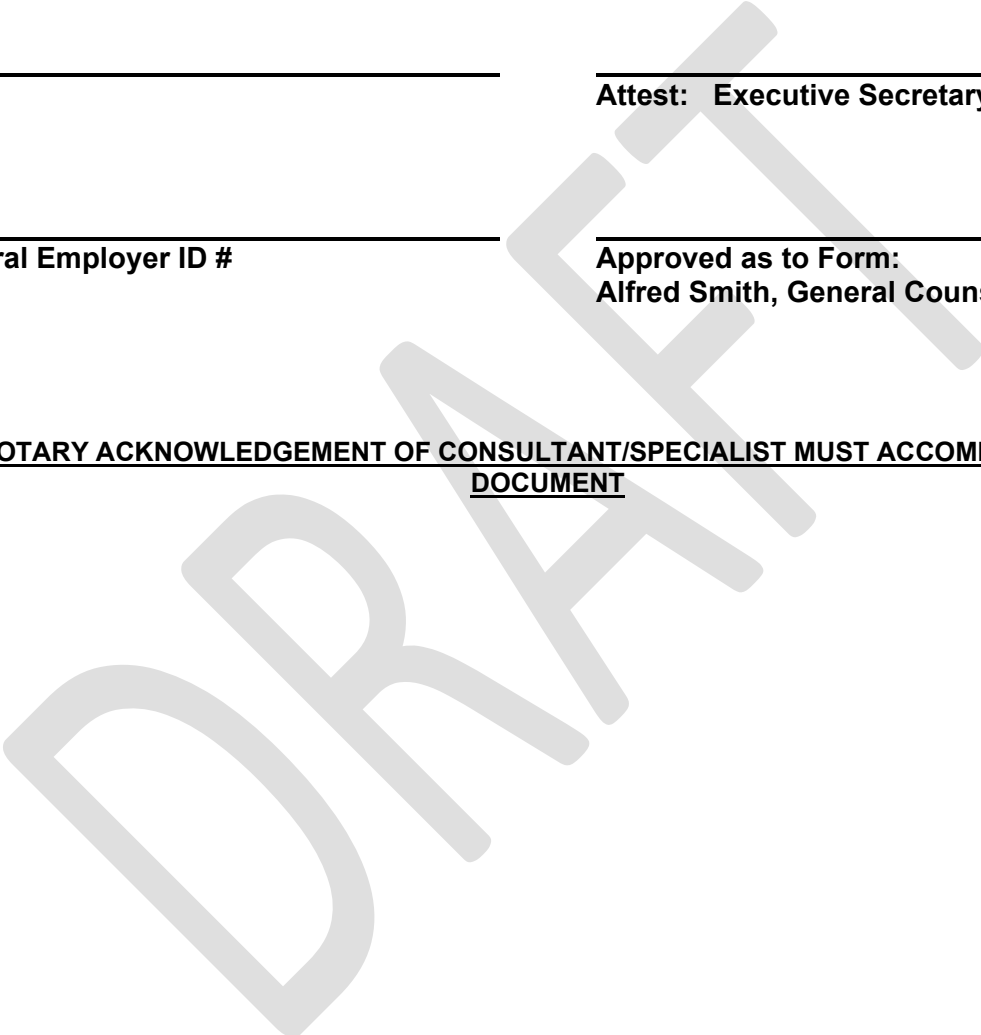
Date: _____

Attest: Executive Secretary

Federal Employer ID #

Approved as to Form:
Alfred Smith, General Counsel

NOTARY ACKNOWLEDGEMENT OF CONSULTANT/SPECIALIST MUST ACCOMPANY THIS DOCUMENT



**AS-NEEDED CONTRACT EXPENDITURES REPORT
NOVEMBER 2021**

CONTRACT INFO	FUND SOURCE	ASSIGN. NO.	STATUS	DATED	DESCRIPTION	AUTHORIZED AMOUNT	NOT TO EXCEED AMOUNT	INVOICED TO DATE	CURRENT BALANCE
Title: As-Needed Land Surveying Services Firm: Johnson-Frank & Assoc. Expires: 8/29/2022* (C#18-16) *One year extension.	NON-CIP	2019-01	Closed	5/14/2019	Topography - Dentre De Lomas Road repair.		\$ 5,115.40	\$ 5,115.40	
	NON-CIP	2019-02	Closed	8/6/2019	Easement review - McDowell / Mead.		\$ 4,100.00	\$ 1,404.25	
	NON-CIP	2020-03	Closed	9/19/2020	Survey & Reset Monument on Los Alisos Lane.		\$ 6,079.00	\$ 4,297.76	
	CIP	2021-04	Open	5/3/2021	Prepare Plat Map - Thoroughbred Lift Station		\$ 11,592.00	\$ -	
						\$ 50,000.00	\$ 26,886.40	\$ 10,817.41	\$ 39,182.59
Title: As-Needed Land Surveying Services Firm: KDM Meridian, Inc. Expires: 8/29/2022* (C#18-14) *One year extension.	NON-CIP	2018-01	Closed	9/11/2018	Stake easement on Morro Hills due to 20" watermain failure.		\$ 7,280.00	\$ 7,278.75	
	CIP	2019-02	Closed	1/9/2019	RMWD "Base Map" to perform in-house design of proposed water facilities on Via Ararat.		\$ 5,800.00	\$ 5,800.00	
