

SAMPLE PROFESSIONAL SERVICES CONTRACT

1. PARTIES:

The parties to this contract are the SAN DIEGO COUNTY WATER AUTHORITY, a county water authority, (the Water Authority) and _____, [a / an] _____ (Contractor).

2. SCOPE OF SERVICES:

The services to be provided by Contractor [are described in Attachment A] [are (describe within paragraph)].

3. PAYMENT:

(a) Payment for services. **[Option 1]** The Water Authority shall pay for services in a lump sum of \$_____ upon satisfactory completion of the services and delivery of the work product.

[Option 2] The Water Authority shall pay for services performed in accordance with this contract according to the payment and fee schedule contained in Attachment B.

[Option 3] The Water Authority shall pay for services performed in accordance with this contract at an hourly rate of \$_____.

(b) Reimbursement of expenses. **[Option 1]** The payment for services includes payment for all costs and expenses that may be incurred by Contractor in the performance of services.

[Option 2] Contractor will be reimbursed for actual, reasonable and necessary expenses incurred in the performance of services in accordance with the expense reimbursement schedule included in Attachment B.

(c) Maximum payment. The maximum payment under this contract for services and, if authorized, reimbursement of expenses, shall not exceed \$_____.

(d) Invoices. **[Option 1]** An invoice for services shall be submitted upon completion of all services. **[Additional Option.** If reimbursement of expenses is authorized, Contractor may submit monthly invoices for such expenses, including appropriate documentation of each expense incurred.] The Water Authority generally will process and pay bills within thirty (30) days from receipt.

[Option 2] All invoices for services will be submitted on a monthly basis to the Contract Manager. The Water Authority generally will process and pay bills within thirty (30) days from receipt. Each bill shall include an invoice showing the amount of services rendered during the billing period and the fee for such services. **[Additional Option A.** If reimbursement of expenses

is authorized, Contractor shall submit monthly invoices for such expenses, including full documentation of each expense incurred.] **[Additional Option B.** The invoice shall be accompanied by a separate confidential invoice support statement that briefly describes each item of work performed, the identity of the person who performed the work, the time of performance if payment is on an hourly basis, and itemized reimbursable expenses.] Payments are subject to a final audit upon completion of services or other termination of this contract.

(e) **Audit of Records.** Contractor shall maintain complete and accurate records of all payrolls, expenditures, disbursements and other cost items charged to the Water Authority for establishing the basis of an invoice, for a minimum of four (4) years from the date of final payment to Contractor. All such records shall be clearly identifiable. Contractor shall allow Water Authority representative to inspect, examine, copy and audit such records during regular business hours upon 24 hours' notice.

4. TIME FOR PERFORMANCE:

(a) **[Option 1]** Contractor will complete all services by _____.

[Option 2] Contractor will perform the services according to the schedule contained in Attachment C. If the schedule calls for the services to be performed in phases or discrete increments, Contractor shall not proceed from one phase or increment to the next without written authorization from the Contract Manager. Contractor will complete all services by _____.

(b) **Extension of time for unforeseen circumstances.** In the event that the Contractor is unable to meet the completion date or schedule of services, if any, due to circumstances beyond Contractor's reasonable control, such as war, riots, strikes, lockouts, work slow down or stoppage, except strikes, lockouts, or work slow down or stoppage of Contractor's employees or subcontractors, acts of God, such as floods or earthquakes, and electrical blackouts or brownouts, Contractor shall inform the Contract Manager of the additional time required to perform the work and the Contract Manager may adjust the schedule.

5. STANDARD OF PERFORMANCE:

Contractor's services shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of Contractor's profession currently practicing under similar conditions. Whenever the scope of work requires or permits approval by the Water Authority, it is understood to be approval solely for the purposes of conforming to the requirements of the scope of work and not acceptance of any professional or other responsibility for the work. Such approval does not relieve the Contractor of responsibility for complying with the standard of performance or laws, regulations, industry standards, or from liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Contractor or its subcontractors. By delivery of completed work, Contractor certifies that the work conforms to the requirements of this contract and all applicable federal,

state and local laws. If Contractor is retained to perform services requiring a license, certification, registration or other similar requirement under California law, Contractor shall maintain that license, certification, registration or other similar requirement throughout the term of this Contract.

6. INDEPENDENT CONTRACTOR:

Contractor is an independent contractor. Neither Contractor nor any of Contractor's officers, employees, agents or subcontractors, if any, is an employee of the Water Authority by virtue of this contract or performance of any work under this contract.

7. ASSIGNMENT:

Contractor shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this contract without the express written consent of the Water Authority in each instance.