	CIP	2019-03	Cancelled	---	Assignment Cancelled - 4 PTR Plottable Easements.		\$ -	\$ -	
	CIP	2019-04	Closed	4/24/2019	Stake easement on Gird Road for construction project.		\$ 5,400.00	\$ 5,400.00	
	CIP	2019-05	Closed	6/18/2019	Legal and Plat for Campbell - Via Ararat.		\$ 1,195.00	\$ 1,195.00	
	NON-CIP	2019-06	Closed	10/24/2019	Stake easement on Via Oeste Drive and Laketree Drive.		\$ 10,900.00	\$ 7,725.00	
	CIP	2019-07	Closed	11/8/2019	Easements for new PS on W. Lilac/Via Ararat.		\$ 4,100.00	\$ 1,100.00	
	NON-CIP	2020-08	Closed	4/6/2020	Linda Vista Drive - Mainline Break.		\$ 5,563.00	\$ 5,562.50	
	CIP	2020-09	Closed	4/6/2020	Gird Road - Winery easement analysis and exhibit.		\$ 7,680.00	\$ 6,900.00	
	CIP	2020-10	Closed	9/1/2020	Additional Gird Road - Winery easement analysis and new exhibit.		\$ 5,320.00	\$ 5,320.00	
	CIP	2020-11	Closed	11/6/2020	Easement for Hialeah PRS - Via De La Reina.		\$ 3,990.00	\$ 2,545.00	
	NON-CIP	2020-12	Closed	12/3/2020	Stake easement - Winterhaven Court		\$ 4,490.00	\$ 3,527.50	
	NON-CIP	2020-13	Closed	12/16/2020	Legal and Plat for Gird Road - Winery.		\$ 5,460.00	\$ 5,460.00	
	CIP	2021-14	Open	1/29/2021	Survey & staking of easements - Rancho Amigos. Auth \$815 over. (Staff evaluating if more work may be needed.)		\$ 7,530.00	\$ 8,345.00	
	CIP	2021-15	Closed	5/27/2021	Survey & staking of easement - Turner Pump Station. (Staff evaluating if more work may be needed.)		\$ 5,665.00	\$ 5,665.00	
	NON-CIP	2021-16	Closed	7/22/2021	Prepare documentation to file a quit claim for Rainbow easement at Fire Station 4.		\$ 1,500.00	\$ 1,500.00	
	NON-CIP	2021-17	Closed	7/29/2021	Bonsall Park prepare documentation for new easement and quit claim documentation for existing easement.		\$ 7,240.00	\$ 7,210.00	
						\$ 150,000.00	\$ 89,113.00	\$ 80,533.75	\$ 69,466.25
Title: As-Needed Land Surveying Services Firm: Right-of-Way Eng. Expires: 8/29/2022* (C#18-15) *One year extension.	NON-CIP	2019-00A	Closed	5/15/2019	Title Reports, Legals & Plats - Los Sicomoros.		\$ 7,705.00	\$ 7,705.00	
	NON-CIP	2019-00B	Closed	6/18/2019	Adams Property Easement - Ranger Road.		\$ 1,885.00	\$ 1,885.00	
	CIP	2019-00C	Closed	6/30/2019	Pardee Easement - North River.		\$ 2,875.00	\$ 2,875.00	
	NON-CIP	2019-01	Closed	6/19/2019	Easement Survey - Grove View Road.		\$ 4,220.00	\$ 3,285.00	
	CIP	2019-02	Closed	10/3/2019	Easement Survey - Pala Mesa/Tecalote/Fire Rd/Pala Lake.		\$ 15,640.00	\$ 15,451.30	
	CIP	2019-03	Closed	11/6/2019	Easement Survey - Moosa Creek Pump Station. Restake and reconfigure easement authorized additional \$525.		\$ 5,675.20	\$ 5,675.20	
CIP	2020-04	Closed	2/19/2020	Lemonwood Easement Location.		\$ 5,370.00	\$ 4,390.00		
CIP	2020-05	Closed	6/9/2020	Easement Survey - Hutton Pump Station.		\$ 5,687.50	\$ 4,577.50		