8. SUBCONTRACTORS:

[Option 1](a) Contractor shall comply with all requirements of the Small Contractor Outreach and Opportunities Program (SCOOP). Contractor will perform the work personally or through Contractor's employees except for those tasks to be performed by the subcontractors designated on Attachment D (SCOOP Form A-1). Contractor may add or delete a designated subcontractor only in compliance with provisions of the Water Authority's Small Contractor Outreach and Opportunities Program. Contractor is responsible to the Water Authority for the acts and omissions of Contractor's subcontractors and of the subcontractor's employees in performance of this contract. Nothing contained in this contract shall create any contractual relationship between any subcontractor of Contractor and the Water Authority. Contractor shall pay subcontractors within ten (10) days of receipt of payment by Water Authority for work performed by a subcontractor and billed by the Contractor.

(b) Failure by the Contractor to fulfill any of the SCOOP requirements constitutes breach of contract. The Water Authority may seek, without limitation, the following remedies:

- (1) Withholding progress payments until the Water Authority deems the Contractor to be in compliance.
- (2) Withholding an amount equal to the unmet portion of the amount contracted to the subcontractor, vendor, or supplier in question.
- (3) Suspension or debarment pursuant to the Water Authority's Administrative Code Chapter 4.12 Section 4.12.020.
- (4) Termination of the contract.

[**Option 2**] Contractor will perform the work personally or through Contractor's employees. Contractor may subcontract work only upon prior approval of the Water Authority and in compliance with provisions of the Water Authority's Small Contractor Outreach and Opportunities Program, if the Water Authority determines that the program provisions are applicable.

9. CONTRACTOR'S EMPLOYEES:

(a) Immigration Reform and Control Act of 1986. Contractor is aware of the requirements of the Immigration Reform and Control Act of 1986 and shall comply with those requirements, including, but not limited to, verifying the eligibility for employment of all of Contractor's agents, employees, subcontractors and Contractors that are included in this contract.

(b) Limitation of Water Authority Liability. The payment made to Contractor pursuant to this contract shall be the full and complete compensation to which Contractor and Contractor's officers, employees, agents and subcontractors are entitled for performance of any work under this contract. Neither Contractor nor Contractor's officers or employees are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to employees of the Water Authority. The Water Authority will not make any federal or state tax withholdings on behalf of Contractor. The Water Authority shall not be required to pay any workers' compensation insurance on behalf of Contractor.

(c) Indemnification for Employee Payments. Contractor agrees to defend and indemnify the Water Authority for any obligation, claim, suit or demand for tax, retirement contribution including any contribution to the Public Employees Retirement System (PERS), social security, salary or wages, overtime payment, or workers' compensation payment which the Water Authority may be required to make on behalf of Contractor or any employee of Contractor, or any employee of Contractor construed to be an employee of the Water Authority, for work done under this contract. This is a continuing obligation that survives the termination of this contract.

[**ONLY IF APPLICABLE**] (d) Prevailing wage. Contractor shall comply with all provisions of California laws dealing with prevailing wages, apprentices, and hours of work. Contractor shall also comply with provisions of Labor Code section 1720 as applicable. A copy of the prevailing wage rates is available for review at the Water Authority's office at 4677 Overland Avenue, San Diego, California, 92123. This provision applies only to the following portions of the scope of work: [**LIST APPLICABLE SERVICES.**]

10. FAIR EMPLOYMENT PRACTICES:

(a) Administrative Code Provisions. Contractor acknowledges and agrees to abide by the following provision of the Water Authority Administrative Code Section 2.24.010 that states:

“(a) It is the policy of the Authority to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, color, ethnicity, national origin, ancestry, religion, creed,

the contract.

30. INDEPENDENT REVIEW:

Each party hereto declares and represents that in entering this contract it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this contract is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent, or attorney of any other party.

31. TIME:

Time is of the essence in this contract. Any reference to days means calendar days unless otherwise specifically stated.

32. ASSIGNMENT OF ANTI-TRUST CLAIMS:

The Contractor offers and agrees to assign to the Water Authority all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act [Chapter 2 (commencing with § 16700) of Part 2 of Division 7 of the Business and Professions Code], arising from purchases of goods, services, or materials pursuant to the contract. This assignment shall become effective at the time the Water Authority tenders final payment to Contractor, without further acknowledgment by the parties. The Contractor shall have the rights set forth in Sections 4553 and 4554 of the Government Code.

33. TAXES:

The Contractor shall pay all applicable federal, state, and local excise, sales, consumer use, and other similar taxes required by law for the execution of the work.

34. SIGNATURES:

The individuals executing this contract represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

IN WITNESS WHEREOF, the parties have executed this contract on the following date.

DATED: _____, 20____

San Diego County Water Authority

By: _____

Contractor:

By: _____

Approved as to form:
DANIEL S. HENTSCHKE
General Counsel
San Diego County Water Authority

By: _____