**AS-NEEDED CONTRACT EXPENDITURES REPORT
NOVEMBER 2021**

CONTRACT INFO	FUND SOURCE	ASSIGN. NO.	STATUS	DATED	DESCRIPTION	AUTHORIZED AMOUNT	NOT TO EXCEED AMOUNT	INVOICED TO DATE	CURRENT BALANCE
	CIP	2020-06	Closed	7/30/2020	Easement Survey - Rainbow Heights Rd - Calfire Camp Site .		\$ 5,756.00	\$ 4,177.60	
	CIP	2020-07	Closed	8/26/2020	Easement Survey - RHR - Calfire Camp Site Additional Services. Cancelled.		\$ 2,276.00	\$ -	
	CIP	2020-08	Closed	10/19/2020	Easement Survey - OHE Rancho Del Caballo.		\$ 1,620.00	\$ 1,445.00	
	CIP	2020-09	Closed	11/3/2020	Easement Survey - Rainbow Heights Rd. Westside - Calfire Camp Site.		\$ 11,521.00	\$ 8,449.20	
	CIP	2021-10	Closed	1/11/2021	Topographic Survey - Rainbow Heights Road		\$ 8,820.00	\$ 8,525.00	
	CIP	2021-11	Closed	1/19/2021	Easement Survey - Skycrest Drive.		\$ 7,710.00	\$ 4,162.60	
	CIP	2021-12	Open	2/4/2021	Easement Survey, Legal Desc./Plat Map - Camino Del Cielo. (Staff evaluating if more work may be needed.)		\$ 5,490.00	\$ 5,827.50	
	CIP	2021-13	Open	2/23/2021	Easement Survey/County ROW Marking, Topo Map - Camino Del Cielo. (Staff evaluating if more work may be needed.)		\$ 2,320.00	\$ 2,320.00	
	CIP	2021-14	Closed	2/23/2021	Easement Survey - Skycrest Drive.		\$ 4,720.00	\$ 795.00	
					CO-01 for \$50K BoD 5/26/20, CO-02 for \$50K BoD 6/22/21.	\$ 150,000.00	\$ 99,290.70	\$ 81,545.90	\$ 68,454.10
Title: As-Needed Civil Engineering Services	Both	2019-01	Closed	12/18/2019	PRS and other Schematic Design/Drafting Services.		\$ 10,000.00	\$ 7,527.50	
Firm: Dudek	CIP	2020-02	Closed	8/5/2020	Design of Hutton Pump Station Site - Assignment Cancelled.		\$ 1,787.50	\$ 1,787.50	
Expires: 6/25/2022 (C# 19-16)									
					CO-01 for (\$100K) BoD 6/22/21.	\$ 50,000.00	\$ 11,787.50	\$ 9,315.00	\$ 40,685.00
Title: As-Needed Civil Engineering Services	NON-CIP	2019-01	Closed	7/16/2019	PS&E Pavement Repair - Dentro De Lomas.		\$ 8,890.00	\$ 8,890.00	
Firm: Omnis Consulting, Inc.	CIP	2019-02	Closed	8/1/2019	Olive Hill Estates Transmission Water Main.		\$ 73,700.00	\$ 73,700.00	
Expires: 7/01/2022 (C#19-17)	CIP	2019-03	Closed	10/14/2019	Vista Valley Retaining Wall Design.		\$ 23,495.00	\$ 23,040.67	
	CIP	2019-04	Closed	12/3/2019	Sarah Ann to Gird Road Force Main Replacement.		\$ 22,790.00	\$ 22,790.00	
	CIP	2020-05	Closed	3/24/2020	Gird Road Water Main Upsize.		\$ 21,120.00	\$ 21,120.00	
	CIP	2020-06	Closed	8/5/2020	Caltrans Encroachment Permit Renewal.		\$ 6,410.00	\$ 3,670.00	
	NON-CIP	2020-07	Open	10/14/2020	Standard Drawing - CAD Updates.		\$ 4,400.00	\$ 2,200.00	
	NON-CIP	2020-08	Closed	10/29/2020	PEIR Pipe Alignment Analysis.		\$ 19,920.00	\$ 19,920.00	
	CIP	2021-09	Open	4/19/2021	Sarah Ann Waterline Replacement.		\$ 6,800.00	\$ 5,265.00	
	CIP	2021-10	Open	4/19/2021	Rainbow Water Quality Improvement Relocation Design. Amended for additional design services.		\$ 13,900.00	\$ 8,560.00	
	CIP	2021-11	Open	6/9/2021	Wilt Road Water Pipeline Design.		\$ 45,905.00	\$ 33,214.00	
	CIP	2021-10A	Open	10/26/2021	Rainbow Water Quality Improvement Relocation Design. Amended for additional design services.		\$ 6,290.00	\$ -	
					CO-01 for \$150K BoD 6/23/20.	\$ 300,000.00	\$ 253,620.00	\$ 222,369.67	\$ 77,630.33
Title: As-Needed Civil Engineering Services	CIP	2019-01	Open	12/18/2019	Live Oak Park Road Bridge Crossing.		\$ 42,020.00	\$ 30,685.00	
Firm: HydroScience Eng., Inc.									
Expires: 6/25/2022 (C#19-18)									
					CO-01 for (\$40K) BoD 6/22/21.	\$ 110,000.00	\$ 42,020.00	\$ 30,685.00	\$ 79,315.00

**AS-NEEDED CONTRACT EXPENDITURES REPORT
NOVEMBER 2021**

CONTRACT INFO	FUND SOURCE	ASSIGN. NO.	STATUS	DATED	DESCRIPTION	AUTHORIZED AMOUNT	NOT TO EXCEED AMOUNT	INVOICED TO DATE	CURRENT BALANCE
Title: As-Needed Real Estate Appraisal Services Firm: Anderson & Brabant, Inc. Expires: 6/25/2022 (C# 19-19)	CIP	2019-01	Closed	9/19/2019	North River Rd Easement Appraisal.		\$ 3,500.00	\$ 3,500.00	
	CIP	2020-02	Closed	2/19/2020	PRS Fire Road Appraisal.		\$ 7,500.00	\$ 7,500.00	
	CIP	2021-03	Open	4/28/2021	Hutton Pump Station Site Appraisal. (Staff evaluating if more work may be needed.)		\$ 7,500.00	\$ 7,500.00	
	CIP	2021-04	Open	8/11/2021	Thoroughbred Lift Station Appraisal. (Four Reports)		\$ 17,500.00	\$ 17,500.00	
					CO-01 for \$20K BoD 6/22/21.	\$ 40,000.00	\$ 36,000.00	\$ 36,000.00	\$ 4,000.00
Title: As-Needed Real Estate Appraisal Services Firm: ARENS Group, Inc. Expires: 6/11/22 (C# 19-20)	NON-CIP	2019-01	Closed	7/15/2019	Bonsall Reservoir Appraisal (to include rent value).		\$ 3,050.00	\$ 3,050.00	
	CIP	2020-02	Closed	1/7/2020	Moosa Creek Pump Station Easement Appraisal.		\$ 5,350.00	\$ 6,542.50	
	CIP	2020-03	Closed	1/7/2020	Hutton Pump Station Easement Appraisal.		\$ 3,400.00	\$ 3,400.00	
					CO-01 for \$20K BoD 6/22/21.	\$ 40,000.00	\$ 11,800.00	\$ 12,992.50	\$ 27,007.50
Title: As-Needed Geotechnical Services Firm: Leighton Consulting, Inc. Expires: 11/13/2022 (C# 19-39)	CIP	2020-01	Closed	6/25/2020	Rainbow Heights Pump Station geotechnical exploration.		\$ 8,630.00	\$ 8,484.20	
	CIP	2021-02	Open	4/15/2021	Turner Pump Station geotechnical exploration.		\$ 14,300.00	\$ 14,286.63	
	CIP	2021-03	Open	5/15/2021	Hutton Pump Station geotechnical exploration.		\$ 8,450.00	\$ 249.80	
						\$ 100,000.00	\$ 31,380.00	\$ 23,020.63	\$ 76,979.37
Title: As-Needed Geotechnical Services Firm: Ninyo & Moore G.E.S. Expires: 11/1/2022 (C# 19-40)	NON-CIP	2020-01	Closed	3/26/2020	Dentro De Lomas - Geotech observation & material testing. Proj. #2		\$ 6,518.00	\$ 1,369.00	
		2020-02	Closed	8/6/2020	Vista Valley Villas PRS geotech observation & material testing.		\$ 10,235.00	\$ 7,136.00	
		2021-03	Open	5/6/2021	Dentro De Lomas - Geotech observation & material testing. Proj. #1		\$ 6,097.00	\$ 4,104.00	
						\$ 100,000.00	\$ 22,850.00	\$ 12,609.00	\$ 87,391.00
Title: As-Needed Geotechnical Services Firm: ATLAS (SCST, LLC) Expires: 11/20/2022 (C# 19-41)	CIP	2020-01	Closed	7/7/2020	Olive Hills Estates Trans. Main geotech observation/field test.		\$ 36,619.00	\$ 17,563.00	
						\$ 100,000.00	\$ 36,619.00	\$ 17,563.00	\$ 82,437.00
Title: As-Needed Construction Management & Insp. Services Firm: Harris & Associates Expires: 1/28/2023 (C# 20-01)	CIP	2020-01	Closed	3/13/2020	CM Support Services for the WSUP.		\$ 100,000.00	\$ 99,972.50	
	CIP	2020-02	Closed	4/7/2020	Constructability design review of PUP-1.		\$ 6,270.00	\$ 5,280.00	
	NON-CIP	2020-03	Open	4/21/2020	Sewer North River Road - Emergency Repair.		\$ 11,000.00	\$ 4,389.33	
	CIP	2020-04	Open	9/21/2020	District Wide Inspection Services.		\$ 20,000.00	\$ 13,876.73	
					CO-01 for \$20K BoD 6/22/21.	\$ 170,000.00	\$ 137,270.00	\$ 123,518.56	\$ 46,481.44
Title: As-Needed Construction Management & Insp. Services Firm: Reilly Construction Mnmnt. Expires: 1/28/23 (C# 20-02)							\$ -	\$ -	
							\$ -	\$ -	
					CO-01 for (\$100K) BoD 6/22/21.	\$ 50,000.00	\$ -	\$ -	\$ 50,000.00

